

COMMONWEALTH of VIRGINIA

DEPARTMENT OF LABOR AND INDUSTRY

COURTNEY M. MALVEAUX
COMMISSIONER

Main Street Centre
600 East Main Street, Suite 207
Richmond, Virginia 23219
PHONE (804) 371-2327
FAX (804) 371-6524
TDD 711

AGENDA

**DEPARTMENT OF LABOR AND INDUSTRY
PUBLIC HEARING
ON BEHALF OF
THE SAFETY AND HEALTH CODES BOARD**

**State Corporation Commission
1300 East Main Street, Court Room A, Second Floor
Richmond, Virginia**

Thursday, December 5, 2013

10:00 a.m.

- I. Call to Order
- II. Item for Discussion:

16VAC25-35, Proposed Regulation to Amend the Regulation Concerning Certified Lead Contractors Notification, Lead Project Permits and Permit Fees
- III. Opportunity for Public Comment on the Proposed Amendment
- IV. Adjournment



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DEPARTMENT OF LABOR AND INDUSTRY PUBLIC HEARING ON BEHALF OF THE SAFETY AND HEALTH CODES BOARD BRIEFING PACKAGE

December 5, 2013

16VAC25-35, Proposed Regulation to Amend the Regulation Concerning Certified Lead Contractors Notification, Lead Project Permits and Permit Fees

I. **Action Requested.**

On behalf of the Safety and Health Codes Board, the Virginia Occupational Safety and Health (VOSH) Program of the Department is holding a Public Hearing on the proposed regulation of the Board to amend the Regulation Concerning Certified Lead Contractors Notification, Lead Project Permits and Permit Fees, 16VAC25-35, pursuant to the Virginia Administrative Process Act (§2.2-4007.01).

II. **Summary of Proposed Regulation.**

The Department has asked the Board to remove the \$2,000 minimum contract price provision for lead contractors to be required to file a lead project notification with the Department, as provided in Paragraph A. of 16VAC25-35-30 of the Regulation. This change would require that licensed lead contractors submit written notification for all lead projects, as defined in 16VAC25-35-10, regardless of the contract price for the lead project.

III. Basis, Purpose and Impact of the Proposed Rulemaking.

A. Basis and Purpose.

This proposed regulatory action is to conform the Program's regulatory language with that of the Environmental Protection Agency's (EPA) Notification Requirements for Lead-Based Paint Abatement Activities and Training, 40 CFR 745.227(e)(4)(i)-(ix) [See attachments].

B. Impact on Employers.

Licensed lead contractors will have to submit written notification for all lead projects, as defined under 16VAC25-35-10, regardless of the contract price for the lead project. Since there will no longer be a contractor price threshold of \$2,000, lead abatement contractors will be required to submit more notification permit applications. Otherwise, the permit fee under Subsection C.1. does not change. More notification permit applications will increase the overall costs of lead permit fees that contractors need to pay in order to get their lead abatement permit.

C. Impact on Employees.

No impact is anticipated on Virginia employees.

D. Impact on the Department of Labor and Industry.

The Department will incur no added costs nor will staffing levels need to be increased as a result of the rule change. Any additional revenue received is deposited in the Lead Program Special Fund.

Contact Person:

Mr. Ron Graham
Director, Occupational Health Compliance
804.786.0574
Ron.Graham@doli.virginia.gov

Attachments: EPA Letter to Nancy K. Van Voorhis, VDOH

64 FR 11884 (March 10, 1999) <http://www.gpo.gov/fdsys/pkg/FR-1999-03-10/pdf/99-5821.pdf>
69 FR 18489 – 18496 (April 8, 2004) <http://www.gpo.gov/fdsys/pkg/FR-2004-04-08/pdf/04-7980.pdf>

Dated: February 27, 1999.
 Sylvia Lovrance,
 Acting Assistant Administrator for
 Enforcement and Compliance Assurance.
 [FR Doc. 99-5958 Filed 3-9-99; 8:45 am]
 BILLING CODE 6860-20-P

ENVIRONMENTAL PROTECTION AGENCY

[PB-402404-VA; FRL-6063-S]

Lead-Based Paint Activities in Target Housing and Child-Occupied Facilities: Authorization of the Commonwealth of Virginia's Lead-Based Paint Activities Program

AGENCY: Environmental Protection
 Agency (EPA).

ACTION: Notice; final approval.

SUMMARY: On December 19, 1997, the Commonwealth of Virginia submitted an application for EPA approval to administer and enforce training and certification requirements, training program accreditation requirements, and work practice standards for lead-based paint activities in target housing and child-occupied facilities under section 404 of the Toxic Substances Control Act (TSCA). Today's notice announces the approval of the Commonwealth of Virginia's application, and the authorization of the Department of Professional and Occupational Regulation's lead-based paint program to apply in the Commonwealth of Virginia effective March 10, 1999, in lieu of the corresponding Federal program under section 402 of TSCA.

DATES: Lead-based paint activities program authorization was granted to the Commonwealth of Virginia effective on March 10, 1999.

FOR FURTHER INFORMATION CONTACT: Enid A. Gerena (3WC33), Waste and Chemicals Management Division, Environmental Protection Agency, Region III, 1650 Arch St., Philadelphia, PA 19103-2029, telephone: (215) 814-2067, e-mail address: gerena.enid@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to Title IV of TSCA, Lead Exposure Reduction, 15 U.S.C. 2681-2692, and regulations promulgated thereunder, States and Tribes that choose to apply for lead-based paint activities program authorization must submit a complete application to the appropriate Regional EPA office for review. Complete, final applications are subject to a public comment period, and

must be approved or disapproved by EPA within 180 days of receipt. To receive EPA approval, a State or Tribe must demonstrate that its program is at least as protective of human health and the environment as the Federal program and provides adequate enforcement (section 404(b) of TSCA). Included in Virginia's application is a program certification signed by Governor James S. Gilmore, III certifying that the Commonwealth of Virginia lead-based paint activities program: (1) is at least as protective of human health and the environment as the corresponding Federal program; and (2) provides adequate enforcement. The inclusion of this certification requires that the program be authorized by EPA until such a time as the Administrator disapproves the program application or withdraws the program authorization.

Notice of Virginia's application, a solicitation for public comment regarding the application, and background information supporting the application was published in the *Federal Register* of April 29, 1998 (63 FR 23464) (FRL-5781-6).

As determined by EPA's review and assessment, Virginia's application successfully demonstrated that the State's lead-based paint activities program achieves the protectiveness and enforcement criteria, as required for Federal authorization. Furthermore, no public comments were received regarding any aspect of Virginia's application.

II. Federal Overfilling

TSCA section 404(b), makes it unlawful for any person to violate, or fail or refuse to comply with, any requirement of an approved State or Tribal program. Therefore, EPA reserves the right to exercise its enforcement authority under TSCA against a violation of, or a failure or refusal to comply with, any requirement of an authorized State or Tribal program.

III. Withdrawal of Authorization

Pursuant to TSCA section 404(c), the Administrator may withdraw a State or Tribal lead-based paint activities program authorization, after notice and opportunity for corrective action, if the program is not being administered or enforced in compliance with standards, regulations, and other requirements established under the authorization. The procedures EPA will follow for the withdrawal of an authorization are found at 40 CFR 745.324(i).

IV. Regulatory Assessment Requirements

A. Certain Acts and Executive Orders

EPA's actions on State or Tribal lead-based paint activities program applications are informal adjudications, not rules. Therefore, the requirements of the Regulatory Flexibility Act (RFA, 5 U.S.C. 601 *et seq.*), the Congressional Review Act (5 U.S.C. 801 *et seq.*), Executive Order 12866 ("Regulatory Planning and Review," 58 FR 51735, October 4, 1993), and Executive Order 13045 ("Protection of Children from Environmental Health Risks and Safety Risks," 62 FR 1985, April 23, 1997), do not apply to this action. This action does not contain any Federal mandates, and therefore is not subject to the requirements of the Unfunded Mandates Reform Act (2 U.S.C. 1531-1538). In addition, this action does not contain any information collection requirements and therefore does not require review or approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

B. Executive Order 12875

Under Executive Order 12875, entitled "Enhancing Intergovernmental Partnerships" (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local, or Tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to OMB a description of the extent of EPA's prior consultation with representatives of affected State, local, and Tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local, and Tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates." Today's action does not create an unfunded Federal mandate on State, local, or Tribal governments. This action does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this action.

C. Executive Order 13084

Under Executive Order 13084, entitled "Consultation and Coordination

with Indian Tribal Governments" (63 FR 27655, May 19, 1998). EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the Tribal governments. If the mandate is unfunded, EPA must provide OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected Tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." Today's action does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this action.

Authority: 15 U.S.C. 2682, 2684.

List of Subjects

Environmental protection, Hazardous substances, Lead, Reporting and recordkeeping requirements.

Dated: February 19, 1999.

W. Michael McCabe

Regional Administrator, Region III.

[FR Doc. 99-5821 Filed 3-9-99; 8:45 am]
BILLING CODE 6560-50-F

ENVIRONMENTAL PROTECTION AGENCY

[FRL-6307-4]

Final NPDES General Permit for Oil and Gas Exploration, Development and Production Facilities in Cook Inlet, AL (AKG285000)

AGENCY: Environmental Protection Agency (EPA), Region 10.

ACTION: Notice of final NPDES general permit.

SUMMARY: The Director, Office of Water, EPA Region 10, is issuing the National Pollutant Discharge Elimination System

(NPDES) General Permit for Cook Inlet, Alaska, pursuant to the provisions of the Clean Water Act, 33 U.S.C. 1251 *et seq.* The permit authorizes discharges from existing oil and gas exploration, development and production platforms and shore-based facilities in Upper Cook Inlet (north of the Forelands). The permit also authorizes future exploratory operations in Cook Inlet north of the line between Cape Douglas on the west, and Port Chatham on the east. All dischargers covered by this permit fall within the Coastal and Offshore Subcategory of the Oil and Gas Extraction Point Source Category (40 CFR part 435, subparts A and D).

Discharges authorized by this permit include drilling muds and cuttings; produced water; deck drainage; sanitary and domestic wastes; completion, workover, well treatment and test fluids; and miscellaneous discharges. Discharges from facilities in the Onshore Subcategory (40 CFR Part 435, Subpart C), or to wetlands adjacent to the territorial seas and inland coastal waters of Alaska are not authorized by this permit. The permit does not authorize discharges from "new sources," as defined in 40 CFR 122.2.

The existing permit was published in the **Federal Register** at 51 FR 35460 on October 3, 1986, and authorized discharges from oil and gas facilities in Upper Cook Inlet, and from oil and gas exploration wells in federal waters offered for lease by the U.S. Department of the Interior's Minerals Management Service (MMS) in Federal Lease Sales 55 (Gulf of Alaska) and 60 (Cook Inlet) in state waters offered for lease by the State of Alaska in Lease Sales 32, 33, 35, 40, 46A, and 49. The permit issued in 1986 also covered areas offered under state lease sales held during the effective period of the permit. The area of coverage for the permit issued today is not linked to lease sale areas, and covers all state and federal waters in Cook Inlet north of the line between Cape Douglas on the west and Port Chatham on the east.

A total of 23 facilities were covered under the 1986 general permit. Of those 23 facilities, 18 are currently active. All of those permittees have complied with the reissuance application procedures and indicated preference to be covered under this general permit.

FOR FURTHER INFORMATION CONTACT: Ms. Laurie Mann, EPA Region 10, 1200 Sixth Avenue, Seattle, Washington 98101. Telephone: (206) 553-1583, or via e-mail to the following address: mann.laurie@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

Public Comment

Pursuant to section 402 of the Clean Water Act (CWA), 33 U.S.C. 1342, EPA proposed and solicited comments on NPDES general permit AKG285000 at 60 FR 48796 (September 20, 1995). The public comment period was scheduled to close November 30, 1995, but was extended to January 29, 1996 at 60 FR 6155 (November 30, 1995). Public hearings were held in Anchorage on November 28, 1995, Soldotna on November 29, 1995, and Homer on January 25, 1996.

EPA Region 10 received over 350 letters, petitions and verbal comments from tribal, federal and state governments, companies, non-profit organizations, and individuals. All comments specifically addressing the draft Cook Inlet permit which were submitted during the public comment period were considered during finalization of the permit. Changes have been made from draft permit to the final permit in response to public and governmental comment. All comments, along with the EPA's responses, are summarized in the Response to Comments, which may be obtained from Laurie Mann at the above address, or may be obtained from the EPA Region 10 web site at www.epa.gov/r10earth/offices/water/ow.htm.

Other Legal Requirements

Ocean Discharge Criteria Evaluation

EPA Region 10 has determined that discharges occurring under the proposed permit are in compliance with section 403 of the Clean Water Act. These discharges will not cause unreasonable degradation as long as the depth-related conditions, discharge restrictions, and environmental monitoring requirements in the permit are met. For example, all discharges are prohibited within the boundaries, or within 1,000 meters of a coastal marsh, river delta, river mouth, and designated Critical Habitat Areas, Areas of Special Attention, National Park, State Game Refuges, and State Game Sanctuaries. The permit also prohibits discharges in Kamishak Bay, Chinitna Bay, and Tuxednt Bay.

Coastal Zone Management Act

The State of Alaska, Office of Management and Budget, Division of Governmental Coordination found this action to be consistent with the approved Alaska Coastal Zone Management Program.

Endangered Species Act

EPA has determined that issuance of the Cook Inlet General Permit will not



[FR Doc. 04-7070 Filed 4-7-04; 8:45 am]
BILLING CODE 6560-50-5

**ENVIRONMENTAL PROTECTION
AGENCY**

40 CFR Part 745

[OPPT-2003-0061; FRL-7341-5]

RIN 2070-AD31

**Lead; Notification Requirements for
Lead-Based Paint Abatement Activities
and Training**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Under the authority of section 407 of the Toxic Substances Control Act (TSCA), as amended by the Residential Lead-Based Paint Hazard Reduction Act of 1992, also known as "Title X (ten)," EPA is issuing this final rule to establish notification procedures for certified lead abatement professionals conducting lead-based paint abatement activities, and accredited training programs providing lead-based paint activities courses. Specifically, this rule establishes the procedures that must be used to provide notification to EPA prior to the commencement of lead-based paint abatement activities. This rule also establishes provisions that require accredited training programs to notify EPA under the following conditions: Prior to providing initial or refresher lead-based paint activities training courses; and following completion of lead-based paint activities training courses. These notification requirements are necessary to provide EPA compliance monitoring and enforcement personnel with information necessary to track lead-based paint abatement and training activities, and to prioritize compliance inspections. This rule will help to prevent lead poisoning in children under the age of 6 by supporting EPA's implementation of the mandate in Title X to ensure that lead professionals involved in inspecting, assessing or removing lead-based paint, dust or soil are trained and certified to conduct these activities. This rule applies only in States and Tribal areas that do not have authorized programs pursuant to 40 CFR 745.324.

DATES: This final rule is effective on May 10, 2004.

FOR FURTHER INFORMATION CONTACT: For general information contact: Barbara Cunningham, Director, Environmental Assistance Division (7406M), Office of Pollution Prevention and Toxics,

Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 554-1404; e-mail address: TSCA-Hotline@epa.gov.

For technical information contact: Mike Wilson, National Program Chemicals Division (7404T), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 566-0521; e-mail address: wilson.mike@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you operate a training program required to be accredited under 40 CFR 745.225, or if you are a firm which must be certified to conduct lead-based paint abatement activities in accordance with 40 CFR 745.226. Specifically, the procedure for notification of the commencement of lead-based paint abatement activities applies to the certified firm conducting lead-based paint abatement activities. The procedure for notification of lead-based paint activities training courses applies to the training manager of an accredited training program. This rule applies only in States and Indian Tribes that do not have authorized programs pursuant to 40 CFR 745.324. For further information regarding the authorization status of States and Indian Tribes contact the National Lead Information Center (NLIC) at 1-800-424-LEAD(5323). Potentially affected categories and entities may include, but are not limited to:

- Lead abatement professionals (NAICS 562910); firms and supervisors engaged in lead-based paint activities
- Training programs (NAICS 611519); training programs providing training services in lead-based paint activities

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action applies to certain entities. To determine whether you or your business is affected by this action, you should carefully examine the applicability provisions in 40 CFR part 745. If you have any questions regarding the applicability of this action to a particular entity, consult the

technical person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document or Other Related Documents?

1. *Docket.* EPA has established an official public docket for this action under docket identification (ID) number OPPT-2003-0061 (legacy number OPPT-62165). The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the EPA Docket Center, Rm. B102-Reading Room, EPA West, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The EPA Docket Center Reading Room telephone number is (202) 566-1744 and the telephone number for the OPPT Docket, which is located in EPA Docket Center, is (202) 566-0280.

2. *Electronic access.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at <http://www.epa.gov/>. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "Federal Register--Environmental Documents." You can also go directly to the Federal Register listings at <http://www.epa.gov/fedrgstr/>. A frequently updated electronic version of 40 CFR part 745 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr745_00.html, a beta site currently under development. To access information about lead-based paint and the Lead Program, go directly to the Home Page at <http://www.epa.gov/lead>.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov/edocket/> to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available

docket materials through the docket facility identified in Unit I.B.1. Once in the system, select "search," then key in the appropriate docket ID number.

II. Introduction

A. What is the Agency's Authority for Taking this Action?

EPA is issuing this final rule under the authority of TSCA section 407, 15 U.S.C. 2607. Section 407 states that regulations of the Administrator under Subchapter IV of TSCA shall include such recordkeeping and reporting requirements as may be necessary to ensure effective implementation. EPA regulations under Subchapter IV of TSCA include lead-based paint activities regulations, which this final rule amends, codified at 40 CFR part 745, subpart L.

B. Why is the Agency Taking this Action?

The requirements in this final rule provide EPA compliance monitoring and enforcement personnel with information necessary to track lead-based paint abatement and training activities, and to prioritize compliance inspections. The objective of the rule is to ensure that a workforce of qualified and properly trained firms and individuals can assist in the elimination of hazards associated with lead-based paint. Providing a quality workforce of this type will ensure that individuals and firms will conduct lead-based paint activities in a way that safeguards the environment and protects human health, specifically, the health of building occupants (especially children under 6 years of age) and the workers themselves.

C. How Does this Action Fit into EPA's Overall Lead Program?

The Residential Lead-Based Paint Hazard Reduction Act of 1992 (Title X) amended TSCA by adding a new Title IV. Several sections of Title X directed EPA to promulgate regulations aimed at fulfilling the purposes of Title X. These include TSCA section 402, Lead-Based Paint Activities Training and Certification, which directs EPA to promulgate regulations to govern the training and certification of individuals engaged in lead-based paint activities, the accreditation of training programs, and the establishment of standards for conducting lead-based paint activities. TSCA section 404 requires that EPA establish procedures for States seeking to establish their own programs for lead-based paint activities. On August 29, 1996, EPA promulgated a final rule under TSCA sections 402 and 404 titled

Lead; Requirements for Lead-Based Paint Activities in Target Housing and Child-Occupied Facilities (61 FR 45778). The rule is codified at 40 CFR part 745, subparts L and Q.

One of the standards EPA developed for performing lead-based paint activities, codified at 40 CFR 745.227(e)(4), requires notification to EPA prior to the commencement of lead-based paint abatement activities in a residential dwelling, or child-occupied facility, or as a result of a Federal, State, Tribal, or local order. However, 40 CFR 745.227(e)(4) did not detail specific notification procedures. This final rule includes such procedures.

This final rule also requires training programs accredited under 40 CFR 745.225 to notify EPA prior to providing initial and refresher lead-based paint activities courses and to provide certain information after the completion of a training course. Currently, accredited training programs are asked to voluntarily notify EPA prior to offering a lead-based paint activities course. To provide consistency in this reporting, this final rule clearly defines the information needed by the Agency and when it must be provided.

The notification requirements for lead-based paint abatement activities and training courses in this final rule will assist significantly in the implementation and enforcement of lead-based paint activities regulations codified at 40 CFR part 745, subpart L. The notification provisions will help to assure compliance by facilitating observation of abatement activities and training by EPA compliance monitoring and enforcement personnel.

D. Summary of Proposed Rule and Public Comments.

On January 22, 2001, EPA issued a proposed rule (66 FR 7208) (FRL-6764-7) seeking to establish notification procedures, in those States and Federally recognized Tribal jurisdictions without authorized programs, for certified lead abatement professionals conducting lead-based paint abatement activities, and accredited training programs providing lead-based paint activities courses. Specifically, the proposal introduced procedures for providing notification to EPA prior to the commencement of lead-based paint abatement activities. The proposal also introduced provisions which would require accredited training programs to notify EPA under the following conditions: (1) Prior to providing lead-based paint activities training courses; and (2) following

completion of lead-based paint activities training courses.

In response to the proposal, EPA received 11 comments. The largest number of responses was received from trainers and public educators (5 of the responses). Other commenters included government agencies (2 of the responses), a representative of a municipality, and a national organization representing demolition contractors. A summary of all comments received, and EPA's responses, may be found in the Response to Comments document which is available for public review in the TSCA Docket for this rulemaking (see Unit I.B.).

The majority of the comments raised concerns regarding the time periods allotted for notification of both lead-based paint abatement activities and associated training. Specific areas of concern included: (1) Time period for initial notification; (2) time period for notification of delayed start date; (3) time period for notification of cancellation or other significant changes; (4) emergency notification requirements; (5) which businesses must provide notification and who must sign the notification; and (6) purpose and use of information collected. Major comments are discussed in Unit III., and remaining comments are discussed in the Response to Comments document.

III. Final Rule Provisions

A. What are the Requirements for Notification of Lead-based Paint Abatement Activities?

This final rule requires firms certified under 40 CFR 745.226 to provide notification to the Agency prior to conducting lead-based paint abatement activities. The original notice must be received by the Agency at least 5 business days prior to the start of lead-based paint abatement activities. An abbreviated notification period is provided for lead-based paint abatement activities conducted in response to an elevated blood lead level (EBL) determination and/or a Federal, State, Tribal, or local emergency abatement order, where the firm is unable to comply with the standard notification period due to the necessity for an expeditious response to such event. If lead-based paint abatement activities are expected to begin on a date other than that specified in the original notice or if the other reported information changes, an updated notice is required. The notice must include the following:

1. Notification type (original, updated, cancellation).
2. Date when lead-based paint abatement activities will start.

3. Date when lead-based paint abatement activities will end (approximation using best professional judgement).

4. Firm's name, EPA certification number, address, telephone number.

5. Type of building (e.g., single family dwelling, multi-family dwelling, child-occupied facilities) on/in which abatement work will be performed.

6. Property name (if applicable).

7. Property address including apartment or unit number(s) (if applicable) for abatement work.

8. Documentation showing evidence of an EBL determination or a copy of the Federal/State/Tribal/local emergency abatement order, if using the abbreviated time period.

9. Name and EPA certification number of the project supervisor.

10. Approximate square footage/ acreage to be abated.

11. Brief description of abatement activities to be performed.

12. Name, title, and signature of the representative of the certified firm who prepared the notification.

Notification must be accomplished using any of the following methods: written notification, or electronically using the Agency's Central Data Exchange (CDX). Written notification can be accomplished using either the sample form titled *Notification of Lead-Based Paint Abatement Activities* or similar form containing the required information. All written notifications must be delivered by U.S. Postal Service, fax, commercial delivery service, or hand delivery.

B. What are the Requirements for Notification of Lead-based Paint Activities Training?

This final rule requires training programs accredited under 40 CFR 745.225 to provide notification to the Agency prior to conducting lead-based paint activities courses. The original notice must be received by the Agency at least 7 business days prior to the start of a lead-based paint activities course. An updated notice is required if the starting date for a lead-based paint activities course is changed to a date other than that specified in the original notice or if the other reported information changes. The notice must include the following:

1. Notification type (original, update, cancellation).

2. Training program name, EPA accreditation number, address, and telephone number.

3. Course discipline, type (initial/ refresher), and the language in which instruction will be given.

4. Date(s) and time(s) of training.

5. Training location(s) telephone number, and address.

6. Principal instructor's name.

7. Training manager's name and signature.

Training programs must also provide notice to the Agency following completion of a lead-based paint activities course. This notice must be provided to the Agency within 10 business days of course completion.

This notice must include the following:

1. Training program name, EPA accreditation number, address, and telephone number.

2. Course discipline and type (initial/ refresher).

3. Date(s) of training.

4. The following information for each student who took the course:

a. Name.

b. Address.

c. Date of birth.

d. Course completion certificate number.

e. Course test score.

f. Training manager's name and signature.

Notification must be accomplished using any of the following methods: Written notification, or electronically using the Agency's Central Data Exchange (CDX). Written notification of lead-based paint activities course schedules can be accomplished by using either the appropriate sample form provided by EPA or a similar form containing the required information. All written notifications must be delivered by U.S. Postal Service, fax, commercial delivery service, or hand delivery.

C. What Changes Were Made in the Final Rule?

In light of the public's comments, EPA has carefully reviewed the proposed rulemaking and has made certain modifications in the final rule. The following is a brief description of the most significant changes adopted in response to public comment on the proposal. Further information regarding comments received or EPA's response can be reviewed in the Response to Comments document available for public review in the public docket described in Unit I.B.1. With the exception of these and additional minor editorial changes, the final rule is as proposed on January 22, 2001. The following discussion describes the changes.

1. *Time period for initial abatement notification.* EPA received comments expressing concern that the proposed 10 business day initial notification may hamper some abatement processes, including the ability of lead abatement firms to respond quickly to work demands.

Upon review, EPA has modified the initial notification period. The final rule includes a 5 business day initial notification period for lead-based paint abatement activities. EPA believes that the 5 business day notification period adequately addresses the concerns of the commenters while providing EPA with enough time to enable enforcement and compliance assistance personnel to adequately oversee abatement activities. Specifically, a 5-day notification period provides EPA sufficient time to perform activities such as processing the notification, making a determination of whether a compliance inspection is needed, preparing a travel authorization, providing a pre-inspection notification, performing a preliminary compliance review, and completing travel arrangements.

2. *Time period for notification of delayed start date.* EPA received comments regarding the proposed requirement that, if the project start date was to be delayed, notification would be provided to EPA 2 business days prior to the original start date. A commenter pointed out that it would be impossible to provide notification to EPA 2 business days prior to the original start date if issues regarding commencement of work arose on the day that work begins (e.g., lack of access to the work site).

EPA agrees that circumstances can arise on the project start date which delay work. Therefore, the final rule requires that notification of delayed lead-based paint abatement start dates be received by EPA on or before the original start date.

3. *Time period for notification of cancellation or other significant changes.* EPA received comments regarding the proposed requirement that, where abatement activities are canceled or other significant changes occur, EPA be notified 2 business days prior to the original start date. The commenters pointed out that it is impossible to update EPA regarding significant changes to the abatement project 2 days before the start date when the changes occur during the project.

Upon further review EPA agrees that providing cancellation or updated information 2 business days prior to the original start date in some cases could prove impossible. Therefore, the final regulation requires that notification of cancellation of lead-based paint activities be received by EPA on or before the original start date. In addition, any other required information updates must be received by EPA on or before the original start date, and where work has begun, within 24 hours of the change.

4. *Certified supervisor's signature on the notification.* A commenter asked why a certified supervisor must sign an abatement notification.

EPA has an interest in verifying that the project will be overseen by a certified supervisor as required by the regulation; however, on re-examination in light of the commenter's question, EPA believes that the notification itself need not be signed by a certified supervisor. EPA has modified the requirement in the final rule to indicate that a representative of the firm may sign the notification document. EPA also added a requirement that the name and certification number of the supervisor overseeing the project be included in the notification.

5. *Time period for initial training notification.* EPA received a comment regarding the time period for initial training notification. The commenter expressed concern that a 10 business day notification could hamper the ability of firms and individuals in the lead-based paint abatement field to obtain training quickly.

EPA is concerned that the proposed 10 business day notification period could prevent individuals from obtaining timely lead-based paint activities training. The final rule is modified to include a 7 business day initial notification period for lead-based paint activities training. This notification period provides EPA time to perform activities such as: Processing the notification, making a determination of whether a compliance inspection is needed, preparing a travel authorization, providing a pre-inspection notification, performing a preliminary compliance review, and completing travel arrangements. This notification period differs from abatement because compliance personnel often observe training in its entirety which necessitates an early arrival, whereas they will routinely monitor only a portion of an abatement project.

6. *Student information.* EPA received a comment that a student's date of birth should be provided to EPA following training rather than their social security number. The commenter stated that trainees are often reluctant to provide valid social security numbers, and believes that a date of birth would be as reliable an indicator of the student's identity as their social security number.

EPA agrees that a student's date of birth in conjunction with other required information is a reliable indicator of the student's identity. Therefore, the final regulation eliminates the requirement that training programs provide student's social security numbers and instead

requires that a student's date of birth be reported.

7. *Requirement to follow e-mail notification with written notification.* EPA received comments regarding the requirement to follow e-mail notification with written notification. The commenters indicated that e-mail notification should be sufficient, and that a follow-up written notification would be redundant and increase the paperwork burden of both government and industry.

EPA plans to use its Central Data Exchange (CDX) to receive electronic notification submitted to satisfy the requirements of this regulation. One of the basic purposes of the CDX system is to provide a method of electronic signature verification, which eliminates the need for a follow-up written notification after an e-mail notification is provided. Therefore, where a submission is provided electronically via the Agency's CDX system, follow-up written notice is not required.

8. *Ability to use other forms if information is the same.* EPA received comments regarding the use of forms, other than the sample forms developed by EPA, containing the information specified in the proposal. Both commenters suggest EPA minimize respondent burden by allowing the use of other forms as long as they provide the same information required under the EPA rule.

EPA agrees that allowing alternative forms can reduce respondent burden and agrees that other forms should be allowed to be used if they contain the information required by EPA. The final rule allows the use of alternative forms that contain the information required by EPA.

9. *Terminology.* EPA received a comment that the use of the terms "project start date" and "original start date" were confusing.

EPA agreed and introduced new terms and definitions for "start date" and "start date provided to EPA" which clarify these requirements. In addition, EPA removed the definition of "lead abatement professional" because the term was not introduced in the regulatory text.

D. How Do I Obtain Notification Instructions and Sample Forms?

Instructions and sample forms can be obtained from the National Lead Information Center at 1-800-424-LEAD(5323), or on the Internet at <http://www.epa.gov/lead>.

IV. Statutory and Executive Order Reviews

A. Executive Order 12866

Under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993), it has been determined that this final rule is not a "significant regulatory action" subject to review by the Office of Management and Budget (OMB) under Executive Order 12866, because this action does not meet any of the criteria for a "significant regulatory action" under section 3(f) of Executive Order 12866.

The costs for the first year of implementation are estimated to be approximately \$440,000, decreasing to an average annual estimated cost of approximately \$395,000 in subsequent years. For additional information about these estimated costs, please refer to the document titled *Information Collection Request (ICR) Supporting Statement for a Proposed Addendum to EPA ICR No. 1715* titled *TSCA §402/404 Training and Certification, Accreditation, and Standards for Lead-Based Paint Activities* (hereinafter the ICR Addendum (EPA ICR No. 1715.03)). This document, identified as EPA ICR No. 1715.03, is an addendum to the existing ICR. A copy is available in the public docket described in Unit I.B.1.

B. Paperwork Reduction Act

The information collection requirements contained in this final rule have been approved by OMB under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, and assigned OMB control number 2070-0155. A copy of the Information Collection Request (ICR) document (EPA ICR No. 1715.05) has been placed in the public docket described in Unit I.B.1.

The information requirements contained in this rule are not effective until promulgation and OMB approval, which is represented by a currently valid OMB control number. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information subject to OMB approval under the PRA unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in Title 40 of the CFR, after initial publication in the *Federal Register* and inclusion on the collection instruments, are maintained in a list at 40 CFR part 9.

The final rule contains the following information collection requirements subject to the PRA that impose paperwork burdens: (1) Reading and interpreting the final rule; (2) the notification of lead-based paint

abatement activities; (3) the notification of lead-based paint activities training courses; and (4) the notification following completion of lead-based paint activities training courses. The total paperwork burdens are estimated to be 21,254 total hours for the first year of implementation, and 19,048 hours annually in subsequent years.

Under the PRA, "burden" means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal Agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

C. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), EPA hereby certifies that this action will not have a significant economic impact on a substantial number of small entities. The factual basis for EPA's determination, which is summarized here, is based on the small entity impact analysis prepared as part of the Regulatory Impact Analysis (RIA) for the 1996 Lead Abatement Training and Certification Final Rule (61 FR 45778). EPA assessed the potential small entity impacts of the notification requirement that was contained in the 1996 final rule as part of the economic analysis that was prepared for that rulemaking, a copy of which is available in the public docket described in Unit I.B.1. In addition, EPA has estimated the impacts of the procedural requirements contained in this rule, which are presented in the ICR Addendum (EPA ICR No. 1715.03).

In considering the potential small entity impacts of this final rule, EPA believes that its previous determination regarding the Lead Abatement Training and Certification Final Rule is not affected by the notification procedures contained in this final rule. Based on the estimated total costs of this final rule as presented in the ICR Addendum (EPA ICR No. 1715.03), EPA has determined that this rulemaking is not likely to result in a significant economic impact on a substantial number of small

entities. In general, EPA strives to minimize potential adverse impacts on small entities when developing regulations to achieve the environmental and human health protection goals of the statute and EPA.

For the purpose of analyzing the potential impacts of this final rule on small entities, EPA used the definition for small entities that is found in section 601 of the RFA. Under section 601, "small entity" is defined as: (1) A small business that meets Small Business Administration (SBA) size standards codified at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. The SBA size standards for the small businesses potentially affected by this final rule is 500 employees or less for lead abatement firms whose primary activity is classified as environmental remediation (NAICS code 562910), and revenues of \$5 million or less for firms that are accredited to provide lead-based paint training (NAICS code 611519).

This rule only applies in those States and Tribes that do not have authorized programs pursuant to 40 CFR 745.324, and then only applies if that State or Tribe chooses to seek certification to perform lead abatement activities or accreditation to provide lead training. As such, small governmental jurisdictions are only impacted if there is not a State or Tribe authorized program and then only if the small governmental entity chooses to seek certification to perform lead abatement activities or accreditation to provide lead training on their own. To estimate potential impacts on small governments, EPA estimated that in the first year of implementation there could be approximately 15.36 abatement notifications per firm and 17.93 training provider notifications per provider. In subsequent years, the number of training provider notifications are expected to decrease to four each year per provider.

Small businesses are only impacted if there is not a State or Tribe authorized program in their State, and then only if they seek certification to perform lead abatement activities or accreditation to provide lead training. EPA estimates that there could be approximately 15.36 notifications per firm each year, and approximately 4,000 firms.

The estimated average cost per notification for abatement firms is approximately \$5, with an estimated

total cost per entity of approximately \$75 annually. The estimated average cost per notification for training providers is approximately \$32, with an estimated total cost per entity of approximately \$298 in the first year and approximately \$67 in subsequent years. EPA believes that the impact of these costs would be proportional for both small and large firms, and that the impacts may be slightly lower for small governmental jurisdictions that seek EPA certification as an abatement firm or EPA accreditation as a training provider due to lower wage rates and overhead expenses. Overall, EPA believes that these costs would not result in a significant economic impact on affected small entities.

Small non-profit organizations are only impacted if they seek certification to perform lead abatement activities or accreditation to provide lead training on their own. Although EPA believes that non-profit organizations may seek certification, EPA does not have sufficient information about these organizations or their intentions regarding certification or accreditation. Nevertheless, given the low costs for notification and the relatively small number of non-profit organizations, EPA does not believe that this affects EPA's determination that this rule is not expected to have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law No. 104-4), EPA has determined that this regulatory action does not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any 1 year. This final rule applies only in States and Indian Tribes that do not have authorized programs pursuant to 40 CFR 745.324, and then only applies to those States and Indian Tribes who choose to seek certification to perform lead abatement activities or accreditation to provide lead training. As such, the rule will not impose an enforceable duty on any State, local or Tribal governments. Since, this final rule is estimated to cost approximately \$439,573 in the first year of implementation, and \$395,157 annually in subsequent years, it is not expected to result in expenditures by the private sector of \$100 million or more in any given year. As a result, the UMRA requirements in sections 202, 204, and 205 do not apply to this final rule.

This rule contains no regulatory requirements that might significantly or uniquely affect small governments. Therefore, no action is needed under section 203 of the UMRA.

E. Executive Order 13132

Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

This final rule does not have federalism implications, because it will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This final rule applies only in States that do not have authorized programs pursuant to 40 CFR 745.324, and then only applies to those States who choose to seek certification to perform lead abatement activities or accreditation to provide lead training.

Although section 6 of Executive Order 13132 does not apply to this rule, EPA consulted with the States at meetings of the Forum on State and Tribal Toxics Action and the annual EPA meeting with State Lead Program representatives.

F. Executive Order 13175

This rule does not significantly or uniquely affect the communities of Indian tribal governments, because this final rule applies only in Indian Tribes that do not have authorized programs pursuant to 40 CFR 745.324, and then only applies to those Indian Tribes who choose to seek certification to perform lead abatement activities or accreditation to provide lead training. Accordingly, the requirements of section 3(b) of Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 276755, May 19, 1998), do not apply to this rule. Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000), which took effect on January 6, 2001, revokes Executive Order 13084 as of that date. EPA developed this rulemaking,

however, during the period when Executive Order 13084 was in effect; thus, EPA addressed tribal considerations under Executive Order 13084. For the same reasons stated for Executive Order 13084, the requirements of Executive Order 13175 do not apply to this rule either.

G. Executive Order 13045

Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997), applies to any rule that (1) is economically significant as defined under OMB's guidance related to section 3(f)(1) of Executive Order 12866, and (2) addresses an environmental health or safety risk that EPA has reason to believe has a disproportionate effect on children. If the regulatory action meets both criteria, EPA must evaluate the environmental health or safety effects of the planned rule on children; and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by EPA.

This rule is not subject to Executive Order 13045 because it is not an "economically significant regulatory action" as defined by Executive Order 12866 (see Unit IV.A.). Although this final rule is associated with EPA's overall lead-based paint management program which is designed to reduce health risks to children, this rule itself simply establishes an Agency notification procedure and does not directly address environmental health or safety risk. This final rule does, however, help to further EPA's efforts to prevent lead poisoning in children under the age of 6 by supporting EPA's implementation of the mandate in Title X, which requires that lead professionals involved in inspecting, assessing or removing lead-based paint, dust or soil be trained and certified to conduct these activities.

H. Executive Order 13211

This rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001), because this action is not expected to affect energy supply, distribution, or use.

I. National Technology Transfer and Advancement Act

This regulatory action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National

Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law No. 104-113, 12(d) (15 U.S.C. 272 note). Section 12(d) of NTTAA directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA requires EPA to provide Congress, through OMB, explanations when EPA decides not to use available and applicable voluntary consensus standards. EPA invites comment on the potential use of voluntary consensus standards in this rulemaking, and, specifically, invites the public to identify potentially applicable consensus standard(s) and to explain why such standard(s) should be used here.

J. Executive Order 12898

Pursuant to Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994), EPA has considered environmental justice related issues with regard to the potential impacts of this action on the environmental and health conditions in low-income and minority communities. EPA's analysis has determined that this final action has no disproportionate impact on minority or low-income populations.

K. Executive Order 12630

EPA has complied with Executive Order 12630, entitled *Governmental Actions and Interference with Constitutionally Protected Property Rights* (53 FR 8859, March 15, 1988), by examining the takings implications of this rule in accordance with the Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings issued under the Executive Order.

L. Executive Order 12988

In issuing this final rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988, entitled *Civil Justice Reform* (61 FR 4729, February 7, 1996).

V. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides

This rule contains no regulatory requirements that might significantly or uniquely affect small governments. Therefore, no action is needed under section 203 of the UMRA.

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L. Executive Order 12988

In issuing this final rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988, entitled *Civil Justice Reform* (61 FR 4729, February 7, 1996).

V. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides

that before a rule may take effect, the Agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the *Federal Register*. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 745

Environmental protection, Fees, Hazardous substances, Lead poisoning, Reporting and recordkeeping requirements.

Dated: March 31, 2004.

Michael O. Leavitt,

Administrator.

Therefore, 40 CFR chapter I is amended as follows:

PART 745—[AMENDED]

■ 1. The authority citation for part 745 continues to read as follows:

Authority: 15 U.S.C. 2605, 2607, 2615, 2681-2692, and 42 U.S.C. 4852d.

■ 2. Section 745.223 is amended by alphabetically adding the following definitions to read as follows:

§ 745.223 Definitions.

Business day means Monday through Friday with the exception of Federal holidays.

Lead-based paint activities courses means initial and refresher training courses (worker, supervisor, inspector, risk assessor, project designer) provided by accredited training programs.

Start date means the first day of any lead-based paint activities training course or lead-based paint abatement activity.

Start date provided to EPA means the start date included in the original notification or the most recent start date provided to EPA in an updated notification.

Training provider means any organization or entity accredited under § 745.225 to offer lead-based paint activities courses.

■ 3. Section 745.225 is amended by adding paragraphs (c)(13) and (c)(14) and revising paragraph (e)(5)(vi) to read as follows:

§ 745.225 Accreditation of training programs: target housing and child-occupied facilities.

(c) * * * *

(13) The training manager must provide notification of lead-based paint activities courses offered.

(i) The training manager must provide EPA with notification of all lead-based paint activities courses offered. The original notification must be received by EPA at least 7 business days prior to the start date of any lead-based paint activities course.

(ii) The training manager must provide EPA updated notification when lead-based paint activities courses will begin on a date other than the start date specified in the original notification, as follows:

(A) For lead-based paint activities courses beginning prior to the start date provided to EPA, an updated notification must be received by EPA at least 7 business days before the new start date.

(B) For lead-based paint activities courses beginning after the start date provided to EPA, an updated notification must be received by EPA at least 2 business days before the start date provided to EPA.

(iii) The training manager must update EPA of any change in location of lead-based paint activities courses at least 7 business days prior to the start date provided to EPA.

(iv) The training manager must update EPA regarding any course cancellations, or any other change to the original notification. Updated notifications must be received by EPA at least 2 business days prior to the start date provided to EPA.

(v) Each notification, including updates, must include the following:

(A) Notification type (original, update, cancellation).

(B) Training program name, EPA accreditation number, address, and telephone number.

(C) Course discipline, type (initial/refresher), and the language in which instruction will be given.

(D) Date(s) and time(s) of training.

(E) Training location(s) telephone number, and address.

(F) Principal instructor's name.

(G) Training manager's name and signature.

(vi) Notification must be accomplished using any of the following methods: Written notification, or electronically using the Agency's Central Data Exchange (CDX). Written notification of lead-based paint activities course schedules can be accomplished by using either the

sample form titled "Lead-Based Paint Activities Training Course Schedule" or a similar form containing the information required in paragraph (c)(13)(v) of this section. All written notifications must be delivered by U.S. Postal Service, fax, commercial delivery service, or hand delivery (persons submitting notification by U.S. Postal Service are reminded that they should allow 3 additional business days for delivery in order to ensure that EPA receives the notification by the required date). Instructions and sample forms can be obtained from the NLIC at 1-800-424-LEAD(5323), or on the Internet at <http://www.epa.gov/lead>.

(vii) Lead-based paint activities courses must not begin on a date, or at a location other than that specified in the original notification unless an updated notification identifying a new start date or location is submitted, in which case the course must begin on the new start date and/or location specified in the updated notification.

(viii) No training program shall provide lead-based paint activities courses without first notifying EPA of such activities in accordance with the requirements of this paragraph.

(14) The training manager must provide notification following completion of lead-based paint activities courses.

(i) The training manager must provide EPA notification after the completion of any lead-based paint activities course. This notice must be received by EPA no later than 10 business days following course completion.

(ii) The notification must include the following:

(A) Training program name, EPA accreditation number, address, and telephone number.

(B) Course discipline and type (initial/refresher).

(C) Date(s) of training.

(D) The following information for each student who took the course:

(1) Name.

(2) Address.

(3) Date of birth.

(4) Course completion certificate number.

(5) Course test score.

(E) Training manager's name and signature.

(iii) Notification must be accomplished using any of the following methods: Written notification, or electronically using the Agency's Central Data Exchange (CDX). Written notification following lead-based paint activities training courses can be accomplished by using either the sample form titled "Lead-Based Paint Activities Training Course Follow-up"

or a similar form containing the information required in paragraph (c)(14)(ii) of this section. All written notifications must be delivered by U.S. Postal Service, fax, commercial delivery service, or hand delivery (persons submitting notification by U.S. Postal Service are reminded that they should allow 3 additional business days for delivery in order to ensure that EPA receives the notification by the required date). Instructions and sample forms can be obtained from the NLIC at 1-800-424-LEAD(5323), or on the Internet at <http://www.epa.gov/lead>.

(e) * * *

(5) * * *

(vi) The requirements in paragraphs (c)(1) through (c)(5), and (c)(7) through (c)(14) of this section apply to refresher training providers.

■ 4. Section 745.227 is amended by revising paragraph (e)(4) to read as follows:

§ 745.227 Work practice standards for conducting lead-based paint activities: target housing and child-occupied facilities.

(e) * * *

(4) A certified firm must notify EPA of lead-based paint abatement activities as follows:

(i) Except as provided in paragraph (e)(4)(ii) of this section, EPA must be notified prior to conducting lead-based paint abatement activities. The original notification must be received by EPA at least 5 business days before the start date of any lead-based paint abatement activities.

(ii) Notification for lead-based paint abatement activities required in response to an elevated blood lead level (EBL) determination, or Federal, State, Tribal, or local emergency abatement order should be received by EPA as early as possible before, but must be received no later than the start date of the lead-based paint abatement activities. Should the start date and/or location provided to EPA change, an updated notification must be received by EPA on or before the start date provided to EPA. Documentation showing evidence of an EBL determination or a copy of the Federal/State/Tribal/local emergency abatement order must be included in the written notification to take advantage of this abbreviated notification period.

(iii) Except as provided in paragraph (e)(4)(ii) of this section, updated notification must be provided to EPA for lead-based paint abatement activities that will begin on a date other than the

start date specified in the original notification, as follows:

(A) For lead-based paint abatement activities beginning prior to the start date provided to EPA an updated notification must be received by EPA at least 5 business days before the new start date included in the notification.

(B) For lead-based paint abatement activities beginning after the start date provided to EPA an updated notification must be received by EPA on or before the start date provided to EPA.

(iv) Except as provided in paragraph (e)(4)(ii) of this section, updated notification must be provided to EPA for any change in location of lead-based paint abatement activities at least 5 business days prior to the start date provided to EPA.

(v) Updated notification must be provided to EPA when lead-based paint abatement activities are canceled, or when there are other significant changes including, but not limited to, when the square footage or acreage to be abated changes by more than 20%. This updated notification must be received by EPA on or before the start date provided to EPA, or if work has already begun, within 24 hours of the change.

(vi) The following must be included in each notification:

(A) Notification type (original, updated, cancellation).

(B) Date when lead-based paint abatement activities will start.

(C) Date when lead-based paint abatement activities will end (approximation using best professional judgement).

(D) Firm's name, EPA certification number, address, telephone number.

(E) Type of building (e.g., single family dwelling, multi-family dwelling, child-occupied facilities) on/in which abatement work will be performed.

(F) Property name (if applicable).

(G) Property address including apartment or unit number(s) (if applicable) for abatement work.

(H) Documentation showing evidence of an EBL determination or a copy of the Federal/State/Tribal/local emergency abatement order, if using the abbreviated time period as described in paragraph (e)(4)(ii) of this section.

(I) Name and EPA certification number of the project supervisor.

(J) Approximate square footage/acreage to be abated.

(K) Brief description of abatement activities to be performed.

(L) Name, title, and signature of the representative of the certified firm who prepared the notification.

(vii) Notification must be accomplished using any of the following methods: Written notification, or

electronically using the Agency's Central Data Exchange (CDX). Written notification can be accomplished using either the sample form titled "Notification of Lead-Based Paint Abatement Activities" or similar form containing the information required in paragraph (e)(4)(vi) of this section. All written notifications must be delivered by U.S. Postal Service, fax, commercial delivery service, or hand delivery (persons submitting notification by U.S. Postal Service are reminded that they should allow 3 additional business days for delivery in order to ensure that EPA receives the notification by the required date). Instructions and sample forms can be obtained from the NLIC at 1-800-424-LEAD(5323), or on the Internet at <http://www.epa.gov/lead>.

(viii) Lead-based paint abatement activities shall not begin on a date, or at a location other than that specified in either an original or updated notification, in the event of changes to the original notification.

(ix) No firm or individual shall engage in lead-based paint abatement activities, as defined in § 745.223, prior to notifying EPA of such activities according to the requirements of this paragraph.

[FR Doc. 04-7980 Filed 4-7-04; 8:45 am]
BILLING CODE 6560-50-S

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA 2004-17471]

Federal Motor Vehicle Safety Standards; Rearview Mirrors Correction

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Correcting amendment.

SUMMARY: On March 27, 1995, the National Highway Traffic Safety Administration (NHTSA) published a final rule amending the field of view requirements for System A mirrors on school buses, such that those mirrors will no longer be required to provide a view of the ground forward of the rear wheels (60 FR 15690). Previously, System A mirrors were required to provide a view of the area beneath those mirrors, a view that overlapped with the vehicle's System B mirrors, which are also required. The effective date of the amendment was April 26, 1995.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

JAN 26 2012

Nancy K. Van Voorhis, MPH
Program Director
Childhood Lead Poisoning Prevention
Lead-Safe Virginia Program
Virginia Department of Health
James Madison Building
109 Governor Street, 8th Floor
Richmond, Virginia 23219

RE: EPA Grant Number PB-99318913-2

Dear Ms. Van Voorhis:

Enclosed is the annual performance report summarizing the U.S. Environmental Protection Agency's (EPA) evaluation of the Commonwealth of Virginia's performance under the State Lead 404(g) and Enforcement Grant. Our evaluation is based on the information reported in the semi-annual report from October 1, 2010 to March 31, 2011 and the review meeting that occurred on June 1, 2011.

The EPA is pleased by the progress made by the Virginia Departments' of Health (VADH) and Professional and Occupational Regulation (VADPOR) under the 404(g) portion of the grant. Significant progress has been made to ensure that the lead professionals in the Commonwealth are trained, accredited, and licensed to accomplish their work in Virginia.

EPA is also encouraged that the Commonwealth is continuing its efforts to adopt regulations on the state level to implement a Renovation, Repair and Painting program. We understand that the regulations are still undergoing review by the Governor's Office and if they are approved by the governor, will be subject to a sixty (60) day public comment period. Upon completion of the comment period, Virginia will address any comments received and publish the final regulations in the Virginia Register.

Although Virginia is making acceptable progress implementing the programmatic elements of the lead program, we continue to be concerned about the lack of emphasis on inspections and enforcement activity related to lead abatement requirements.

During the last several program reviews, EPA has expressed concern about the lack of compliance inspections and resulting enforcement actions. The Virginia representatives at these meetings have consistently identified structural reasons why minimal, if any inspections are being conducted and little if any enforcement actions are taken to address lead-based paint abatement issues. The explanations offered range from there are no inspection targets to be

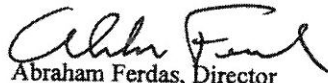
found, lead-based paint inspections are not the primary focus of VADoLI, VADPOR's work is so great that these cases are not a high enough priority to Virginia to warrant formal enforcement action and Virginia prefers to address these violations through compliance assistance rather than formal enforcement. Additionally, EPA has been informed that VADPOR's enforcement action would only impact the contractor's license to do work in the state and not necessarily address the underlying lead-based paint violation(s).

Last year, in a letter dated March 22, 2011 to Ms. Nancy Van Voorhis, EPA stated that "EPA believes that the lack of inspection activity demonstrates inadequate oversight of the regulated [universe of] lead-based paint professionals." Virginia's continued failure to take actions to address the lack of inspections and enforcement actions raises concerns about Virginia's commitment to administering all aspects of a successful lead-based paint regulatory program.

EPA recognizes that some difficulties may arise as a result of the way the program is organized in the Commonwealth, however, because Virginia accepted program authorization, Virginia agreed to effectively implement all aspects of the lead abatement program, including full implementation of a compliance and enforcement program designed to detect violations and seek appropriate enforcement responses. Continued failure to effectively implement a compliance and enforcement program could result in the withholding of grant funds, increased inspection activity by EPA in the Commonwealth and impact EPA's decision whether to grant authorization to the Commonwealth for the RRP should Virginia seek program authorization. We stand ready to work with the Commonwealth to resolve these issues to ensure that lead-based paint professionals receive the proper amount of compliance oversight for the purpose of protecting the health and welfare of the citizens of Virginia.

I have directed Harry Daw, Associate Director for Toxics and Pesticides and Mrs. Aquanetta Dickens, Chief, Toxics Programs Branch to work with your staff to develop a strategy to increase inspections and enforcement actions. Please feel free to call me at 215-814-3143 if you would like to discuss this further.

Sincerely,


Abraham Ferdas, Director
Land and Chemicals Division

Enclosure

cc: David Dick, DPOR
Mark Courtney, DPOR
Ron Graham, DOLI
Bill Burge, DOLI

Virginia Department of Health
Office of Lead Poisoning Prevention Program

BACKGROUND:

On June 1, 2011, EPA Region III, the Virginia Department of Health (VDH), Virginia Department of Professional and Occupation Regulation (DPOR), and the Virginia Department of Labor and Industry (DOLI) met to discuss the grant cycle for October 1, 2010 to September 30, 2011. The purpose of the grant is to assist Virginia in the development and implementation of its lead compliance and enforcement program.

PARTICIPATES:

Participant	Organization
Nancy Van Voorhis, Program Director	Lead-Safe Virginia Program Virginia Department of Health
David Dick, Executive Director	Board for Asbestos, Lead and Home Inspectors Department of Professional and Occupation Regulation
Michele Atkinson, Board Administrator	Board for Asbestos, Land and Home Inspectors Department of Professional and Occupation Regulation
Jill Hrynciw, Board Administrator	Board for Asbestos, Lead and Home Inspectors Department of Professional and Occupation Regulation
Ron Graham, Director	Occupational Health Compliance Virginia Department of Labor and Industry
Emory Rodgers, Deputy Director of Building and Fire Regulation	Virginia Department of Community Housing Development
Aquanetta Dickens, Chief	Toxics Programs Branch EPA Region III
Artencia Johnson, Environmental Protection Specialist	Toxics Programs Branch EPA Region III

PURPOSE:

The purposes of the mid-year program and enforcement review were to:

- Review the status of grant commitments
- Identify areas of concern (including resource related issues)
- Provide a forum in which Virginia could ask questions to better understand grant requirements and responsibilities.

Enclosure 1 provides an explanation of the status of schedule of deliverables under the grant, as reported during Virginia's Mid-Year Review Meeting. Virginia and Region III may

use the meeting to identify and make corrective actions necessary to ensure completion of the grant project and task before the grant is closed out.

PERFORMANCE STRENGTHS:

Grant Administration

The Assistance Agreement is administered by VDH and is in its third year as a multi-year grant. VDH is on target with expending its funding levels.

VDH has consistently submitted the required Semi-Annual reports summarizing the progress and performance of its Lead Safe Virginia Project. The first semi-annual report was submitted on April 29, 2011.

On March 31, 2011, representatives from VDH and DPOR attended EPA's Spring Regional Meeting in Philadelphia, PA.

State Authorization

Lead-Based Paint Activities

On March 10, 1999, Virginia Department of Professional and Occupational Regulation achieved program approval to run its Lead-Based Paint Training and Certification Program under Section 402(a) of the Toxics Substances Control Act. Since that time of achieving full program approval, DPOR has consistently submitted the required annual report summarizing the progress and performance of its Lead-Based Paint Activities Regulatory Compliance and Enforcement Program. The report for this reporting cycle is due by December 31, 2011.

Renovation, Repair, and Painting Regulations

DPOR reported that the proposed regulations are currently in the Governor's office for review and have been, at the time of the meeting, for 116 days. It was explained that prior to reaching the Governor's office, the agency submitted proposed regulations for an Executive Branch review which consist of the Office of the Attorney General, the Planning and Budget Office, and the Cabinet Secretary. After receiving Executive Branch approval, the agency submits the Notice of Intended Regulatory Action (NOIRA) for publication in the *Virginia Register of Regulations*. Once published in the *Virginia Register*, a 60-day comment period begins during which time the agency may receive comments from the general public. DPOR reviews and responds to comments and prepares final regulations for the Executive Branch review. Upon the Executive Branch's approval, the agency submits the final text of the regulations, with an explanation of any changes from the proposed, for publication in the *Virginia Register*. The regulation will become effective 30 days after publication in the *Virginia Register*. The day it becomes effective, the regulations appear online. EPA asked what was the mood for passage of the RRP regulations, what was the reason for the delay in the review of the

regulations, and asked if EPA could be any assistance to the Commonwealth to obtain the status of the regulations from EPA's Congressional liaison officer. DPOR expressed the disposition of the Governor signing the regulations were favorable and the director of the agency would be the Governor's point of contact during the process and EPA's assistance is not needed. EPA asked DPOR to find out from the Director the status of the regulations and they agreed to EPA's request. DPOR will apply for authorization upon the passage of its regulations. DPOR noted the regulatory action takes approximately 12-15 months from start to finish and they anticipate the process should be completed by spring 2012.

Since the time of the meeting, Wojceich Jankowski from EPA's Office of Regional Counsel was assigned to review the proposed regulations and was provided a link to the Commonwealth's regulatory website.

During the Year 13 grant cycle, Virginia was awarded \$75,000 to support its RRP efforts. Since that time, DPOR reported that they will not need funding to establish its program; however, management's point of view may change. Currently, DPOR's program is supported by application and renewal fees from its accreditation and certification program. EPA will confirm if funds can be redirected to support another activity.

Virginia's Quality Assurance Project Plan/Quality Management Plan was approved April 23, 2010. Virginia will not be required to update its plan until February 23, 2015.

Certification/Accreditation/Notification

DPOR continues to operate its certification and accreditation program. During this reporting period, a total of 944 individual certifications were issued in the five disciplines and 135 firms received certification. The breakdown of individuals certified during this period is as follows: 99 inspectors, 213 risk assessors, 398 abatement workers, 188 supervisors, and 46 project designers. There are 20 training providers accredited, which included the course accreditation of 86.

Compliance Assistance

Virginia has demonstrated the following accomplishments under compliance assistance:

- 7,224 brochures distributed through direct orders;
- 25,810 documents were downloaded through web site;
- 14,799 visits through State web site;
- 21 Lead Dustbuster Trainings;
- 606 visits to realtors; building code officials and through Hampton Roads Home & Garden Show;
- 228 Lead Safe hotline calls;
- 2 Media Outreach Campaigns; and

- 1 coalition formed.

VDH reported that during the Lead Poisoning Prevention Week, ten health departments throughout the state promoted lead poisoning prevention awareness by hosting displays in its lobby and clinic areas by distributing educational materials. Some districts partnered with other organizations to provide outreach education during special informational sessions or hosted booths at local health and safety fairs.

Enforcement

DPOR received three complaints of contractors using unlicensed personnel to remove paint from bridges at various locations. The complaints involved K and K Painting and Blastach Enterprise, Inc., located in Baltimore, Maryland. Since the work was performed on commercial structures, the activity is not regulated in Virginia.

Concerns

EPA is continuing concerned about the lack of inspections and enforcement the Commonwealth's lead abatement program. As stated in EPA's March 22, 2011 letter to the Virginia Department of Health for period October 2009-March 2010, "EPA believes the lack of inspection activity demonstrates inadequate oversight of the regulated lead-based paint professionals." During other previous mid-year evaluations, Virginia's performance under the enforcement grant, EPA has expressed ongoing and continuing concern about the lack of inspections and subsequent enforcement in this area. During this reporting period of October 2010-March 2011, there were six (6) lead abatement notifications received, two (2) lead abatement project inspections, and tips and complaints were received, but the number wasn't reported during the meeting, but DPOR will send to EPA a list of them.

When the Governor accepted program authorization, Virginia agreed to implement all aspects of the lead abatement program including full implementation of all compliance and enforcement elements. Continue failure to implement an effective compliance and enforcement program could result in actions that include withholding grant funds, increase inspection and enforcement activity by EPA in the Commonwealth of Virginia until such time as Virginia takes positive steps to increase its compliance and enforcement presence among the regulated universe.

Mr. Emory Rodgers, Deputy Director of Building and Fire Regulation was invited to attend the mid-year meeting on behalf of the Department of Housing and Community Development (DHCD) to explain his offices' function with the intent to build a collaborative effort among state agencies to address lead-based paint activities. The DHCD promulgates the Virginia Uniform Statewide Building Code (USBC) that regulates the construction and alteration of all new and existing building construction. Local building departments enforce the USBC with technical assistance and mandated certification training by DHCD. Integrated in the USBC

are measures to ensure the safe abatement of lead from homes built before 1978 along with ensuring that contractors are properly licensed through DPOR.

During the discussion, Mr. Rodgers provided clarification on how DHCD relates to the State. His contribution was a link to the responsibilities of the statewide local building code officials that inspect a building or structure and enforce the Virginia Codes. It was reported on March 1, 2011, based on legislation passed by the 2010 General Assembly, the 2009 USBC, Virginia Construction Code, Section 104, Part 1 and the Virginia Maintenance Code Section 104.1, Part 111 of USBC which requires the local building officials to investigate unsafe dwellings when a complaint is made and it also extends to localities that have not adopted the Virginia Maintenance Code. The provision covers interior/exterior of peeling and flaking paint surfaces. For example, based on a complaint by a tenant, the local building department would inspect the dwelling. If the structure or unit is deemed unsafe, the structure would be in violation of the Virginia Maintenance Code and the local building code official would be responsible for enforcing the code. The USBC Virginia Maintenance Code Section 103.4 allows localities to conduct rental inspections in districts of blighted areas where often lead is a problem. The enforcement penalty for criminal is \$2,500 per violation and imprisonment. In addition, civil penalties can reach up to \$5,000.

The following number of training courses offered for this reporting period is as follows:

- 15 inspector initial
- 11 inspector refresher
- 14 risk assessor initial
- 17 risk assessor refresher
- 23 supervisor initial
- 32 supervisor refresher
- 1 project designer initial
- 2 project designer refresher
- 42 worker initial
- 60 worker refresher
- 0 training provider audits .

Miscellaneous

VDH reported a total of 40,983 children under the age of 6 were tested for lead exposure. The total number of children confirmed with an elevated blood lead levels $\geq 10\mu\text{g/dL}$ was 154. The total number of children confirmed with elevated blood levels $\geq 15\mu\text{g/dL}$ was 56.

Challenges

There were no program meetings held during this reporting period. Due to the Commonwealth's budget crisis, travel and meetings have been restricted. VDH would like to redirect funds to support contractual services to support two positions. VDH explained that CDC funding will end on June 30, 2011. VDH will be applying for CDC's Healthy Homes Grant. The purpose of the initiative is to address unsafe housing through surveillance and research for prevention programs such as lead. VDH would like to use CDC funding to develop a venous module in order to pass on risk assessment referrals to the building code officials and also create a surveillance database.

Action Items

Virginia will provide a print out of all tips/complaints received, where the violations occurred and the tips/complaints that an action was initiated by Criminal Investigation Division.

DPOR will inform EPA the status of Virginia's RRP Regulations.

FY2011 VIRGINIA LEAD PROGRAM 404(G) AND ENFORCEMENT WORK PLAN
YEAR 13: AMENDMENT #2
 This work plan includes information from the Virginia Department of Health (VDH) and its subgrantees: the Virginia Department of Professional and Occupational Regulation (DPOR), and the Virginia Department of Labor and Industry (DOLI).

CATEGORY 1: GRANT ADMINISTRATION		Commitments/Deliverables	Status/Comment/Accomplishments
	Submit Semi-Annual Progress Reports within 30 days of end of previous reporting period	October 1 - March 31 Submitted April 29, 2011	April 1 - September 30
	Submit Final Technical Report within 90 days of end of budget period (Cumulative)	N/A this reporting period	DPOR will submit within 90 days to EPA with copy to VDH
	Submit Financial Status Report within 90 days of end of budget period	Interim FSR submitted December 2010	Interim FSR will be submitted before December 30, 2010
	Attend Regional and National Meetings as scheduled	David Dick and Michelle Atkinson from DPOR and Nancy Van Voorhis from VDH attended EPA Spring Regional Meeting in Philadelphia 3/31/2011	Nancy Van Voorhis attended the Lead and Healthy Homes National Conference in Denver 6/20-23/2011
	Attend professional training sessions	Nancy Van Voorhis attended Healthy Homes Essentials training 10/18-22/2010	
CATEGORY 2: STATE INFORMATION		Status/Comment/Accomplishments	
Commitments/Deliverables	Activities	Status/Comment/Accomplishments	
Submit State Authorization Reports	DPOR	October 1 - March 31 DPOR submitted 12/29/10 Rec'd: 1/7/11	April 1 - September DPOR will submit by 12/30/11
Submit Quality Assurance Project Plan (QAPP)/Quality Management Plan (QMP)	DPOR	Approved: 4/23/10 QAPP valid for 5 years	Approved: 4/23/10 Expiration date: 4/23/15
Develop authority to seek authorization to run Renovation, Repair, and Painting Rule	DPOR	Completed: Copy of legislation provided in 2010 progress report effective 2009.	Completed: Copy of legislation provided in 2010 progress report effective 2009.
Continue work on obtaining full authorization from EPA	DPOR	Proposed regulations currently undergoing Executive Branch review	Proposed regulations currently undergoing Executive Branch review

	Submit schedule of activities for re-submittal of State Authorization. DPOR	Completed: A letter of commitment outlining schedule sent January 12, 2009. DPOR expects to submit application for program authorization on or about 10/30/11.	Completed: A letter of commitment outlining schedule sent January 12, 2009. DPOR expects to submit application for program authorization on or about 10/30/11.
COMPLETELY CERTIFICATION/COMPLETION/COMPLETION/COMPLETION Compliance/Deliverables Status/Continue/Accomplishments			
State Level Results Reported ACS Measure 13B - Annual percentage of viable lead-based paint certification applications that require less than grantee State-established timeframes (semi-annual) Virginia - 14 days	Activities Engage in discussions with Region III states to develop agreement to accept training offered in other states.	October 1 - March 31 100% Certification applications meet timeframe Reciprocity discussions ongoing	April 1 - September 30 100% Certification applications meet timeframe Reciprocity discussions ongoing
ACS Measure 11B Number of active individual certifications for LBP abatement activities	Outputs Report Semi-annually on: DPOR		
	# of inspectors certified	99	90
	# of abatement workers certified	213	214
	# of supervisors certified	398	437
	# of project designers certified	188	183
	# of firms certified (please specify in comment field)	46	42
	# of training providers accredited*	135	134
	# of training courses accredited*	20	20
	# of inspector initial training courses accredited	86	85
	# of inspector refresher training courses accredited	11	11
	# of risk assessor initial training courses accredited	4	4
	# of risk assessor refresher training courses accredited	10	10
	# of supervisor initial training courses accredited	8	8
	# of supervisor refresher training courses accredited	10	10
	# of project designer initial training courses accredited	10	10
		8	8

	# of project designer refresher training courses accredited.	4	3
	# of abatement worker initial training courses accredited	14	14
	# of abatement worker refresher training courses accredited.	7	7
	Number of lead abatement notifications received for child occupied building (child care center, kindergarten classroom) and residential dwelling. DOLI	6-DOLI	0-DOLI
	Number of training provider course notifications received.	217	250
MISCELLANEOUS			
	Goals/Initiatives/Outcomes	Starts/Continued/Accomplishments	
	Report on: Blood lead screening data (Copies of blood lead screening data will be provided). Data will provide the number of children screened in categories of children with numbers equal to or exceeding 10 µg/dl (elevated blood-lead level) and the number of children with less than 10 µg/dl.	<p>October 1 – March 31 Completed: 40,983 children under 72 months tested for lead exposure. 154 confirmed EBLs ≥10 µg/dl 56 confirmed EBLs ≥ 15 µg/dl</p> <p>April 1 – September 30 Completed: 55,076 children under 72 months tested for lead exposure. 162 confirmed EBLs ≥10 µg/dl 69 confirmed EBLs ≥ 15 µg/dl See Attachment F for this period data and 2010 Annual Surveillance Report.</p>	
CATEGORY 2 COMPLIANCE SURVEILLANCE			
	Goals/Initiatives/Outcomes	Starts/Continued/Accomplishments	
	VDH Submit semi-annual report on compliance assistance activities by April 30 th and October 31 st every year on: Number of compliance assistance activities conducted (an attachment that identifies the activities conducted during the reporting period including the target audience and outreach goals. In addition, copies of materials developed through compliance assistance activities will be attached.) Number of individuals reached through compliance assistance (A description of what the State is doing to pro-actively inform the regulated and higher risk communities about rights/responsibilities/dangers with respect to lead-based paint will be included) Through dissemination of information at conference, expos, presentations, demonstrations, etc. Through contact on State Web site	<p>October 1 – March 31 Completed 7,224 Brochures distributed through direct orders; 25,810 documents downloaded through Web site</p> <p>April 1 – September 30 Completed 5,031 Brochures distributed through direct orders; 39,816 documents downloaded through Web site</p>	

	Through operation of 1-800 hotline.		
	Through media outreach campaigns	59 hotline calls 866-SOS-LEAD; and 228 to Lead Safe VA toll free	41 hotline calls 866-SOS-LEAD; and 305 to Lead Safe VA toll free
	Number of coalitions formed	Completed: 2 1) 120,000 Richmond Magazine 2) 60,000 Richmond Guide circulated Completed: 2 United Way of Greater Richmond-Bright Beginnings; VDH nurses with Lead-Safe Virginia established a coalition with Virginia Home School Association	No media campaigns this period Completed 1: Dept. of Behavioral Health and Development Services-Part C (children under 3 years) to include lead poisoning as qualifying criteria for services.
	National/State Lead Awareness Week Activities (A sheet indicating activities planned for lead awareness week will be provided).	Completed: October 24-30, 2010	Completed: October 24-30, 2010
COMMUNITY DEVELOPMENT			
Commitment Deliverable		Status/Completion/Accomplishments	
	DPOR Report Semi-annually on: Number of training courses offered	October 1 - March 31	April 1 - September 30
	Inspector Initial	15	13
	Risk Assessor Refresher	11	13
	Risk Assessor Initial	14	13
	Risk Assessor Refresher	17	19
	Supervisor Initial	23	21
	Supervisor Refresher	32	33
	Project Designer Initial	1	2
	Project Designer Refresher	2	6
	Worker Initial	42	50
	Worker Refresher	60	80
	Neutral Training Provider Audits (if no courses were conducted during reporting period)	0	2
	# of Lead abatement project inspections DOI	6	3
	# of other 402 inspections	0	1
	Number of tips/complaints received (A sheet(s) which describes the location and nature of complaint will be provided. VDH, DOI, DPOR	0	0
	Number of 406(b) and/or 1018 complaints referred to EPA	0-direct Many may be referred through EPA	0-direct Many may be referred through EPA

16VAC25-35, Proposed Regulation to Amend the Regulation Concerning Certified Lead Contractors Notification, Lead Project Permits and Permit Fees

As Adopted by the
Safety and Health Codes Board

Date: _____



16VAC25-35, Certified Lead Contractors Notification, Lead Project Permits and Permit Fees

16VAC25-35-30. Notification and permit fee.

A. Written notification of any lead project, ~~the contract price of which is \$2,000 or more,~~ shall be made to the department on a department form. Such notification shall be sent by facsimile transmission as set out in subsection J of this section, by certified mail, or hand-delivered to the department. Notification shall be postmarked or made at least 20 days before the beginning of any lead project.

B. The department form shall include the following information:

1. Name, address, telephone number, and the certification number of each person intending to engage in a lead project.
2. Name, address, and telephone number of the owner or operator of the facility in which the lead project is to take place.
3. Type of notification: amended, emergency, renovation or demolition.
4. Description of facility in which the lead project is to take place, including address, size, and number of floors.
5. Estimate of amount of lead and method of estimation.
6. Amount of the lead project fee submitted.
7. Scheduled setup date, removal date or dates, and completion date and times during which lead-related activity will take place.
8. Name and license number of the supervisor on site.
9. Name, address, telephone number, contact person, and landfill permit number of the waste disposal site or sites where the lead-containing material will be disposed.
10. Detailed description of the methods to be used in performing the lead project.

11. Procedures and equipment used to control the emission of lead-contaminated dust, to contain or encapsulate lead-based paint, and to replace lead-painted surfaces or fixtures in order to protect public health during performance of the lead project.

12. If a facsimile transmission is to be made pursuant to subsection J of this section, the credit card number, expiration date, and signature of cardholder.

13. Any other information requested on the department form.

C. A lead project permit fee shall be submitted with the completed project notification form. The fee shall be in accordance with the following schedule:

1. The greater of \$100 or 1.0% of the contract price, with a maximum of \$500.

2. If, at any time, the Commissioner of Labor and Industry determines that projected revenues from lead project permit fees may exceed projected administrative expenses related to the lead program by at least 10%, the commissioner may reduce the minimum and maximum fees and contract price percentage set forth in subdivision 1 of this subsection.

D. A blanket notification, valid for a period of one year, may be granted to a contractor who enters into a contract for a lead project on a specific site which is expected to last for one year or longer.

1. The contractor shall submit the notification required in subsection A of this section to the department at least 20 days prior to the start of the requested blanket notification period. The notification submitted shall contain the following additional information:

a. The dates of work required by subdivision B 7 of this section shall be every work day during the blanket notification period, excluding weekends and state holidays.

b. The estimate of lead to be removed required under subdivision B 5 of this section shall be signed by the owner and the owner's signature authenticated by a notary.

c. A copy of the contract shall be submitted with the notification.

2. The lead project permit fee for blanket notifications shall be as set forth in subsection C of this section.

3. The contractor shall submit an amended notification at least one day prior to each time the contractor will not be present at the site. The fee for each amended notification will be \$15.

4. Cancellation of a blanket notification may be made at any time by submitting a notarized notice of cancellation signed by the owner. The notice of cancellation must include the actual amount of lead removed and the actual amount of payments made under the contract. The refund shall be the difference between the original lead permit fee paid and 1.0% of the actual amount of payments made under the contract.

E. Notification of fewer than 20 days may be allowed in case of an emergency involving protection of life, health or property. In such cases, notification and the lead permit fee shall be submitted within five working days after the start of the emergency lead project. A description of the emergency situation shall be included when filing an emergency notification.

F. A notification shall not be effective unless a complete form is submitted and the proper permit fee is enclosed with the completed form. A notification made by facsimile transmission pursuant to subsection J of this section shall not be effective if the accompanying credit card payment is not approved.

G. On the basis of the information submitted in the lead notification, the department shall issue a permit to the contractor within seven working days of the receipt of a completed notification form and permit fee.

1. The permit shall be effective for the dates entered on the notification.

2. The permit or a copy of the permit shall be kept on site during work on the project.

H. Amended notifications may be submitted for modifications of subdivisions B 3 through B 11 of this section. No amendments to subdivision B 1 or B 2 of this section shall be allowed. A copy of the original notification form with the amended items circled and the permit number entered shall be submitted at any time prior to the removal date on the original notification.

1. No amended notification shall be effective if an incomplete form is submitted or if the proper permit amendment fee is not enclosed with the completed notification.

2. A permit amendment fee shall be submitted with the amended notification form. The fee shall be in accordance with the following schedule:

a. For modifications to subdivisions B 3, B 4, and B 6 through B 10 of this section, \$15.

b. For modifications to subdivision B 5 of this section, the difference between the permit fee in subsection C of this section for the amended amount of lead and the original permit fee submitted, plus \$15.

3. Modifications to the completion date may be made at any time up to the completion date on the original notification.

4. If the amended notification is complete and the required fee is included, the department will issue an amended permit if necessary.

I. The department must be notified prior to any cancellation. A copy of the original notification form marked "canceled" must be received no later than the scheduled removal date. Cancellation of a project may also be done by facsimile transmission. Refunds of the lead project permit fee will be made for timely cancellations when a notarized notice of cancellation signed by the owner is submitted.

The following amounts will be deducted from the refund payment: \$15 for processing of the original notification, \$15 for each amendment filed, and \$15 for processing the refund payment.

J. Notification for any lead project, emergency notification, or amendment to notification may be done by facsimile transmission if the required fees are paid by credit card.