

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 745

[OPPTS-62157; FRL-5796-1]

RIN 2070-AC64

Lead; Minor Amendment to the Grant Provision in the Lead-Based Paint Activities Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final rule.

SUMMARY: The Agency is revising the grant provision included in the Lead-Based Paint Activities Rule, which was finalized on August 29, 1996. Specifically, EPA is correcting an anomaly created by the original language of 40 CFR 745.330 by clarifying that grants may be awarded to States and Tribes for the purpose of developing, as well as carrying out authorized programs to ensure that individuals employed in lead-based paint activities are properly trained; that training programs are accredited; and that contractors employed in such activities are certified. Although this revision is being made effective upon publication, the Agency is still interested in receiving comments on this action. Any comments received will be considered prior to the issuance of any subsequent amendment to this provision.

DATES: This action is effective August 4, 1998. Any comments received by September 3, 1998 will be considered in any subsequent amendments.

ADDRESSES: Comments may be submitted by U.S. mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the SUPPLEMENTARY INFORMATION section of this document.

FOR FURTHER INFORMATION CONTACT: For general information contact: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone: 202-554-1404; TDD: 202-554-0551; e-mail: TSCA-Hotline@epa.gov. For technical information contact: Betty L. Weiner, Office of Pollution Prevention and Toxics (7404), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone: 202-260-2924, e-mail: weiner.betty@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Important General Information

A. Does This Notice Apply to Me?

You may be potentially affected by this action if you are a State, the D.C. government, or an Indian Tribe. This interim final rule clarifies the eligibility conditions for entities that apply for grants to develop their own authorizable lead-based paint programs or to carry out programs authorized by EPA. This action only affects States, the D.C. government, and Indian Tribes that voluntarily decide to apply for grants.

Category	Examples of Entities	Effect of Action
State and Tribal Governments	States, D.C. Government, and Indian Tribes	Eligible for grants to develop and carry out their own authorizable or authorized lead-based paint program

This table is intended to provide a guide for readers likely to be affected by this action. To determine whether your agency is affected, you should carefully examine the Requirements for Lead-Based Paint Activities at 40 CFR part 745, subparts L and Q. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed in the "FOR FURTHER INFORMATION CONTACT" section.

B. How Can I Get Additional Information or Copies of This Document or Other Support Documents?

1. *Electronically.* You may obtain electronic copies of this document from the EPA internet Home Page at the Federal Register--Environmental Documents entry for this document which can be found under "Laws and Regulations" (<http://www.epa.gov/fedrgstr/>).

2. *In person or by phone.* If you have any questions or need additional information about this action, please contact the technical person identified in the "FOR FURTHER INFORMATION CONTACT" section. In addition, the official record for this action, as well as the public version, has been established under docket control number OPPTS-62157, (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of any electronic comments, which does not include any information claimed as CBI, is available for inspection in Rm. B607, Northeast Mall, 401 M St., SW.,

Washington, DC, from noon to 4 p.m., Monday through Friday, excluding legal holidays. The OPPT Document Control Office telephone number is 202-260-7093.

C. How and To Whom Do I Submit Comments To?

You may submit comments through the mail, in person, or electronically. Be sure to identify the docket control number OPPTS-62157 in your correspondence.

1. *By mail.* Submit written comments to: Environmental Protection Agency, Document Control Office (7407), Office of Pollution Prevention and Toxics (OPPT), Rm. G-099, 401 M St., SW., Washington, DC 20460.

2. *In person or by courier.* Deliver written comments to: Environmental Protection Agency, OPPT Document Control Office in Rm. G-099, East Tower, 401 M St., SW., Washington, DC, telephone: 202-260-7093.

3. *Electronically.* Submit your comments and/or data electronically by e-mail to: oppt.ncic@epa.gov. Please note that you should not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on standard computer disks in Wordperfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number OPPTS-62157. Electronic comments on this interim final rule may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI in My Comments?

You may claim information in the comment that you submit in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by EPA without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult with the technical contact person identified in the "FOR FURTHER INFORMATION CONTACT" section.

II. Background

The Residential Lead-Based Paint Hazard Reduction Act of 1992 (Title X)

amended the Toxic Substances Control Act (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 included TSCA section 402, Lead-Based Paint Activities Training and Certification, which directed EPA to promulgate a regulation to govern the training and certification of individuals engaged in lead-based paint activities and the accreditation of training programs and standards for conducting lead-based paint activities. Section 404 of TSCA required that EPA establish procedures for States and Indian Tribes seeking to establish their own programs for lead-based paint activities. On August 29, 1996 (61 FR 45778) (FRL-5389-9), EPA promulgated a final rule under sections 402 and 404 of TSCA for "Lead; Requirements for Lead-Based Paint Activities in Target Housing and Child-Occupied Facilities" at 40 CFR part 745.

III. Legal Authority

EPA is taking this action under the authority of sections 402 and 404 of Title IV of TSCA (15 U.S.C. 2682). Section 402 required the Agency to promulgate regulations for the accreditation of training programs and the certification of contractors engaged in lead-based paint activities. Section 404 required the Agency to promulgate regulations for the approval of State and Tribal programs. These regulations were published on August 29, 1996, at 40 CFR part 745, subparts L and Q.

IV. Issuance of this Action as an Interim Final Rule

Actions that are related to grants are exempt from notice and comment rulemaking under section 553(a)(2) of the Administrative Procedure Act (5 U.S.C. 553(a)(2)). EPA is therefore issuing this action as an interim final rule that is effective upon publication in the **Federal Register**. Although not required, EPA is nevertheless providing an opportunity for the public to submit comment on this revision, and any comments received will be considered as the Agency works to consolidate the grant provisions in 40 CFR part 745, with the other Agency grant provisions that appear at 40 CFR part 31.

V. Summary of Revision Being Made

Currently, 40 CFR 745.330 reads as follows:

The Administrator, or a designated equivalent, may make grants to States and Indian Tribes, that meet the requirements of § 745.324(e)(2)(i) and (e)(2)(ii), under section 404(g) of the Toxic Substances Control Act (TSCA) to develop and carry out programs

authorized pursuant to this subpart. Grants made under this section are subject to the requirements of 40 CFR part 31.

As currently written, § 745.330 unintentionally restricts the category of potential grant recipients to only those States and Tribes whose programs are either authorized by EPA at the time they apply for the grant or eligible for authorization by EPA at the time they apply for the grant, i.e., "authorizable."

Section 404(g), in contrast, gives EPA the authority to make grants "to develop and carry out authorized State programs" (emphasis added). While EPA could have chosen to award section 404(g) grants for a more limited range of purposes than permitted by the statute, the Agency never intended to restrict its award of grants under section 404(g) for developing programs to those States and Tribes that already have authorized or authorizable programs. In most cases, a grant to develop a State or Tribal program is most appropriately made before the State's program is authorized or authorizable. Generally, the purpose of such a development grant is to assist the State or Tribe in developing its program so that it will be eligible for authorization.

This action corrects the anomaly created by the original language of § 745.330 by clarifying that grants may be awarded to States and Tribes for the purpose of developing as well as carrying out authorized programs to ensure that individuals employed in lead-based paint activities are properly trained; that training programs are accredited; and that contractors employed in such activities are certified.

VI. Regulatory Assessment Requirements

A. Executive Order 12866

Under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" subject to review by the Office of Management and Budget (OMB), because this action only clarifies State and Tribe eligibility for Federal grants.

B. Regulatory Flexibility Act

Under section 601(2) of the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, the Agency is not required to consider the potential small entity impacts of rules for which the Agency does not publish a notice of proposed rulemaking. As indicated in Unit III. of this preamble, actions related to grants are exempt from the notice and comment rulemaking requirements by

section 553(a)(2) of the Administrative Procedure Act. Nevertheless, the Agency hereby certifies under section 605(b) of the RFA, that this action will not have a significant economic impact on a substantial number of small entities. In 1996, the Agency considered the potential impacts of the grant provision on small entities as a part of the impact analysis that was conducted for 40 CFR part 745 under sections 402 and 404 of TSCA. This action merely clarifies for States and Tribes their eligibility for Federal grants, and does not change that original assessment. EPA will provide this information to the Small Business Administration's Office of Advocacy upon request.

C. Paperwork Reduction Act

This action does not contain any information collection requirements that require additional approval by OMB under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.* The information collection requirements associated with 40 CFR part 745 are approved by OMB under OMB control number 2070-0155 (EPA ICR number 1715). Since there are no new information collection requirements to consider, or any changes to the existing requirements that might impact the existing burden estimates, additional OMB review and approval under the PRA is not necessary.

Under the PRA, "burden" means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or 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.

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, after initial publication in the **Federal Register**, are maintained in a list at 40 CFR part 9.

The Agency is always interested in comments on the Agency's information collections, i.e., the need for the

information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques. Send comments on the ICR to EPA at the address provided above, with a copy to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th St., NW., Washington, DC 20503, marked "Attention: Desk Officer for EPA." Please remember to include the ICR number in any correspondence.

D. Unfunded Mandates Reform Act and Executive Order 12875

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4), EPA has determined that this action is not subject to the requirements of sections 202 and 205, because this action does not contain any "Federal mandates" or impose an "enforceable duty" on any State, local or Tribal governments or on anyone in the private sector. In addition, this action does not contain any regulatory requirements that might significantly or uniquely affect small governments. Therefore, no action is needed under section 203 of the UMRA and, because this is not a discretionary act containing an unfunded mandate, no consultation is required under Executive Order 12875, Enhancing the Intergovernmental Partnership (58 FR 58093, October 28, 1993).

E. 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), the Agency 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. This action is expected to provide some relief to those minority and low-income populations impacted by lead-based paint problems, which are overwhelmingly located in low-income communities. This action simply clarifies that States and Tribes are eligible for Federal grants to develop programs designed to improve environmental and health conditions in their communities.

F. Executive Order 13045

This action is not subject to Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997), because this action is not an economically significant

regulatory action as defined by Executive Order 12866 (see Unit VI.A. above), and this action does not address the environmental health or safety risk affecting children. Please note, however, that children under the age of 6 are the primary beneficiaries of the Agency's overall Lead Program.

G. National Technology Transfer and Advancement Act

This 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), Pub. L. 104-113, section 12(d) (15 U.S.C. 272 note).

VII. Submission to Congress and the General Accounting Office

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, 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 to 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, Hazardous substances, Lead poisoning, Reporting and recordkeeping requirements.

Dated: July 23, 1998.

Carol M. Browner,
Administrator.

Therefore, 40 CFR part 745 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, and 2681-2692.

2. Section 745.330 is revised to read as follows:

§ 745.330 Grants.

(a) The Administrator may make grants to States and Indian Tribes, under section 404(g) of TSCA to develop and, if authorized, carry out lead-based paint activities programs to ensure that individuals employed in lead-based paint activities are properly trained; that

training programs are accredited; and that contractors employed in such activities are certified, pursuant to this subpart. The Administrator may treat a tribe as eligible to apply for a TSCA section 404(g) grant if the tribe:

(1) Is recognized by the Secretary of Interior.

(2) Has an existing government exercising substantial governmental duties and powers.

(3) Has adequate authority to carry out the grant activities.

(4) Is reasonably expected to be capable, in the Administrator's judgment, of administering the grant program.

(b) If the Administrator has previously determined that an Indian tribe has met the prerequisites in paragraphs (a)(1) and (a)(2) of this section for another EPA program, the tribe need provide only that information unique to the TSCA section 404(g) grant program required by paragraphs (a)(3) and (a)(4) of this section. Grants made under this section are subject to the requirements of part 31 of this chapter.

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GENERAL SERVICES ADMINISTRATION

41 CFR 101-43

[FPMR Amdt. H-199]

RIN 3090-AG74

Disposal of Excess and Exchange/Sale Information Technology (IT) Equipment

AGENCY: Office of Governmentwide Policy, GSA.

ACTION: Final rule.

SUMMARY: The General Services Administration (GSA) is removing Federal Property Management Regulations (FPMR) provisions regarding disposal of information technology (IT) equipment. These provisions, initially promulgated in the Federal Information Resources Management Regulations (FIRMR), and later contained in FPMR Temporary Regulation H-28, were developed at a time when there was a proliferation of relatively high dollar value IT equipment. This regulation is no longer appropriate in today's environment, given the dramatic increase in relatively low dollar personal computers and related equipment. Removal of this regulation means that IT equipment will now be disposed of under the normal FPMR provisions for disposal of personal property.