

Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCFA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCFA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104-4).

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), Public Law 104-113, section 12(d) (15 U.S.C. 272 note).

**VII. 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 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 this final rule in the **Federal Register**. This final rule is not a “major rule” as defined by 5 U.S.C. 804(2).

**List of Subjects in 40 CFR Part 180**

Environmental protection, Administrative practice and procedure,

Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 1, 2009.

**G. Jeffery Herndon,**

*Acting Director, Registration Division, Office of Pesticide Programs.*

■ Therefore, 40 CFR chapter I is amended as follows:

**PART 180—[AMENDED]**

■ 1. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.579 paragraph (a)(1) table is amended by removing the commodities “carrot” and “grape (imported)” and adding the following commodities; by removing and reserving paragraph (b); by revising paragraph (c); and by adding the following commodities to the table in paragraph (d) to read as follows:

**§ 180.579 Fenamidone; tolerances for residues.**

(a) *General.* (1) \* \* \*

| Commodity  | Parts per million |
|--|-------------------|
| * * *  | * *               |
| Cilantro, leaves .....   | 60                |
| Okra .....   | 3.5               |
| Turnip, greens .....   | 55                |
| Vegetable, root, except sugar beet, subgroup 1B, except radish ..... | 0.15              |
| * * *  | * *               |

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* A tolerance with regional registration as defined in §180.1(m) is established for residues of fenamidone, 4*H*-Imidazol-4-one, 3,5-dihydro-5-methyl-2-(methylthio)-5-phenyl-3-(phenylamino)-, (S)-, in or on the following commodity:

| Commodity                | Parts per million |
|--------------------------|-------------------|
| Grape <sup>1</sup> ..... | 1.0               |

<sup>1</sup>Applicable to grapes grown East of the Rocky Mountains.

(d) *Indirect or inadvertent residues.* \* \* \*

| Commodity                 | Parts per million |
|---------------------------|-------------------|
| Corn, field, forage ..... | 0.25              |
| Corn, field, grain .....  | 0.02              |
| Corn, field, stover ..... | 0.40              |
| Corn, sweet, forage ..... | 0.15              |

| Commodity   | Parts per million |
|---|-------------------|
| Corn, sweet, kernel plus cob with husks removed ..... | 0.02              |
| Corn, sweet, stover .....                             | 0.20              |
| Soybean, forage .....                                 | 0.15              |
| Soybean, hay .....                                    | 0.25              |
| Soybean, seed .....                                   | 0.02              |
| * * *   | * *               |

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 745**

[EPA-HQ-OPPT-2005-0049; FRL-8422-7]

RIN 2070-AJ48

**Lead; Minor Amendments to the Renovation, Repair, and Painting Program**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is issuing a final rule making two minor revisions to the final Lead Renovation, Repair, and Painting Program (RRP) rule that published in the **Federal Register** on April 22, 2008. First, this final rule requires accredited providers of renovator or dust sampling technician training to submit post-course notifications, including digital photographs of each successful trainee, to EPA. The 2008 rule establishes accreditation, training, certification, and recordkeeping requirements as well as work practice standards on persons performing renovations for compensation in most pre-1978 housing and child-occupied facilities. The post-course notification requirement, designed to supply important information for EPA’s compliance monitoring efforts, was inadvertently omitted from the final RRP rule’s regulatory text. In addition, this final rule removes the requirement for accredited lead-based paint activities training providers—those who provide inspector, risk assessor, project designer, and abatement supervisor and worker training—to submit to EPA a digital photograph of each successful trainee along with their post-course notifications. That requirement, inadvertently imposed as part of the final RRP rule, is unnecessary because EPA already receives photographs of these individuals through other means.

**DATES:** This final rule is effective July 15, 2009.

**ADDRESSES:** EPA has established a docket for this action under docket identification (ID) number EPA-HQ-OPPT-2005-0049. All documents in the docket are listed in the docket index available at <http://www.regulations.gov>. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at <http://www.regulations.gov>, or, if only available in hard copy, at the OPPT Docket. The OPPT Docket is located in the EPA Docket Center (EPA/DC) at Rm. 3334, EPA West Bldg., 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566-1744, and the telephone number for the OPPT Docket is (202) 566-0280. Docket visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor bags are processed through an X-ray machine and subject to search. Visitors will be provided an EPA/DC badge that must be visible at all times in the building and returned upon departure.

**FOR FURTHER INFORMATION CONTACT:** For general information contact: Colby Lintner, Regulatory Coordinator, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (202) 554-1404; e-mail address: [TSCA-Hotline@epa.gov](mailto:TSCA-Hotline@epa.gov).

For technical information contact: Cindy Wheeler, National Program Chemicals Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (202) 566-0484; e-mail address: [wheeler.cindy@epa.gov](mailto:wheeler.cindy@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Does this Action Apply to Me?

You may be potentially affected by this action if you provide or plan to provide training in lead-safe building renovation work practices or training for dust sampling technicians. Potentially affected entities may include, but are not limited to:

- Other technical and trade schools (NAICS code 611519), e.g., training providers.

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 this action might apply to certain entities. 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**.

##### II. What Action is the Agency Taking?

###### A. Introduction

In the **Federal Register** of April 22, 2008 (73 FR 21692) (FRL-8355-7), under the authority of sections 402(c)(3), 404, 406, and 407 of the Toxic Substances Control Act (TSCA), EPA issued its final RRP rule (Ref. 1). The final RRP rule, codified in 40 CFR part 745, subparts E, L, and Q, addresses lead-based paint hazards created by renovation, repair, and painting activities that disturb lead-based paint in target housing and child-occupied facilities.

“Target housing” is defined in TSCA section 401 as any housing constructed before 1978, except housing for the elderly or persons with disabilities (unless any child under age 6 resides or is expected to reside in such housing) or any 0-bedroom dwelling. The final RRP rule defines a “child-occupied facility” as a building, or a portion of a building, constructed prior to 1978, visited regularly by the same child, under 6 years of age, on at least 2 different days within any week (Sunday through Saturday period), provided that each day’s visit lasts at least 3 hours and the combined weekly visits last at least 6 hours, and the combined annual visits last at least 60 hours. Child-occupied facilities may be located in public or commercial buildings or in target housing.

The final RRP rule establishes requirements for training renovators, other renovation workers, and dust sampling technicians; for certifying renovators, dust sampling technicians, and renovation firms; for accrediting providers of renovation and dust sampling technician training; for renovation work practices; and for recordkeeping. Interested States, Territories, and Indian Tribes may apply for and receive authorization to administer and enforce all of the

elements of the new renovation requirements. More information on the final RRP rule may be found in the **Federal Register** document announcing the final RRP rule (Ref. 1) or on EPA’s website at <http://www.epa.gov/lead/pubs/renovation.htm>.

Many provisions of the final RRP rule were derived from the existing lead-based paint activities regulations at 40 CFR part 745, subpart L (Ref. 2). These existing regulations were promulgated in 1996 under TSCA section 402(a), which defines lead-based paint activities in target housing as inspections, risk assessments, and abatements. The 1996 regulations cover lead-based paint activities in target housing and child-occupied facilities, along with limited screening activities called lead hazard screens. These regulations established an accreditation program for training providers and a certification program for individuals and firms performing these activities. Training course accreditation and individual certification was made available in five disciplines: Inspector, risk assessor, project designer, abatement supervisor, and abatement worker. In addition, these lead-based paint activities regulations established work practice standards and recordkeeping requirements for lead-based paint activities in target housing and child-occupied facilities.

A 2004 amendment to the lead-based paint activities regulations established notification procedures for certified professionals conducting lead-based paint abatement activities, and accredited training programs providing lead-based paint activities courses (Ref. 3). Since the effective date of the 2004 amendment, accredited training programs have been required to notify EPA before providing initial or refresher lead-based paint activities training courses and again following completion of these training courses. Both notifications must include information about the course, while the post-course notification also must include identifying information on the successful trainees. These notification requirements were designed to facilitate compliance monitoring by EPA.

The final RRP rule created two new training disciplines in the field of lead-based paint: Renovator and dust sampling technician. Persons who successfully complete renovator training from an accredited training provider are certified renovators, who are responsible for ensuring that renovations to which they are assigned are performed in compliance with the work practice requirements set out in 40 CFR 745.85. Persons who successfully

complete dust sampling technician training from an accredited training provider are certified dust sampling technicians, who may be called upon to collect optional dust samples after renovations have been completed.

While the training disciplines, the work practice standards, and the recordkeeping requirements of the final RRP rule differ from those established in the lead-based paint activities regulations, EPA determined that the accreditation requirements imposed on persons providing lead-based paint activities training would also be effective for persons providing renovation training. Therefore, the final RRP rule amended 40 CFR 745.225 to cover persons who provide or wish to provide renovation training for the purposes of the final RRP rule.

As amended by the final RRP rule, 40 CFR 745.225 requires training providers who wish to provide lead-based paint activities or renovation training for the purposes of EPA's lead-based paint programs to be accredited by EPA. The requirements for each course of study are described in detail at 40 CFR 745.225 as are the operational requirements for training programs and the process for obtaining accreditation.

As EPA began the process of implementing the final RRP rule, EPA discovered several minor omissions from the regulatory text. Because these omissions could have an impact on EPA's ability to monitor compliance with the RRP rule provisions, EPA issued a proposal (the "2009 Proposal") on April 22, 2009 (74 FR 18330) (FRL-8405-3) to amend the final RRP rule to address these omissions (Ref. 4). EPA received one public comment on the proposal.

The commenter was generally supportive of this action, while suggesting other changes that EPA should consider for the RRP program. The commenter expressed concerns about the overall emphasis on administration requirements which, according to the commenter, merely indirectly addressed environmental and health issues. Specifically, the commenter made the following suggestions: (1) Reduce the size of the photographic identification cards and require more resilient cards; (2) develop a tiered system of on-the-job training to easily verify the level of training or experience each worker has had; (3) clarify rules designed to protect workers from a increased risk of lead exposure; (4) require a certified renovator to report homes that house children or pregnant woman and that have not gone through lead-based paint abatement procedures; and (5) impose stricter penalties for

non-compliance. These comments addressed issues beyond the scope of this rulemaking. EPA's detailed response to the commenter's suggestions and questions can be found in the rulemaking docket for this action (Ref. 5).

#### B. This Final Rule

This final rule makes two minor amendments to the final RRP rule. These amendments affect the notification requirements for accredited providers of renovation and lead-based paint activities training.

1. *Post-course notifications.* As discussed in the preamble to the 2009 Proposal, the regulatory text of the final RRP rule inadvertently omitted a requirement for accredited providers of renovation training to provide notification to EPA after each training course the provider delivers (Ref. 4). This final rule amends 40 CFR 745.225(c)(14) to require post-course notifications from accredited providers of renovator or dust sampling technician training. This amendment also includes conforming changes to 40 CFR 745.225(c)(14)(iii) to include the correct name of the sample post-course notification form and to make it clear that all methods of post-course notification are available to both renovation training providers and lead-based paint activities training providers. As amended, 40 CFR 745.225(c)(14) now requires renovation training providers to notify EPA, no later than 10 business days following course completion. This notification must include the training provider's name, address, and accreditation number; the course discipline and type; the date the course was provided and, for each student, the name, address, date of birth, course completion certificate number, course test score, and a digital photograph of the student. The notification must be signed by the training manager.

2. *Digital photographs of lead-based paint activities trainees.* The final RRP rule amended 40 CFR 745.225(c)(14) to require training providers to submit digital photographs of each student as part of their post-course notifications. As discussed in the 2009 Proposal, language limiting the requirement to accredited providers of renovator or dust sampling technician training courses was inadvertently omitted from the final RRP rule (Ref. 4). EPA did not intend for the requirement to apply to accredited providers of lead-based paint activities (inspector, risk assessor, project designer, and abatement supervisor and worker) training because, as part of the individual

certification application process, EPA already receives photographs from individual certification candidates at or about the time that the individuals complete their training. Therefore, this final rule amends 40 CFR 745.225(c)(14)(ii)(D)(6) to limit the digital photograph requirement to accredited renovation training providers.

#### C. Effective Date

In the 2009 Proposal, EPA proposed to make this final rule immediately effective to minimize the impact that these inadvertent omissions will have on the regulated community, the public, and the Agency. In the preamble to the 2009 Proposal, EPA discussed the potential effect of a delay in finalizing the post-course notification requirements, and proposed to find that, under the Administrative Procedure Act (APA), 5 U.S.C. 553(d)(3), good cause exists to dispense with the 30-day delay in the effective date of this final rule (Ref. 4). For the reasons explained in the preamble to the proposal, EPA now finds good cause does exist to dispense with the 30-day delay in the effective date. EPA received no comment on this aspect of the proposal. Therefore, this final rule takes effect immediately upon publication in the **Federal Register**.

### III. References

1. EPA. Lead; Renovation, Repair, and Painting Program; Final Rule. **Federal Register** (73 FR 21692, April 22, 2008) (FRL-8355-7).
2. EPA. Lead; Requirements for Lead-based Paint Activities; Final Rule. **Federal Register** (61 FR 45778, August 29, 1996) (FRL-5389-9).
3. EPA. Lead; Notification Requirements for Lead-Based Paint Abatement Activities and Training; Final Rule. **Federal Register** (69 FR 18489, April 8, 2004) (FRL-7341-5).
4. EPA. Lead; Minor Amendments to the Renovation, Repair, and Painting Program; Proposed Rule. **Federal Register** (74 FR 18330, April 22, 2009) (FRL-8405-3).
5. EPA. Lead; Minor Amendments to the Renovation, Repair, and Painting Program. Response to Comments. June 2009.
6. EPA. Information Collection Request (ICR); final rule addendum to an existing EPA ICR, entitled *TSCA Sections 402/404 Training and Certification, Accreditation, and Standards for Lead-Based Paint Activities*. Document ID Number EPA-HQ-OPPT-2005-0049-0925. March 2008.
7. EPA, Office of Pollution Prevention and Toxics (OPPT). Economic Analysis for the TSCA Lead Renovation, Repair, and Painting Program Final Rule for Target Housing and Child-Occupied Facilities. March 2008.
8. EPA, OPPT. Economic Analysis for the TSCA Section 402 Lead-Based Paint Program Accreditation and Certification Fee Rule. March 2009.

9. EPA. Lead; Renovation, Repair, and Painting Program; Proposed Rule. **Federal Register** (71 FR 1588, January 10, 2006) (FRL-7755-5).

#### 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 is not a "significant regulatory action" subject to review by the Office of Management and Budget (OMB). However, the costs of the requirement that accredited renovator and dust sampling technician training providers submit post-course notifications were accounted for in the ICR addendum prepared for the final RRP rule (Ref. 6). Those costs were estimated to be \$347,720 in the first year that the post-course notification requirement is in effect, \$67,896 in the second year, and \$67,489 in the third year. The costs for these providers to take a digital photograph of each trainee, include it in the trainee's course completion certificate, and forward it to EPA were estimated to be \$2 per trainee in the economic analysis for the final RRP rule (Ref. 7). The economic analysis for the final RRP rule also estimated that there would be 235,916 trainees in the first year that the accreditation and training requirements are in effect, 78,316 in the second year, and 77,995 in the third year. This results in an estimated cost for the digital photograph requirement of \$471,832 in the first year, \$156,632 in the second year, and \$155,990 in the third year.

The costs for accredited lead-based paint activities training providers to take digital photographs of successful trainees and submit them to EPA were not directly estimated, because EPA did not intend to impose this requirement. However, these costs can be calculated using the \$2 per trainee figure along with the annual number of lead-based paint activities certification and recertification applications received by EPA that was estimated for an economic analysis prepared for a separate rulemaking (Ref. 8). That economic analysis estimated that EPA would receive, on an annual basis, 1,534 certification applications and 626 recertification applications. This results in an estimated annual cost for the digital photograph requirement for accredited lead-based paint activities training providers of \$4,320. Because this final rule eliminates the digital photograph requirement for accredited lead-based paint activities training providers, this amount represents a cost savings.

##### B. Paperwork Reduction Act

This regulatory 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 referenced in this final rule (i.e., the post-course notification requirement in 40 CFR 745.225) has already been approved by OMB under control number 2070-0155 (EPA ICR # 1715.10) (Ref. 6). EPA does not believe that this final rule has any impact on the existing burden estimate or collection description, such that additional approval by OMB is necessary.

Burden under PRA 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.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations codified in 40 CFR chapter I, after appearing in the preamble of the final rule, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable.

##### C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the APA or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of this final rule on small entities, small entity is defined in accordance with section 601 of RFA as:

1. A small business as defined by the Small Business Administration's (SBA) regulations 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.

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 impacts of the post-course notification requirement on small entities who become accredited to provide renovator or dust sampling technician training courses were specifically addressed and accounted for during the development of the final RRP rule. As provided for in section 605 of RFA, the post-course notification requirements being promulgated in this final rule are so closely related to the final RRP rule that EPA considers them and the analysis prepared and the other actions taken by EPA in connection with the final RRP rule to be one rule for the purposes of sections 603 and 604 of RFA. Accordingly, in order to avoid duplicative action, EPA is relying on the analysis EPA prepared for the final RRP rule as well as the other actions that EPA took in developing the final RRP rule to satisfy its obligations under RFA for this final rule.

A description of the Agency's activities pursuant to RFA is found in the preamble to the final RRP rule (Ref. 1 at 21752). Specifically, pursuant to section 603 of RFA, EPA prepared an initial regulatory flexibility analysis (IRFA) for the proposed RRP rule and convened a Small Business Advocacy Review Panel to obtain advice and recommendations of representatives of the regulated small entities on a range of issues, including training provider accreditation. As required by section 604 of RFA, the Agency also prepared a final regulatory flexibility analysis (FRFA) for the final RRP rule. The post-course notification requirements being promulgated in this final rule were included in costs analyzed in the IRFA and the FRFA for the final RRP rule. The FRFA also addressed the issues raised by public comments on the IRFA. As part of that analysis, EPA determined that including a digital photograph in the notification would not be an added cost to training providers because the cost would be recouped as part of the fee charged for the course. Thus, this requirement would not have a significant impact on any training providers. Accordingly, the impacts of the post-course notification requirements on small entities that become accredited to provide renovator or dust sampling technician training

courses have been adequately addressed for purposes of RFA.

#### D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments and the private sector. Under section 202 of UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with “Federal mandates” that may result in expenditures to State, local, and Tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 of UMRA do not apply when they are inconsistent with applicable law. Moreover, section 205 of UMRA allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including Tribal governments, it must have developed under section 203 of UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Under Title II of UMRA, EPA has determined that this final rule does not contain a Federal mandate that may result in expenditures that exceed the inflation-adjusted UMRA threshold of \$100 million by State, local, or Tribal governments or the private sector in any 1 year. In addition, this final rule does not contain a significant Federal intergovernmental mandate as described by section 203 of UMRA nor does it contain any regulatory requirements that might significantly or uniquely affect small governments.

#### E. Executive Order 13132

Pursuant to Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999), EPA has determined that 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. Thus, Executive Order 13132 does not apply to this final rule. Nevertheless, in the spirit of the objectives of this Executive Order, and consistent with EPA policy to promote communications between the Agency and State and local governments, EPA consulted with representatives of State and local governments during the rulemaking process for the RRP rule. These consultations are as described in the preamble to the 2006 RRP proposed rule (Ref. 9).

#### F. Executive Order 13175

As required by Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (59 FR 22951, November 9, 2000), EPA has determined that this final rule does not have tribal implications because it will not have substantial direct effects on Tribal governments, on the relationship between the Federal Government and the Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes, as specified in the Executive Order. Thus, Executive Order 13175 does not apply to this final rule. Although Executive Order 13175 does not apply to this final rule, EPA consulted with Tribal officials and others by discussing potential renovation regulatory options at several national lead program meetings hosted by EPA and other interested Federal agencies.

#### G. Executive Order 13045

Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997) does not apply to this final rule because it is not an “economically significant regulatory action” as defined by Executive Order 12866. While the environmental health or safety risk addressed by the RRP rule does have a disproportionate effect on children, this final rule merely covers administrative requirements for accredited training

providers and does not directly address environmental health or safety risks.

EPA has evaluated the environmental health or safety effects of renovation, repair, and painting projects on children. Various aspects of this evaluation are discussed in the preamble to the proposed RRP rule (Ref. 9). The primary purpose of the final RRP rule is to minimize exposure to lead-based paint hazards created during renovation, repair, and painting activities in housing where children under age 6 reside and in housing or other buildings frequented by children under age 6. In the absence of the final RRP rule, adequate work practices are not likely to be employed during renovation, repair, and painting activities. EPA’s analysis indicates that there will be approximately 1.4 million children under age 6 affected by the final RRP rule. These children are projected to receive considerable benefits due to the final RRP rule.

#### H. Executive Order 13211

This final rule is not a “significant energy action” as defined in Executive Order 13211, entitled *Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) because it is not likely to have any adverse effect on the supply, distribution, or use of energy.

#### 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 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, business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA requires EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

#### J. Executive Order 12898

Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16,

1994) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

While EPA has not assessed the potential impact of this final rule on minority and low-income populations, EPA did assess the potential impact of the final RRP rule as a whole. As a result of the final RRP rule assessment, contained in the economic analysis for the final RRP rule, EPA has determined that the final RRP rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it increases the level of environmental protection for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any minority or low-income population (Ref. 7).

#### IV. 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 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, Child-occupied facility, Housing renovation, Lead, Lead-based paint, Renovation, Reporting and recordkeeping requirements.

Dated: July 7, 2009.

**Lisa Jackson,**  
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, 2681–2692 and 42 U.S.C. 4852d.

■ 2. Section 745.225 is amended by revising paragraphs (c)(14) introductory text, (c)(14)(i), (c)(14)(ii)(D) (6), and (c)(14)(iii) to read as follows:

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

\* \* \* \* \*

(c) \* \* \*

(14) The training manager must provide notification following completion of renovator, dust sampling technician, or lead-based paint activities courses.

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

(ii) \* \* \*

(D) \* \* \*

(6) For renovator or dust sampling technician courses only, a digital photograph of the student.

\* \* \* \* \*

(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 training courses can be accomplished by using either the sample form, entitled *Post-Training Notification* 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>.

\* \* \* \* \*

[FR Doc. E9-16814 Filed 7-14-09; 8:45 am]

**BILLING CODE 6560-50-S**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[DA 09-1495; MB Docket No. 09-71; RM-11533]

### Television Broadcasting Services; St. Paul, MN

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission grants a petition for rulemaking filed by Twin Cities Public Television, Inc., the permittee of KTCI-TV, post-transition digital channel \*26, St. Paul, Minnesota, requesting the substitution of DTV channel \*23 for channel \*26 at St. Paul.

**DATES:** This rule is effective July 15, 2009.

**FOR FURTHER INFORMATION CONTACT:** Joyce L. Bernstein, Media Bureau, (202) 418-1600.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Report and Order*, MB Docket No. 09-71, adopted June 30, 2009, and released July 1, 2009. The full text of this document is available for public inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY-A257, 445 12th Street, SW., Washington, DC 20554. This document will also be available via ECFS (<http://www.fcc.gov/cgb/ecfs/>). (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) This document may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 1-800-478-3160 or via e-mail <http://www.BCPIWEB.com>. To request this document in accessible formats (computer diskettes, large print, audio recording, and Braille), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY). This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, therefore, it does not contain any information collection burden "for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4). Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

The Commission will send a copy of this *Report and Order* in a report to be