

Therefore, the public hearing scheduled for March 22, 2006, is cancelled.

**Guy R. Traynor,**

*Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).*

[FR Doc. 06-2533 Filed 3-15-06; 8:45 am]

**BILLING CODE 4830-01-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 745

[EPA-HQ-OPPT-2006-0044; FRL-7760-3]

#### Lead Paint Test Kit Development; Request for Comments

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

**ACTION:** Request for comments.

**SUMMARY:** EPA is requesting information concerning the development of test kits or similar technologies for testing lead in paint that could be used by renovators, repair persons, and painters complying with a future EPA regulation for renovation, repair, and painting activities. This information will be considered in formulating EPA's policy and research decisions regarding the development of lead paint test kits. The lead paint test kits will allow renovators, repair persons, and painters to focus resources and identify locations where lead-based paint is present and reliably determine situations where appropriate preventive actions should be undertaken.

**DATES:** Comments must be received on or before April 17, 2006.

**ADDRESSES:** Submit your comments, identified by docket identification (ID) number EPA-HQ-OPPT-2006-0044, by one of the following methods.

- *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

- *Mail:* Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

- *Hand Delivery:* OPPT Document Control Office (DCO), EPA East, Rm. 6428, 1201 Constitution Ave., NW., Washington, DC. Attention: Docket ID Number EPA-HQ-OPPT-2006-0044. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564-8930. Such deliveries are only accepted during the Docket's normal hours of operation, and special

arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to docket ID number EPA-HQ-OPPT-2006-0044. EPA's policy is that all comments received will be included in the public docket without change and may be made available on-line at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [regulations.gov](http://www.regulations.gov) or e-mail. The [regulations.gov](http://www.regulations.gov) website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Docket:** All documents in the docket are listed in the [regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, i.e., 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 electronically through [regulations.gov](http://www.regulations.gov) or in hard copy at the OPPT Docket, EPA Docket Center (EPA/DC), EPA West, Rm. B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OPPT Docket is (202) 566-0280.

**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:** John Schwemberger, National Program Chemicals Division (7404T), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (202) 566-1972; e-mail address: [schwemberger.john@epa.gov](mailto:schwemberger.john@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. General Information

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

You may be potentially affected by this action if you manufacture test kits or similar technologies for lead paint testing; conduct sampling or testing for lead in paint; renovate, repair, or paint in housing built before 1978; or arrange for renovation, repair, or painting of housing units built before 1978. Potentially affected entities may include, but are not limited to:

- Research and Development in Physical, Engineering, and Life Sciences (NAICS code 541710), e.g., developers of test kits or similar technologies for lead testing.
- Engineering Services (NAICS code 541330) and Building Inspection Services (NAICS code 541350), e.g., lead paint inspectors.
- Building construction (NAICS code 236), e.g., single family housing construction firms, multifamily housing construction firms, residential remodelers.
- Specialty trade contractors (NAICS code 238), e.g., plumbing, heating, and air-conditioning contractors; painting and wall covering contractors; electrical contractors; finish carpentry contractors; drywall and insulation contractors; siding contractors; tile and terrazzo contractors; glass and glazing contractors.
- Real estate (NAICS code 531), e.g., lessors of residential buildings and dwellings, residential property managers.

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. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions in § 745.82 of EPA's proposed regulation for Lead; Renovation, Repair, and Painting Program, published in the **Federal Register** on January 10, 2006 (71 FR 1587) (FRL-7755-5) under docket ID number EPA-HQ-OPPT-2005-0049. 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. What Should I Consider as I Prepare My Comments for EPA?*

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

- i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).
- ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- iv. Describe any assumptions and provide any technical information and/or data that you used.
- v. If you estimate potential costs or burdens, explain how you arrived at the estimate.
- vi. Provide specific examples to illustrate your concerns, and suggested alternatives.
- vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- viii. Make sure to submit your comments by the comment period deadline identified.

## II. Background

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

EPA is requesting information concerning the development of test kits or similar technologies for testing lead in paint that could be used by renovators, repair persons, and painters complying with a future EPA regulation for renovation, repair, and painting activities. This information will be considered in formulating EPA's policy and research decisions regarding the development of lead paint test kits. The lead paint test kits will allow renovators, repair persons, and painters to focus resources and identify locations where lead-based paint is present and reliably determine situations where appropriate preventive actions should be undertaken.

EPA's proposed regulation for renovation, repair, and painting activities published in the January 10, 2006 **Federal Register**, and is available under docket ID number EPA-HQ-OPPT-2005-0049 at <http://www.regulations.gov/>. You can also access the proposed rule directly at <http://www.epa.gov/fedrgstr/EPA-TOX/2006/January/Day-10/t071.pdf>.

The proposed regulation calls for recognizing test kits that have a demonstrated probability of a negative response no more than 5% of the time for paint at or above the regulated lead level (i.e., kits with a false negative rate of no more than 5%). Under the proposed rule, these test kits could be used by trained and certified renovators in target housing to determine that the components affected by the renovation are free of lead-based paint. The proposed regulation also envisions the development of an improved, more accurate test kit that has:

1. A demonstrated probability of a negative response no more than 5% of the time for paint at or above the regulated lead level (i.e., a false negative rate of no more than 5%).
2. A demonstrated probability of a positive response no more than 10% of the time for paint below the regulated lead level (i.e., a false positive rate of no more than 10%).

The planned effective dates of the renovation, repair, and painting regulation are based on improved test kits being commercially available approximately in 3 years. Readers seeking additional information, should refer to the proposed regulation published in the January 10, 2006 **Federal Register**.

EPA defines lead-based paint as any paint or other coating on a building component with either 1.0 milligrams or more lead per square centimeter or 0.5%

or more lead by weight. The term "regulated lead level" refers to either of these two threshold numbers. A manufacturer, inventor, or vendor of a test kit or similar technology may choose either one of these numbers as the regulated level for demonstration and evaluation purposes. For the final regulation on renovation, repair, and painting activities, EPA would like a test kit or similar technology that meets the following specifications to be commercially available. The specifications below are consistent with those in the proposed regulation published in the January 10, 2006 **Federal Register**, and provide additional detail.

#### Specifications:

1. False negative rate of no more than 5% for paint above or equal to the regulated level.
2. False positive rate of no more than 10% for paint below the regulated level.
3. Cost of under \$2 per test.
4. Test results to be available within an hour. Test kit includes quality control samples so users can make sure the test kit is working properly when the test is conducted.
5. The test kit can be reliably used by a renovator, repair person, or painter who has completed training in the use of the test kit, and who has been certified by an EPA, State, territorial, or tribal lead program. The test kit provides consistent results when used by any trained and certified renovator, repair person, or painter. Required test kit training is to be minimal, 2-3 hours.

In addition, EPA is interested in a test kit or similar technology that can be applied to any paint in pre-1978 housing units regardless of the type of material (wood, metal, plaster, drywall, brick, concrete, etc.) beneath the paint. EPA is requesting information on test kits and similar technologies for testing lead in paint in the form of comments provided to the Agency no later than April 17, 2006. Comments are requested on the following topics:

1. The feasibility of developing a test kit or similar technology that meets the specifications in this document.
2. Manufacturers who have or could develop a test kit or similar technology that meets the specifications in this document.
3. Current test kits or similar technologies for testing lead in paint that may meet the specifications in this document.
4. Future test kits or similar technologies for testing lead in paint that will be available in approximately the next 3 years that may meet the specifications described in this document.

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

EPA is taking this action under section 3710a of the Federal Technology Transfer Act, 15 U.S.C. 3710a, and sections 10 and 405 of the Toxic Substances Control Act, 15 U.S.C. 2609 and 2685.

**List of Subjects**

Environmental protection, Children, Hazardous substances, Health and safety, Lead-based paint test kit.

Dated: March 9, 2006.

**Susan B. Hazen,**

*Acting Assistant Administrator, Office of Prevention, Pesticides and Toxic Substances.*

[FR Doc. E6-3824 Filed 3-15-06; 8:45 am]

**BILLING CODE 6560-50-S**

**DENALI COMMISSION****45 CFR Chapter IX****National Environmental Policy Act Implementing Procedures**

**AGENCY:** Denali Commission.

**ACTION:** Withdrawal of proposed rule.

**SUMMARY:** The Denali Commission withdraws a Proposed Rule to add regulations for implementing the National Environmental Policy Act of 1969 (NEPA). The Proposed Rule was published in the **Federal Register** on August 10, 2004.

**DATES:** The effective date of withdrawal is March 9, 2006.

**FOR FURTHER INFORMATION CONTACT:** Mr. Krag Johnsen, Denali Commission; 510 L Street, Suite 410; Anchorage, AK 99501. Telephone: (907) 271-1414. E-mail: [communications@denali.gov](mailto:communications@denali.gov).

**SUPPLEMENTARY INFORMATION:** The Denali Commission withdraws a Proposed Rule “\* \* \* to establish 45 CFR Chapter IX and to add regulations for implementing the National Environmental Policy Act of 1969 (NEPA).” The effective date of withdrawal is March 9, 2006. The Proposed Rule was published in the **Federal Register** on August 10, 2004. The Denali Commission intends to adopt guidelines for implementing NEPA provisions that are consistent with its method of operation. Consistent with the provisions of the National Environmental Policy Act, the Commission has decided to use guidelines for its required NEPA implementation procedures instead of promulgating regulations in order to maintain greater flexibility to implement any changes to these

procedures as may be necessary in the future.

Dated: March 9, 2006.

**George J. Cannelos,**

*Federal Co-Chair.*

[FR Doc. E6-3801 Filed 3-15-06; 8:45 am]

**BILLING CODE 3300-01-P**

**DEPARTMENT OF TRANSPORTATION****Surface Transportation Board****49 CFR Parts 1150 and 1180**

[STB Ex Parte No. 659]

**Public Participation in Class Exemption Proceedings**

**AGENCY:** Surface Transportation Board.

**ACTION:** Notice of Proposed Rulemaking.

**SUMMARY:** The Surface Transportation Board, having assessed its procedures for transactions qualifying for the 7- and 21-day class exemptions proposes to modify the timeframes in its rules to provide greater public notice in advance of an exempt transaction. The proposed changes are intended to ensure that the public is given notice of a proposed transaction before the exemption becomes effective; and that the Board may process such notices of exemption, and related petitions for stay, if any, in an orderly and timely fashion.

**DATES:** Comments are due on May 15, 2006. Replies are due on June 14, 2006.

**ADDRESSES:** Comments may be submitted either via the Board's e-filing format or in the traditional paper format. Any person using e-filing should comply with the instructions found on the Board's "<http://www.stb.dot.gov>" Web site, at the "E-FILING" link. Any person submitting a filing in the traditional paper format should send an original and 10 paper copies of the filing (referring to STB Ex Parte No. 659) to: Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001. Comments must be filed in accordance with the Board's requirements at 49 CFR part 1104.

Copies of written comments will be available from the Board's contractor, ASAP Document Solutions (mailing address: Suite 103, 9332 Annapolis Rd., Lanham, MD 20706; e-mail address: [asapdc@verizon.net](mailto:asapdc@verizon.net); telephone number: 202-306-4004). The comments will also be available for viewing and self-copying in the Board's Public Docket Room, Room 755, and will be posted to the Board's Web site at <http://www.stb.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** Joseph H. Dettmar, (202) 565-1609.

[Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.]

**SUPPLEMENTARY INFORMATION:** The purpose of this notice of proposed rulemaking (NPRM) is to obtain comments on a proposal to provide the public with additional notice that certain of the Board's class exemptions have been invoked before those exemptions become effective. These class exemptions are proposed to be modified only as described herein. The scope, purpose and effect of these rules otherwise remains the same. Thus, the Board does not propose to make any changes to situations in which a class exemption can be used, or the information that entities seeking to use a class exemption must provide. This proceeding is based on the Board's exemption authority at 49 U.S.C. 10502. The rules that are the subject of this proposal (those found at 49 CFR part 1150 subpart D (Exempt Transactions Under 49 U.S.C. 10901), 49 CFR part 1150 subpart E (Exempt Transactions Under 49 U.S.C. 10902 for Class III Rail Carriers), and 49 CFR part 1180 subpart A (General Acquisition Procedures)) were established in the following agency proceedings: *Class Exemption for the Acquisition and Operation of Rail Lines Under 49 U.S.C. 10901*, Ex Parte No. 392; *Class Exemption for the Acquisition or Operation of Rail Lines by Class III Rail Carriers Under 49 U.S.C. 10902*, STB Ex Parte No. 529; and *Railroad Consolidation Procedures*, STB Ex Parte No. 282. For administrative convenience, a single new docket number is being used to permit consolidated consideration of the proposed procedural changes in one proceeding.

**Overview**

Under 49 U.S.C. 10502(a), the Board may exempt individual transactions or classes of transactions from the application requirements of the statute when it finds that full regulatory scrutiny is not required and the transaction or service will be limited in scope or greater regulatory scrutiny is not needed to protect shippers from an abuse of market power. If the Board grants an exemption, it may later revoke the exemption authority if it finds that action to be necessary to carry out the rail transportation policy of 49 U.S.C. 10101 (49 U.S.C. 10502(d)), or the notice may be deemed void *ab initio* if it contains false or misleading information.

There are some situations in which Board authorization is granted so