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New Agreement Means Stronger Protections for Kids from Lead Poisoning from Renovations

Public Interest Groups Celebrate Settlement with Environmental Protection Agency

Washington, DC – In an agreement submitted to the court today, several public interest groups including the Sierra Club and an individual settled a legal challenge brought last year against the Environmental Protection Agency (EPA) with a commitment by the agency to fix flaws in its recent lead in renovation rule that could have jeopardized children's health. The Renovation, Repair, and Painting Rule is intended to ensure that work in housing and child-occupied facilities built before 1978 is less likely to lead poison children. In accordance with the settlement, EPA will address several shortcomings prior to the rule's effective date of April 22, 2010, add additional safeguards by July 2011, and expand the scope of the rule to public and commercial buildings over the next six years.

“This agreement will ensure that the rules are applied across the board and owners and tenants are informed of what was done to protect them from lead,” said Tom Neltner, an attorney and co-chair of the Sierra Club's National Toxics Committee. “When drafting the rule, EPA ignored the clear directive of Congress.”

EPA will act quickly and propose amendments by October 22, 2009 dropping the exemption for certain owner-occupied housing. This loophole would have allowed for a homeowner to let contactors use dangerous work practices that could create hazardous conditions for future occupants and even expose neighbors to dangerous levels of leaded dust. Additionally, the amendments will require renovators to inform the owner and the occupant how the work was done and confirming that the work was done safely at the end of the job. It will finalize this rulemaking before the rule goes into effect on April 22, 2010.

EPA also committed to proposing amendments to the rule by April 20, 2010 to require that certified professionals test the home for lead hazards after renovations most likely to generate leaded dust. Currently the rule allows renovators to check their own work by merely running a wet cloth over the work area to look for dust. This scientifically unproven technique is likely to fail to identify invisible – but still dangerous – lead hazards. Less than one-tenth of one gram of lead dust is enough to contaminate a 2000 square foot home and poison a child. In some cases, EPA will propose requiring that the renovator do more than testing and ensure that lead hazards are not left behind. EPA will finalize the clearance and testing rulemaking before July 15, 2011.

“While it is unfortunate that it took legal action to get EPA to do the right thing for rules that are long overdue, we are glad that EPA is now committed to getting it done right,” said Matthew Chachere, an attorney with the Northern Manhattan Improvement Corp. “While this is a compromise, we still believe and will continue to push in the rulemaking for regulations that assure renovations do not leave children at risk, by requiring third-party testing to be sure no lead dust hazards are left behind.”

Under the settlement, by December 15 2011, EPA will propose a rule addressing exterior renovations in public and commercial buildings that are likely to create lead hazards. Such work may create leaded dust that contaminates neighboring properties and residences. EPA will finalize the rulemaking before July 15, 2013. On a longer schedule, EPA should issue a rule addressing hazards by renovations conducted inside these buildings.

Congress passed the law calling on EPA to address lead hazards created from renovation work in 1992, giving them until 1996 to issue a rule. After years of inaction, then-Senator Barack Obama forced EPA to commit to moving forward on this rule in 2005. Congress's Appropriation Committee for EPA mandated that the EPA issue the rule by March 31, 2009. The previous administration issued its final and faulty version of the rule by the deadline and published it on April 22, 2008.

The Sierra Club, Center for Environmental Health, Linda Kite, New York City Coalition to End Lead Poisoning, Northern Manhattan Improvement Corporation, New York Public Interest Research Group, and Make the Road New York challenged EPA's rule in the Federal Court of Appeals. President Obama's EPA Administrator Lisa Jackson authorized her staff to fix the rule, resulting in today's agreement.

For more information, visit <http://sierraclub.org/healthycommunities/lead/>.

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