

January 15, 2010

United States Environmental Protection Agency  
Office of Enforcement and Compliance Assurance  
1200 Pennsylvania Ave NW  
Washington, DC 20460

RE: Candidate National Enforcement and Compliance Assurance Priorities for Fiscal Years 2011–2013 – Docket EPA–HQ–OECA–2009–0986

To Whom It May Concern:

Thank you for the opportunity to comment on EPA’s list of Candidate National Enforcement and Compliance Assurance Priorities for the upcoming three fiscal years. EPA has identified a number of strong priorities for action and we hope the agency will follow through on these critical environmental issues. However, we believe EPA is remiss not to include its recently promulgated Renovation, Repair, and Painting (RRP) program on this list of essential priorities in the coming fiscal years.

Originally required by the Residential Lead Based Paint Hazard Reduction Act of 1992, the RRP rule is a major new regulation, going into full effect on April 22, 2010. The rule is intended to prevent children from exposure to lead laden dust created through renovation or maintenance work that disturbs lead-based paint in pre-1978 homes and child-occupied facilities. A potent neurotoxin proven to cause decreased IQ scores and associated with learning difficulties and behavioral problems in children, lead has frequently been identified as the most significant environmental health hazard to children. Both the Centers for Disease Control and Prevention and the EPA have identified childhood lead poisoning as a critical concern. Recent studies continue to show negative health impacts at lower and lower blood lead levels, with the CDC noting that no level of lead is safe and preventing exposure to lead should be the “foundation” of public health efforts<sup>1</sup>. The RRP rule is intended to help serve as part of this foundation and the only federal regulation that will actually require steps to prevent exposure to lead before a child is actually exposed.

According to the EPA’s own estimates<sup>2</sup>, the RRP Rule will apply to a total of 37.8 million facilities nationally and regulate 8.4 million events in its first year. The rule will require 212,000 firms to become certified and 236,000 individuals to receive eight hours of training. As a result of this effort, EPA estimated that it would protect 1.4 million children under the age of six from lead exposure in its first year, and additionally benefit 5.4 million individuals over the age of six. These are truly impressive figures, both in terms of the size of the rule and the number of individuals who will benefit from a successful implementation of the rule.

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<sup>1</sup> Centers for Disease Control and Prevention. Preventing Lead Poisoning in Young Children. Atlanta: CDC; 2005. Available online at <http://www.cdc.gov/nceh/lead/publications/PrevLeadPoisoning.pdf>

<sup>2</sup> US EPA. Economic Analysis for the TSCA Lead Renovation, Repair, and Painting Program Final Rule for Target Housing and Child-Occupied Facilities. March 2008.

However, as advocates devoted to the creation of safe and healthy home environments, we are concerned that these benefits will not be realized without a serious commitment by EPA to enforcing this rule. The 212,000 firms regulated by RRP consist almost exclusively of small businesses – residential remodelers, painters, and a myriad of specialty tradespersons. These entities are by and large unregulated currently by the EPA or state environmental agencies. It's going to take substantial outreach to ensure that these entities are familiar with the rule, complete the required certifications, and comply with the work practice requirements of the rule.

Having presented the rule requirements formally and informally to a wide variety of groups, including state and local officials, regulated entities, and health and environmental advocates, we know that the first question asked almost always has to do with enforcement. Audience members want to know the specifics about how EPA will be enforcing the rule, what sort of presence EPA will have, and if the “good actors” who go through the cost of complying with the rule will end up being at a competitive disadvantage from non-compliant competitors. Few in the industry, and even few amongst the state and local health and environment programs, believe that EPA will be serious about enforcing the rule. EPA's budget request for FY10, adding no FTEs and only an extra million dollars to share with its state partners around lead, a miniscule amount given the vast scope of the RRP rule, gave little reason for industry to think EPA will be vigorously seeking compliance with the rule.

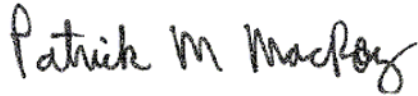
We strongly believe that adding the RRP program to the National Enforcement and Compliance Assurance Priorities list will assist in achieving compliance with this critical rule and show the industry that EPA is serious about eliminating childhood lead poisoning and enforcing lead safety during renovations. The publicity value alone – being able to tell contractors, renovators, and other small businesses that EPA has identified the RRP rule as one of a handful of enforcement and compliance assistance priorities for the upcoming fiscal year – will help encourage the regulated community to take the rule seriously. The focus of EPA resources from outside the lead program as a result of the designation will also greatly assist in enforcing this critical program.

It is clear that enforcement of the RRP rule meets all of EPA's stated criteria for selecting enforcement and compliance assurance activities. The environmental impact, as previously stated, is substantial, directly impacting the health of millions of children as well as workers and other residents. The compliance level is currently non-existent, with the regulated community extremely difficult to reach and regulate. The appropriateness of federal involvement is clear, as the rule is an EPA regulation with specific requirements and federal mandates, with authority delegated to states only upon request and approval. To date, only one state (Wisconsin) has sought delegation, and few believe that more than five or six more states will seek delegation before the rule goes into effect, leaving EPA as the sole enforcement authority for the majority of the country.

For these reasons, we implore you to add preventing lead exposure during renovation through enforcement of the Renovation, Repair, and Painting program as a National Enforcement and Compliance Assurance Priority for Fiscal Years 2011–2013.

Should you have any questions about this comment, please do not hesitate to contact Patrick MacRoy at [pmacroy@afhh.org](mailto:pmacroy@afhh.org) or 202-347-7610 x14.

Sincerely,



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