

**From the National Center for Healthy Housing and the National Association of Home Builders
Regarding Implementation of the Lead Renovation Remodeling and Painting Rule**

March 12, 2010

Mr. Steve Owens
Assistant Administrator
Office of Prevention, Pesticides and Toxic Substances

Ms. Cynthia Giles
Assistant Administrator
Office of Enforcement and Compliance Assurance

U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Assistant Administrators Owens and Giles:

On October 8, 2009, the National Center for Healthy Housing (NCHH) and the Alliance for Healthy Homes met with you to discuss our concerns with EPA's pace in implementing the Lead Renovation, Repair and Painting Rule (RRP) and the need for dramatic changes in approach and funding. Similarly, the National Association of Home Builders' (NAHB) remodeler members and staff met with you on September 14, 2009 to discuss these same issues.

With 41 days to go before the rule goes into effect, the situation remains tenuous. The purpose of this letter is to highlight areas we believe require immediate attention and intervention to ensure the timely and effective implementation of the rule.

Areas Requiring Attention

Training Provider Application Processing: EPA takes more than two months to review and approve a training provider application. In NCHH's recent applications, it took one month for EPA's contractors to determine whether the application was complete and forward it to regional staff for review of its substance. After headquarters and the regional office approved the application, it took two to four weeks to issue the paperwork. It is clear that EPA's hard copy system and manual processing of applications and paper checks for payments is inappropriately slow and thereby hindering the Agency's ability to meet its goals.

Renovation Firm Certification: Through February 19, EPA has certified only 14,000 individuals. To meet the compliance goals of the rule, many more training sessions are needed but there are not enough approved trainers to meet this demand. Further, the network of EPA approved training providers varies greatly, with some states still lacking enough training providers to make marked progress in getting the hundreds of thousands of potential workers trained. To date, 2,600 firms have applied for certification and 800 have been approved. It is unclear why renovation firm certification applications go through an eight-week process – even

though there is nothing to be decided if the application is complete. Certification involves no pre-qualification except the delivery of the fee.

Media Campaign: Last month, we learned of the Agency's plans to unveil its media campaign announcing the rule in March. An effective media campaign to raise consumer and contractor awareness and support for EPA's prescribed lead-safe work practices during for-hire renovation activities is imperative. Paid advertising and effective public service announcement (PSA) placement are equally warranted. This information is particularly pressing given that many renovation projects will already have been placed under contract with consumers without factoring in EPA's required practices.

Funding: EPA estimated that the fees required by the rule would generate \$61 million in the first year and \$22 million for each of the subsequent four years. Although EPA was required by statute to set the fees at a level necessary to support the management of the program, EPA's FY 2011 budget proposes a \$223,000 reduction in funding for the office responsible for implementing the regulation (exclusive of payroll and cost of living increases for existing FTE). Similarly, although OECA proposed major funding increases, none of the funds are slated to be used for RRP implementation.

Recommendations

It is clear that protecting children from lead poisoning is an Administration priority. Based on our analysis, we believe intervention is necessary to expedite processing of applications, increase awareness of the rule's requirements, direct resources toward compliance assistance, and obtain funding to manage the program. Assuming that the April 22 deadline will be maintained, we strongly urge EPA to consider several actions that we believe will facilitate the timely and effective implementation of the rule:

1. Program Management:

- Ensure that sufficient resources and personnel are devoted to program management;
- Reduce turnaround time for certification and accreditation applications by segregating payments from the applications;
- Screen training provider applications and additions/amendments for nominal qualifications and while EPA is reviewing the complete application, allow the applicants to operate with presumptive accreditation;
- Expedite the delivery of the contractor and consumer marketing campaigns to media outlets;
- Test the penetration of the awareness campaign with both consumers and renovation firms through survey research and supplement the campaign with other education tactics to fill gaps; and
- Create a scholarship program to underwrite the training tuition through the Jobs Bill, a partnership with DOL, or other means. This would engender more widespread compliance with the training requirement, because a renovator's investment of one day's lost wages is already significant in the current economy. Subtracting the cost of training would remove a natural barrier to compliance. Job

retention and creation will also be advanced by ensuring that renovators can continue to work.

2. Compliance Assistance:

- EPA should ensure that sufficient resources are devoted to compliance assistance, and compliance assistance must be a priority for both the program office and OECA; and
- OECA and the regions should consider forbearance from enforcement actions for contractors who comply with certain requirements such as the following:
 - Adherence to the work practices in 40 CFR 745.85, including compliance with the prohibitions of operating machines without HEPA filters, open flame burning and using heat guns;
 - Completion of the online lecture portion of the training or registration for scheduled full-day training; and
 - Evidence that an application for firm certification has been sent to EPA.

We believe that protecting children and families from lead poisoning through conducting lead-safe renovation work is a public health priority, but one that is eluding the Agency's full attention despite its stated commitment to protecting children's health. We request a meeting with you at your earliest convenience to discuss our recommendations and EPA's plans. Thank you for your consideration.

Sincerely,



Rebecca Morley
Executive Director
NCHH



William P. Killmer
Executive Vice President, Advocacy
NAHB