



March 2, 2009

The Honorable Lisa Jackson
United States Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N. W.
Mail Code: 1101A
Washington, DC 20460

Re: Implementation of Renovation, Repair, and Painting Rule

Dear Administrator Jackson:

Congratulations on your confirmation, and welcome back to EPA.

We appreciate your consideration of the importance of moving the lead renovation rule forward and hope that you will direct EPA staff to work on resolving outstanding issues. As you probably know, the lead renovation rule will impact more units in year one than have been affected cumulatively by abatements under EPA's lead-based paint activities program. It presents your agency, and the Obama Administration, with an unprecedented opportunity to protect children's health. In some places in the US, 50% of all lead poisonings are caused by sloppy renovation work. These completely preventable events can be arrested.

We are writing to ask you to ensure timely and effective implementation of the renovation rule by ensuring access to training and the completion of plans for important modifications to the rule.

The lead program has only recently published the model training course and, per the rule, will not begin accrediting trainers until April 22, 2009. In the short year that follows, to meet the April 22, 2010 deadline and accomplish lead safety in the first 8.4 million jobs, 236,000 renovators, remodelers, painters, and other professionals must be trained. The certified renovators will in turn need to provide on the job training to 338,000 workers. EPA, some state lead programs, our two organizations, and others are taking various actions to increase the supply of accredited trainers.

There is already some worry and criticism about whether there can be compliance with the rule based on the shortage of training opportunities. We believe that EPA should provide compliance assistance in the form of free or deeply subsidized training for renovators. The advantages of EPA paying for training are: (1) more renovators will be likely to get trained sooner, (2) with better assurance of demand, trainers will come forward to become accredited and actually schedule training deliveries, (3) there will be a slight reduction in the initial cost of compliance that small businesses will incur, (4) there will be one less excuse for non-compliance, and (5) EPA can have a more direct understanding of progress in capacity building. HUD realized that it needed to include free training as part of compliance assistance within several months of publishing its lead-safe housing rule. Building lead-safe capacity is a long-standing role of EPA.

We urge you to identify and allocate resources for training. The economic analysis estimated tuition at \$186 per person. To train 236,000 renovators then costs \$43.9 million. Since the inception of new requirements will stimulate interest in getting certified by workers who are slated to only get on-the-job training, and training them will increase the protectiveness of the rule, it would be beneficial for EPA to allocate another \$63 million to train workers.

We understand that you may be considering improvements to the rule's requirements and want to comment on a few issues.

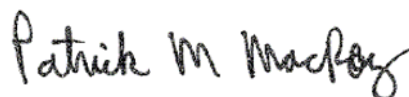
First, the issue of clearance. Many renovation, remodeling, and painting jobs generate and leave behind lead dust that can poison a child. Clearance testing is the only proven methodology for ensuring that invisible lead dust hazards are not left behind after final clean-up of a job. The "cleaning verification" process agreed to by the previous administration will pick up some additional dust but not ensure there is no invisible lead dust left behind after high risk jobs since the verification is a visual test not a laboratory test. As its own Clean Air Scientific Advisory Committee (CASAC) panel advised EPA, clearance should be required to prevent lead poisoning resulting from hazards created by renovation, remodeling, and painting work. Similarly, the CASAC panel clearly indicated that that the lead hazard standard for floor dust is proven to be unsafe and needs to be updated using the best available science.

Finally, the opt-out based on non-residence of children and pregnant women in owner-occupied housing is unacceptable considering that such homes are not closed to visitors who may be pregnant or under age six and could be sold or rented later to a household with a child or pregnant woman.

Attached to this letter is the previous position taken by President Barack Obama on problems with the proposed rule while he served in the Senate. EPA addressed two of the five concerns in the final rule. But clearance, homeowner opt-out, and worker training remain unaddressed. We would hope that these three matters, funding for training, and revision to the floor dust hazard standard will all be addressed soon.

Our organizations want to assist you in moving the rule forward. If it would be helpful, we would be pleased to meet to discuss these issues. You can reach Patrick MacRoy at pmacroy@afhh.org or 202-347-7610 and Rebecca Morley at rmorley@nchh.org or 443-539-4159.

Sincerely,



Patrick MacRoy
Executive Director
Alliance for Healthy Homes



Rebecca Morley
Executive Director
National Center for Healthy Housing

CC: Maria Doa, Director, National Program Chemicals Division
Ruth McCully, Director, Office of Children's Health Protection

Attachment

Congress of the United States

Washington, DC 20515

May 24, 2006

The Honorable Stephen Johnson
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

RE: Docket Number EPA-HQ-OPPT-2005-0049; Lead; Renovation, Repair, and Painting Program

Dear Administrator Johnson:

We are submitting comments on the Environmental Protection Agency's (EPA) proposed rule on Lead Renovation, Repair and Painting. When finalized, this important rule should make a meaningful reduction in childhood lead poisoning. Given the magnitude of this problem, however, we believe that EPA can—and must—substantially strengthen the proposed rule to prevent lead exposure during and following the renovation and repair of lead-contaminated structures.

I. There Is No Known Safe Blood Lead Level For Children

More than 400,000 children in this country suffer from elevated blood lead levels. Lead is a highly toxic substance that can produce a range of health problems in young children, including decreased intelligence, reading and learning disabilities, impaired hearing, reduced attention spans, hyperactivity, and damage to the kidneys, brain and bone marrow. Even low levels of blood lead in pregnant women, infants and children can impair cognitive abilities, harm fetal organ development and cause behavioral problems. The federal Centers for Disease Control has concluded that there is no known safe blood lead level for children. Therefore, preventing or eliminating exposure to lead is the best way to safeguard our children's health.

II. EPA's Proposed Rule Must Be Strengthened to Protect Children

We urge EPA to strengthen the proposed rule in five key respects. These improvements will increase public health protections, especially children's health; facilitate enforcement of such protections; and reduce burdens on businesses. EPA should:

- Apply the regulations to all pre-1978 homes;
- Prohibit unsafe work practices that are currently prohibited in existing regulation;
- Require proven testing methods for lead contamination after renovations;
- Ensure workers are properly trained; and
- Extend the rule to cover child care facilities.

A. Apply the Regulations to All Pre-1978 Homes

We believe the rule must be written to protect all children and women of childbearing age residing now and in the future in all homes where lead paint may be present. The rule should cover all homes built before 1978, when lead paint was banned from use in housing. As proposed, the rule fails to provide this vitally-needed protection.

The proposed rule allows contractors working on the house of a childless homeowner to leave lead-contaminated dust after renovation. Because contaminated dust can persist for years, children of families that subsequently move into the home potentially may be exposed. The rule also does not cover houses in which pregnant women reside. As you are no doubt aware, lead absorbed by the mother can poison a developing fetus.

The final regulations should simply cover all houses built before 1978 where children may potentially reside. Not only does a simpler approach provide more comprehensive protection, it also makes it easier for contractors to comply with the regulations. It would be burdensome for businesses, many of which are small companies, to bear the responsibility of determining if children occupy the house on a regular basis and to change work practices accordingly from one job to the next. This simpler approach also facilitates enforcement of these protections.

B. Prohibit Known Unsafe Work Practices that Are Already Prohibited by HUD

Certain work practices that are known to produce high levels of lead paint dust and vapor should be banned in houses that may contain lead paint. Such practices include uncontrolled machine sanding and open flame burning. In fact, the Department of Housing and Urban Development (HUD) has banned these practices in public housing renovation for years. These work practices, if permitted, could generate and disperse lead dust and vapor throughout the home, endangering workers and children residing in the home now and in the future. Additionally, banning certain practices makes the rule simpler for workers to understand and for government agencies to enforce. We believe EPA should consult with HUD, the Occupational Safety and Health Administration and state agencies on these high-risk practices and eliminate them in the final rule.

C. Require Testing to Demonstrate the Absence of Lead Hazards

When renovation work is completed, contractors must demonstrate that lead dust created by the construction has been eliminated from the home. It is critical to homeowners and tenants alike to receive proof that the worksite is now safe. "Clearance dust testing" is the accepted methodology for determining if a home is safe to occupy. Clearance dust testing consists of sampling the site for dust and calculating the average dust lead loading. It is the method used by HUD, and it provides the contractor with the greatest protection from liability when certifying to occupants that their home is lead safe. It also provides enforcement officials with a solid basis for ensuring the work complies with the protections contained in the rule.

The proposed rule would allow a new and unproven method of determining whether contamination remains. It essentially allows renovators to use a series of visual "white glove"

inspections to verify that an area is clear of lead hazards. However, a 2002 study by the National Center for Healthy Housing demonstrated that clearance dust testing is vastly superior to visual inspections, finding lead contamination in up to 46 percent of an area that passed visual inspections by certified inspectors. Visual "white glove" inspections are clearly inadequate to verify that an area is free from lead hazards.

EPA should require the use of clearance dust testing data to demonstrate to homeowners and tenants that the work performed in their homes was carried out in a manner that protects children from exposure to lead dust.

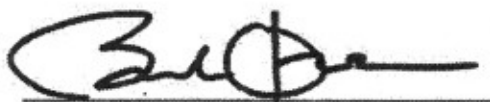
D. Ensure Adequate Worker Training Certification, and Accreditation

Worker training is critical to ensure that workers understand how to minimize the creation of lead dust and clean up the dust that is produced. The proposed rule fails to ensure that workers are properly trained and certified. It would require only one person at a site to be trained as a renovator and that person would not even need to be onsite throughout the job. This is unacceptable because unsafe renovation activities can create a greater potential for exposure than simply leaving lead-based paint undisturbed. The final rule should ensure that each worker at a worksite be appropriately trained, including language-appropriate instruction for workers who do not speak English. The rule should also require that workers pass a proficiency test in safe work practices and receive certification of completion of this process from an accredited organization. In addition, we support periodic recertification, including retesting, of workers.

E. Protect Childcare Facilities

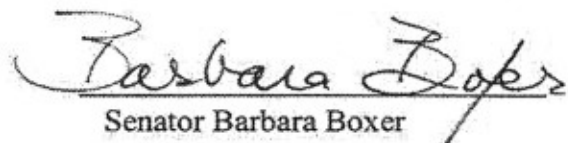
EPA's proposed rule fails to cover remodeling activities in non-residential properties that are frequented by children, most notably, childcare facilities. We urge you to broaden the scope of the rule to cover such facilities. Since there is no known safe blood lead level for children, EPA must be especially vigilant about protecting our children from harmful lead exposure. This rule provides a unique opportunity to adopt a comprehensive approach that will help provide this vitally-needed protection.

In conclusion, we appreciate your staff's work in developing these regulations and look forward to the publication of the final rule before the end of the year. We hope that you will take this opportunity to issue a strong final rule that fully protects children from harm due to lead exposure during home renovations.



Senator Barack Obama

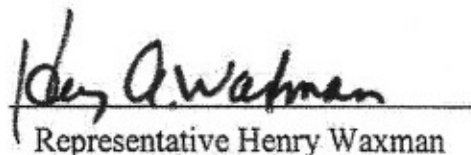
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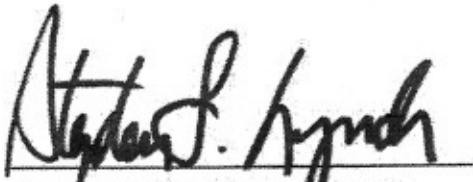
Senator Barbara Boxer




Senator Frank Lautenberg



Representative Henry Waxman


Representative Stephen Lynch


Representative Edolphus Towns