



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

MAY 11 2011

OFFICE OF CHEMICAL SAFETY  
AND POLLUTION PREVENTION

The Honorable James M. Inhofe  
United States Senate  
Washington, D.C. 20510

Dear Senator Inhofe:

Thank you for your letter of April 15, 2011, to the U.S. Environmental Protection Agency (EPA) expressing your concerns about proposed amendments to EPA's 2008 Lead Renovation, Repair, and Painting Rule (RRP rule), which requires most contractors who disturb paint in housing built prior to 1978 to be certified by EPA and trained in lead-safe work practices.

As you are aware, the RRP rule is an important part of the Federal government's overall strategy for eliminating childhood lead poisoning. Congress directed EPA to develop training and certification requirements for lead activities, including renovations, as part of the Residential Lead-Based Paint Hazard Reduction Act of 1992. EPA issued the RRP rule in 2008, and it became fully effective in April 2010. The rule provides simple, low-cost, common-sense steps contractors can take during their work to protect children and families. Since the RRP rule became final, EPA and states have made significant progress in implementing its requirements, which will protect millions of children from exposure to lead-based paint during renovation activities. As of today, more than 86,000 firms have been certified, more than 500 training providers have been accredited to provide training in lead-safe work practices, and we estimate that more than 600,000 renovation and remodeling contractors have been trained in lead-safe work practices. These requirements are key to protecting all Americans and especially vulnerable populations, such as children and pregnant women, from the harmful effects of lead exposure.

Shortly after the final RRP rule was promulgated in 2008, several lawsuits were filed challenging the rule. These lawsuits (brought by industry representatives as well as environmental and children's health advocacy groups) were consolidated in the federal Circuit Court of Appeals for the District of Columbia Circuit. On August 26, 2009, EPA signed a settlement agreement with the environmental and children's health advocacy groups and shortly thereafter the industry representatives voluntarily dismissed their challenge to the rule. The settlement agreement required EPA to propose changes to the RRP rule to require dust wipe testing after many renovations already covered by the RRP rule.

Accordingly, on April 22, 2010, EPA issued a Notice of Proposed Rulemaking (NPRM) under the authority of Section 402(c)(3) of the Toxic Substances Control Act that would require dust wipe testing after many renovations covered by the RRP rule. The NPRM published in the Federal Register on May 6, 2010, opening a 60 day public comment period. At the request of several stakeholders, and because EPA recognized the importance of the issues raised by the NPRM, EPA reopened the public comment period for an additional 30 days on July 7, 2010.

Commenters on the proposed rule raised a number of issues, including the issues described in your letter. EPA has reviewed the more than 300 comments on the proposal and has considered them carefully in determining what final action on the proposal should be taken. A summary of these comments and EPA's responses will be made publicly available in the docket when the final rule is published.

The settlement agreement calls for EPA to take final action on the proposal by July 15, 2011. EPA intends to meet this deadline. The final rule is currently undergoing review by the Office of Management and Budget.

With respect to the content or substance of the final action, the settlement agreement does not constrain the Agency's traditional discretion with respect to taking a final action on a proposal for rulemaking. Under the Administrative Procedure Act (APA) agencies have the discretion to make changes to what was proposed, provided that such changes are a "logical outgrowth" of the proposal. The settlement agreement does nothing to disturb this discretion under the APA.

With regard to the economic analysis, EPA typically revises the economic analysis accompanying the proposed rule to address the options chosen in the final rule. The revised economic analysis will incorporate or address relevant comments or other information, including that related to test kits, received by EPA after the proposal was issued and before the final rule is promulgated.

Again, thank you for your letter and your support for the goal of preventing dangerous lead exposures. If you have additional questions or concerns, please contact me or your staff may contact Mr. Sven-Erik Kaiser in EPA's Office of Congressional and Intergovernmental Relations at (202) 566-2753.

Sincerely,



Stephen A. Owens  
Assistant Administrator