



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 EPA's plans to regulate the renovation of public and commercial buildings.

The Renovation, Repair, and Painting (RRP) rule that regulates the renovation of target housing (homes built before 1978) was signed on April 22, 2008. Shortly after this final rule was promulgated, 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 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 fulfill the obligations Congress placed on the Agency in the Residential Lead-Based Paint Hazard Reduction Act of 1992. The Act required EPA to promulgate regulations addressing renovations activities in "public buildings constructed before 1978, and commercial buildings" that create lead-based paint hazards. With respect to renovations on the exterior of such buildings, the settlement agreement, as amended, provides that EPA must issue a proposal by June 15, 2012, and take final action on the proposal by February 15, 2014. In addition, EPA also agreed to determine whether hazards are created by renovations on the interiors of such buildings. For those interior renovations that create lead-based paint hazards, EPA agreed to issue a proposal by July 1, 2013, and take final action on the proposal no later than eighteen months after that.

Accordingly, EPA is currently developing a proposal to address exterior renovation jobs on public buildings constructed before 1978 and commercial buildings that, by virtue of their close proximity to residences and child-occupied facilities (*i.e.*, buildings frequented by children under the age of six), create lead-based paint hazards.

EPA agrees that it is necessary to have a robust understanding of new action in public and commercial buildings. Consistent with Section 402(c)(2) of TSCA, EPA has conducted extensive studies on renovation activities (<http://www.epa.gov/lead/pubs/leadtpbf.htm#Renovation>) during the development of the RRP rule. For example, EPA has conducted a study to evaluate lead dust generated in actual renovation situations, including hazards created by the use of various renovation and paint removal practices on different building components, known as "EPA's Dust Study" (USEPA. Characterization of

Dust Lead Levels After Renovation, Repair, And Painting Activities. November 13, 2007). EPA is also evaluating other data on exterior renovations. These studies provide a comprehensive picture of lead dust generation by renovation activities when lead-based paint is disturbed—regardless of the building type. EPA will use these studies, along with any other suitable studies identified as the result of a search of scientific literature to identify lead paint hazards generated by renovation activities on public and commercial buildings. EPA will provide the analysis of the hazards created during the renovation of public and commercial buildings in the proposed rule and will provide opportunity for public comment at that time. EPA is currently gathering data on the types and frequency of renovation activities commonly undertaken in public and commercial buildings.

EPA is also organizing a Small Business Advocacy Review (SBAR) panel to provide input that will be used by EPA during the development of the proposed rule. SBAR panels are comprised of representatives from the agency conducting the rulemaking (EPA in this case), the Small Business Administration, and the Office of Management and Budget. The Panel will consult with small entities on cost and economic implications of the future regulations addressing exterior renovation jobs on public buildings constructed before 1978 and commercial buildings. The SBAR panel will also seek information from participants on the types of activities typically undertaken during the renovation of public and commercial buildings and alternative regulatory requirements. As part of the rulemaking process, EPA also assesses the costs and benefits of any regulation it is required by Congress to implement. EPA is still gathering information to inform the development of an assessment of costs and benefits of this future proposed rule. Economic analyses for rulemaking efforts are performed for several statutes and executive orders and will be completed during the development of the proposed and final rule.

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,

A handwritten signature in black ink, appearing to read "S.A. Owens", written over a horizontal line.

Stephen A. Owens
Assistant Administrator