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United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, DC 20510-6175

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May 11, 2010

Honorable David Michaels
Assistant Secretary of Labor for Occupational Safety and Health
U.S. Department of Labor
Occupational Safety & Health Administration
200 Constitution Avenue
Washington, D.C. 20210

Dear Assistant Secretary Michaels:

I am writing regarding your coordination with the Environmental Protection Agency and its implementation of the "Lead: Renovation, Repair and Painting Rule" (LRRP) that requires training and certification to become a "certified renovator." Any renovation work that disturbs more than six square feet in target housing must be supervised by a certified renovator and performed by a certified renovation firm, as outlined in 40 CFR § 745.85.

My office has received calls from contractors who are attempting to become EPA-lead certified. They are required to take a multiple hour class where they are taught the proper way to abate lead dust. These contractors have told us that, during the classes, they have been shown official photographs of how to conduct lead safe practices that are not OSHA compliant. Additionally, they believe several of the tenting methods being taught for lead paint appear to be inconsistent with OSHA regulations. The contractors are concerned that if they do what they have been taught in their EPA class, they will be in violation of OSHA rules. Moreover, if they are OSHA compliant, they will be in violation of EPA's RRP rule and could face a fine of \$37,500 per day.

I have been in correspondence with EPA and OMB regarding the implementation of this rule. On May 19, 2009, I wrote to EPA Administrator Lisa Jackson and asked her whether EPA is working with OSHA and HUD to streamline its lead-based paint requirements. On June 30, 2009, EPA replied that it has "coordinated" work with OSHA and that it highlights "the need for OSHA compliance" in its training courses.

In a follow up letter on October 16, 2009, I again asked EPA to provide specific details and examples of its coordination with OSHA." On December 10, 2009 EPA responded that, "The Agency also coordinates regularly with the Occupational Safety and Health Administration (OSHA), as well as with other Federal agencies, through the Inter-Agency Lead- Based Paint Task Force. This task force discusses a wide variety of issues of interest to its member agencies; issues relating to OSHA are included as appropriate."

In light of these replies, I am seeking your answers to the following questions:

- What interactions did OSHA have with EPA in developing the RRP and any associated guidance?
- What information did EPA seek from OSHA on construction practices?
- How was OSHA consulted in the development of training courses?
- Did OSHA concur, approve or comment on what was being taught or approve any training materials EPA sent to trainers?
- Is OSHA aware of any conflicts where the correct compliance with the LRRP and OSHA's lead practices cannot be achieved?

I am requesting that you send me all documents and correspondence between OSHA and EPA on this issue.

Additionally, I am requesting that you look into the classes as they are currently taught around the country, to make sure that EPA certified trainers are in fact accurately "highlighting the need for OSHA compliance" in its training.

There is a great need for contractors to be trained in EPA lead safe practices. Without this certification, contractors will not be able to work on pre- 1978 homes. The lack of qualified trainers is creating huge demand for classes. However, in the rush to get people certified, we do not want contractors choosing between compliance with EPA's rules and OSHA's rules.

Thank you for your response to my concerns. If you have any questions, please contact Elizabeth Fox of my staff at (202) 224-6176.

Sincerely,



James M. Inhofe
Ranking Member
Senate Committee on Environment
and Public Works

CC: Lisa Jackson, Administrator, EPA
Cass Sunstein, Administrator, Office of Information and Regulatory Affairs, OMB