

Coalition for Reform of EPA Lead: Renovation, Repair and Painting Rule

March 20, 2012

Congressman Fred Upton
Chairman
Committee on Energy & Commerce
2125 Rayburn House Office Building
Washington, D.C. 20515

Congressman Henry Waxman
Ranking Member
Committee on Energy & Commerce
2322A Rayburn House Office Building
Washington, D.C. 20515

Congressman John Shimkus
Chairman
Subcommittee on Environment & the Economy
2125 Rayburn House Office Building
Washington, D.C. 20515

Congressman Gene Green
Ranking Member
Subcommittee on Environment & the Economy
2322A Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Upton, Ranking Member Waxman, Chairman Shimkus and Ranking Member Green:

As associations representing builders, contractors, remodelers, manufacturers, retailers, building owners, and real estate professionals, we are seeking reform of the Environmental Protection Agency's (EPA) Lead: Renovation, Repair and Painting (LRRP) rule to make compliance requirements more reasonable and less burdensome, while protecting pregnant women and children under age six from renovation and remodeling activities that create lead-based paint hazards. As an industry grappling with a depressed construction market, many businesses have survived and many jobs have been preserved by the remodeling and retrofit market. Unfortunately, one of the biggest regulatory burdens placed on the remodeling/retrofit market in the past two years has been the overreaching EPA LRRP rule.

EPA's final LRRP rule, which took effect on April 22, 2010, requires remodeling and renovation firms that perform work on pre-1978 housing and child-occupied facilities to be EPA certified and follow rigorous, costly work practices supervised by an EPA-certified renovator when painted surfaces will be disturbed. Originally, the rule was designed to protect pregnant women and children under six from lead hazards, a position strongly supported by the coalition. However, on July 6, 2010, EPA removed the "Opt-Out" provision from the rule which allowed homeowners without children under six or pregnant women residing in the home to allow their contractor to forego the use of lead-safe work practices.

Removing the opt-out provision without any new data justifying such an action, more than doubled the number of homes subject to the LRRP Rule to 78 million and added more than \$336 million per year in compliance costs to the regulated community. However, the costs are far greater because of EPA's flawed economic analysis, which significantly underestimated the true compliance costs. The agency initially estimated that compliance costs would add \$35 to a typical remodeling job; yet for a typical window replacement project the cost ranges from \$90 to \$160 per window opening, easily adding more than \$1,000 to each project.

EPA has also failed to meet the requirements of its own rule by failing to approve an accurate lead test kit that produces no more than 10 percent false positives. This means in many cases, consumers are needlessly paying additional costs for work practices that are not needed and provide no benefit, but must be employed because of false positive test results. EPA's initial estimates stated that an improved test kit would reduce the rule's cost by \$400 million a year.

The public benefits of the rule have also been hindered by EPA's lack of consumer education, and the agency's focus on enforcing paperwork violations by certified contractors rather than safe work practices.

EPA has now begun the process of extending the LRRP Rule to commercial and public buildings through an advance notice of proposed rulemaking—even though Congress only granted EPA authority to issue *guidelines* for work practices applicable to LRRP activities. EPA is on record as stating it lacks data on the lead hazards in commercial buildings, but the agency is nonetheless proceeding further down the regulatory path.

Senator Jim Inhofe, Ranking Member on the Senate Committee on Environment & Public Works, recently introduced the Lead Exposure Reduction Amendments Act of 2012 (S. 2148) making practical reforms to the EPA LRRP rule. The legislation would make several changes to the rule including 1) restoring the “Opt-Out” provision by allowing homeowners without small children or pregnant women present to decide whether to require LRRP compliance 2) suspending LRRP if EPA cannot approve one or more test kits that meet the regulation’s requirements, 3) prohibiting EPA from expanding the LRRP to commercial and public buildings until it conducts a study demonstrating, 4) allowing a *de minimis* exemption for first-time paperwork non-compliance by certified contractors and 5) providing an exemption for renovations after a natural disaster.

We encourage the House of Representatives to introduce legislation making needed reforms to the EPA Lead: Renovation, Repair and Painting rule. Any legislation addressing LRRP must continue to protect those who are most vulnerable to lead exposure; however, the rule needs a more appropriate balance between the additional compliance costs for remodelers and contractors with the need to protect pregnant women and children under age six.

Thank you for your consideration of this issue.

Sincerely,

Air Conditioning Contractors of America
Associated Builders and Contractors
Associated General Contractors of America
Building Owners and Managers Association (BOMA) International
CCIM Institute
Hearth, Patio and Barbecue Association
Independent Electrical Contractors
International Council of Shopping Centers
Institute for Real Estate Management (IREM)
Insulation Contractors Association of America
Manufactured Housing Institute
NAIOP, the Commercial Real Estate Development Association
National Association of Home Builders
National Association of REALTORS®
National Association of the Remodeling Industry
National Federation of Independent Business
National Lumber and Building Material Dealers Association
National Roofing Contractors Association
Plumbing-Heating-Cooling Contractors—National Association
The Real Estate Roundtable
Vinyl Siding Institute
Window and Door Manufacturers Association

cc: House Committee on Energy and Commerce members