

Proposed Legislative Actions to Address Shortcomings in EPA's Renovation, Repair, and Painting Regulation

The Alliance for Healthy Homes and the National Center for Healthy Housing applaud EPA's final regulation to protect families from unsafe renovation, repair, and painting work. However, there are several problems in the final regulation that deserve serious attention.

The key shortcomings that can be addressed by legislative changes:

- **Insufficient appropriations for start-up and compliance assistance.** The administration has not requested resources to begin preparing for implementation. Renovators must be trained, state programs must be developed, and local agencies must be prepared to enforce the regulation.
- **Outdated standards for lead in dust.** The dust standards in EPA's 2001 lead hazard regulation are outdated. New data show that elevated blood lead levels are correlated with much lower levels of dust on floors than earlier thought.
- **Clearance dust testing not required.** Lead dust is the primary source of exposure for young children. A clearance examination, which involves collecting samples for laboratory analysis, is the standard method for determining that no lead has been left behind following work that disturbs lead-based paint. EPA's regulation includes only visual examinations for visible dust. Since lead dust can be invisible, this is insufficiently protective and may even give families a false sense of security. Importantly, renovators are not required to disclose to the owner/occupant if a home did not pass the visual inspection requirement.
- **Inadequate training requirements.** The renovation regulation permits untrained workers to work without supervision after receiving job-specific on-the-job training delivered by the certified renovator. Either a certified renovator should be on-site at all times, or workers who will be on site should be provided day-long training.
- **Target housing stock exemptions too broad.** Longstanding statutory language improperly exempts zero-bedroom dwellings.
- **Reporting requirements too narrow.** Mandatory reporting of all lead test results to occupants and property owners must be added

Other concerns include excessive work practice exemptions. The regulation exempts work that disturbs less than six square feet of paint per room. This exemption is three times as large as the de minimis requirement set by HUD's lead-safe housing rule, which is already being used for millions of properties nationwide. Also, the EPA regulation did not ban the use of volatile paint strippers and dry scraping, activities that can generate lead paint fumes and dust. These activities have been prohibited by numerous jurisdictions and HUD.

Legislative Agenda for Improving EPA's Renovation and Remodeling Regulation

Suggested Amendments:

1. Amend 15 USC 2692 to **require appropriations for compliance assistance.**

“There are authorized to be appropriated to carry out the purposes of this subchapter such sums as may be necessary. For FY09, FY10, and FY 11, an additional \$120 million is authorized in support of renovation rule-related training, state program development, and local government enforcement efforts.”

2. Amend 15 USC 2683 (b) ~ TSCA 403 (b) to **revise the Federal dust lead hazard standard.**

“Within 18 months after October 28, 1992, the Administrator shall promulgate regulations which shall identify, for purposes of this subchapter and the Residential Lead-Based Paint Hazard Reduction Act of 1992 [42 U.S.C. 4851 et seq.], lead-based paint hazards, lead-contaminated dust, and lead-contaminated soil. Within 9 months and biennially thereafter [effective date] the Administrator shall review current scientific data and promulgate dust lead standards that adequately protect public health.”

3. Amend 15 USC 2682 (c) (3) ~ TSCA 402 (c) (3) to **add protections to the RRP rule**

“Within 4 years after October 28, 1992, the Administrator shall revise the regulations under subsection (a) of this section to apply the regulations to renovation or remodeling activities in target housing, public buildings constructed before 1978, and commercial buildings that create lead-based paint hazards. The regulation shall require work area clearance in buildings by a certified individual other than the individual who performed the work and presence of a certified renovator on site at all times.”

4. Amend 15 USC 2681 (17) to **expand target housing to include zero-bedroom units**

“The term “target housing” means any housing constructed prior to 1978, except housing for the elderly or persons with disabilities, (unless any child who is less than 6 years of age resides or is expected to reside in such housing for the elderly or persons with disabilities) ~~or any 0-bedroom dwelling~~. In the case of jurisdictions which banned the sale or use of lead-based paint prior to 1978, the Secretary of Housing and Urban Development, at the Secretary's discretion, may designate an earlier date.”

5. Amend 15 USC 2687 to **mandate reporting to occupants**

“The regulations of the Administrator under this subchapter shall include such recordkeeping and reporting requirements as may be necessary to insure the effective implementation of this subchapter. Certified individuals and firms shall report results of all lead tests performed on the property to the owner and occupant. The regulations may be amended from time to time as necessary.”