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April 7, 2005

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Stephen Johnson
Acting Administrator
United States Environmental Protection Agency
401 M Street Southwest
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Dear Mr. Johnson:

I urge you to issue regulations mandated by federal law establishing lead-safe construction practices for renovating and remodeling to protect at-risk children. Setting standards for lead-safe renovations is essential to reducing the health risks of lead paint poisoning in the home. Any further delay will only prolong the childhood lead poisoning epidemic and frustrate the national goal set by the Centers for Disease Control and Prevention (CDC) of eliminating childhood lead poisoning by 2010.

The Toxic Substances Control Act (TSCA) granted the Environmental Protection Agency (EPA) the authority to regulate chemicals that present an "unreasonable risk of injury to health or the environment." In 1992, Congress amended the law to require the EPA to issue regulations by 1996 ensuring that workers engaged in the renovation or remodeling of a home built before 1978 are trained and certified in lead-safe construction practices (15 USC 2682). To date, the EPA has not complied with this critical public health mandate; the agency shows no sign of doing so in the foreseeable future.

The EPA's failure to issue lead-safe renovation regulations is a breach of the public trust and presents a significant, and avoidable, threat to tenants and homeowners throughout the nation. Because lead was not banned nationally in residential paint until 1978 (although New York City banned lead paint in 1959), many homes built before the ban still contain layers of lead-based paint. Renovation and remodeling usually disturbs lead-based paint, releasing toxic lead chips and lead dust. Consequently, careless renovations by workers who are not trained in lead-safe construction practices can create a veritable minefield of lead contamination right in a child's home, while also posing a risk to the workers themselves and to workers' children who can be poisoned by lead dust brought home in their parents' work clothes. Awareness of the hazards of lead paint disturbance is a key component of proper safety training.



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I am deeply concerned by your stated intention, in a series of recent public presentations, to institute a program of "voluntary compliance" with lead-safe renovation practices, as evidenced by the EPA's Lead Safety Partnership Voluntary Initiative power-point briefing. Voluntary compliance simply cannot substitute for the regulation of a toxin as dangerous as lead. Sole reliance upon a voluntary program would relegate the safety of children and other dwellers of older homes and apartments to the whim of individual contractors. Such cavalier regulatory treatment is inimical to the profound concern Congress expressed about lead poisoning when it banned lead-based paint and gasoline.

New York State's children stand to suffer the most from the EPA's failure to issue lead-safe renovation regulations. New York contains the largest number (3.3 million) and percentage (43%) of homes built before 1950, where lead paint is most likely to be present. Although an estimated 2.2% of children nationwide are lead-poisoned, a recent study of 677,000 New York children screened for lead poisoning at age 2 found that 5% of these children had levels of lead in their blood that exceeded the acceptable CDC threshold -- more than twice the national average. And some areas of New York exhibited lead poisoning rates as high as 20%. Currently, in New York State alone, approximately 10,000 children each year are found to have blood lead levels over the accepted level and are considered lead poisoned.

The risks to New York's minority children are especially pronounced. Because African-American and Hispanic children tend to reside in older urban dwellings where lead paint is most prevalent, they are especially likely to be exposed to lead in the home. Specifically, 11.3% of African-American children and 21.9% of African-American children living in pre-1946 housing nationwide are considered lead poisoned under CDC standards. Moreover, Hispanic children are twice as likely to be lead-poisoned as white children. In New York City, 95% of children found to be lead poisoned in 2001 were African-American, Hispanic or Asian.


In addition to helping to safeguard the public health, issuance of TSCA renovation and remodeling regulations would make good economic sense. Researchers have estimated the costs of lead poisoning in the United States to be \$43.4 billion annually. (In New York State alone, total costs associated with childhood lead poisoning -- medical care, remedial education, lost earnings -- exceed \$3 billion a year.) When EPA staff analyzed the possible benefits of issuance of TSCA renovation regulations in 2002, they found that the rules then under consideration would prevent at least 28,000 lead-related illnesses each year and protect over 1.4 million children under age 7 from unnecessary exposure. Despite this finding, the agency apparently has chosen "voluntary compliance" instead of fulfilling its obligations to issue mandatory protections, which, if issued, could avoid lead-poisoning-related costs amounting to as much as

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\$4.1 billion each year.

In sum, I ask that one of your first acts as EPA Administrator be the issuance of appropriate lead-safe renovation and remodeling regulations to protect at-risk children. Any further delay will only result in more cases of tragic and preventable childhood lead poisoning.

Very truly yours,

A handwritten signature in black ink, appearing to read "Eliot Spitzer". The signature is stylized and cursive, with a large initial "E" and "S".

Eliot Spitzer

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