

June 26, 2013

U.S. Environmental Protection Agency
Office of Pollution Prevention and Toxics
Mail Code 7407M
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Attention: Hans Scheifele

Subject: Federal Register: Lead; Renovation, Repair, and Painting Program for Public and Commercial Buildings; Public Meeting: Docket EPA-HQ-OPPT-2010-0173

Dear Mr. Scheifele:

Thank you for the opportunity to participate in the Environmental Protection Agency's June 26, 2013 public meeting regarding its proposed rulemaking Lead; Renovation, Repair and Painting Program for Public and Commercial Buildings. Please find attached for filing in Docket EPA-HQ-OPPT-2010-0173 my statement on behalf of the National Association of Remodeling Industry ("NARI").

Please let me know if you have any questions or require additional information that NARI may provide on this subject.

Sincerely,

A handwritten signature in black ink, appearing to read "David Merrick". The signature is fluid and cursive, with the first name being more prominent.

David Merrick

Attachment

**LEAD; RENOVATION, REPAIR AND PAINTING PROGRAM FOR
PUBLIC AND COMMERCIAL BUILDINGS
STATEMENT BY DAVID MERRICK
MEMBER AND PAST CHAIR, GOVERNMENT AFFAIRS COMMITTEE
NATIONAL ASSOCIATION OF THE REMODELING INDUSTRY
JUNE 26, 2013**

Thank you for the opportunity to participate at the Environmental Protection Agency's ("EPA") public meeting on its proposed rulemaking: Lead; Renovation, Repair and Painting Program for Public and Commercial Buildings ("Public & Commercial LRRP Program"). This statement is made on behalf of the National Association of the Remodeling Industry ("NARI"), a trade association headquartered in Des Plaines, Illinois, whose core purpose is to advance and promote the remodeling industry's professionalism, product and vital public purpose throughout the nation.

NARI is the only national association dedicated solely to the remodeling industry. NARI consists of 58 chapters nationwide, representing companies – most of which are small businesses – that could be significantly impacted by the EPA's proposed Public & Commercial LRRP Program. As the representative of these small businesses and a participant in the federal SBREFA panel review process, NARI would like to take this opportunity to share with the EPA: 1) the different types of work practices used to renovate public and commercial buildings; 2) the importance of EPA avoiding recurring, confusing and duplicative regulatory enforcement with other federal agencies, namely OSHA; and, 3) NARI's commitment to professionalism and worker and public safety. In doing so, NARI asks that the EPA's final

rule reflect the realities of our industry and that the rule's enforcement plan identify and target those who fail to comply with even the most basic regulatory requirements.

Let me begin with the types of work practices used to renovate public and commercial buildings. NARI members operate businesses that conduct comprehensive demolition, surgical renovation and resurfacing projects. Comprehensive projects generally include the demolition of the exterior, but retain the internal structure or skeleton of the building. Surgical projects are more specific in scope and could include, for example, the removal and replacement of the building's windows and doors. Resurfacing projects would include removing existing finishes and trim and repainting of the building's exterior. Of these projects, comprehensive demolition and resurfacing often pose the greatest health risks to workers and the surrounding public due to the potential exposure to dust.

Every project site is different. Variables include urban versus rural environments, surrounding populations, zoning, building age, site accessibility, construction type as well as weather. In addition to these factors, the client's budget often determines the type and scope of the project and work practices employed. The scale and level of difficulty also varies between every project site. No two jobs are ever the same, making any one-size-fits-all regulatory scheme difficult to apply and generate the desired results.

In order to ensure the safety of their workers and clients, the primary work practice of NARI members is to continually monitor and maintain each site. This would include establishing a measure of area containment, keeping the site free from clutter, dust, and other

materials that, left unattended, could result in an unsafe work site and worker injuries. NARI members normally require that the waste from each project be placed into dumpsters or like receptacles on-site. For multi-story projects, work practices used to control dust when moving debris to the dumpsters may include the use of elevators or transporting the debris down stairways. In some states, it is required that dumpster waste is transported from the work site to transfer stations where workers separate the waste. While a few NARI members may have the option of maintaining different dumpsters and separating the waste themselves, the option is time intensive, often contingent on space and subsequently, cost prohibitive. Such an option is not available in urban sites. NARI members also maintain work practices that can adapt to changing conditions at the site. For instance, excessive winds limit or suspend work in order to prevent hazardous dust and debris from spreading beyond the site. A decision to suspend work would be most applicable to comprehensive demolition and resurfacing projects.

To avoid recurring, confusing and duplicative regulatory enforcement with other federal agencies, the EPA should carefully consider the Occupational Safety and Health Administration's ("OSHA") Lead in Construction regulations. OSHA's requirements in this area are quite robust and address several issues involving the same work practice issues that the EPA may consider in its Public & Commercial LRRP Program. NARI believes it is critical that any overlap or inconsistencies be resolved before the EPA makes its proposed rule final and effective. In doing so, NARI specifically asks the EPA to work directly with federal and state OSHA, especially Cal/OSHA, as well as the Office of Information and Regulatory Analysis to identify such requirements that could generate confusion and conflict between

federal agencies and then publically share its findings and methods in the Federal Register on how the two agencies will be enforcing their respective requirements.

Finally, NARI would like to share with the EPA the importance it places on worker and client safety through continuing education and training, professional conduct. NARI requires its certified members to participate in ongoing education and training programs, which are updated regularly to reflect the latest requirements and work practices as they become available or effective. This information includes reference links to laws and regulations, web training and access to certified trainers. For managing lead safety and health, NARI provides a specific web portal for compliance, education and training (www.nari.org/leadsafetyinformation).

NARI certification of professional remodeling contractors serves as the association's recognition of remodeling professionals who have met stringent experience criteria and pledged a commitment to the highest standards of practice and to NARI's Code of Ethics. The NARI Certification Board confers the following certifications: Certified Remodeler (CR); Specialist (CRS); Associate (CRA); Certified Kitchen and Bath Remodeler (CKBR); Certified Lead Carpenter (CLC), Green Certified Professional (GCP); Certified Remodeler Project Manager (CRPM); and Universal Design Certified Professional (UDCP). Enrollment in virtual study groups, online prep classes, and topical webinars are made available as part of NARI's certification and recertification process.

While NARI members abide by the laws and employ lead safe work practices, the reality is that unscrupulous and unregistered contractors do not. This creates unfair competition in the marketplace and, more importantly, elevates safety and health risks to workers and the public. NARI members voluntarily subscribe to NARI's Code of Ethics, which is as follows:

1. By promoting in good faith only those products and services which are known to be functionally and economically sound, and which are known to be consistent with objective standards of health and safety;
2. By making all advertising and sales promotion factually accurate, avoiding those practices which tend to mislead or deceive the customer;
3. By writing all contracts and warranties such that they comply with federal, state and local laws;
4. By promptly acknowledging and taking appropriate action on all customer complaints;
5. By refraining from any act intended to restrain trade or suppress competition;
6. By attaining and retaining insurance as required by federal, state and local authorities;
7. By attaining and retaining licensing and/or registration as required by federal, state and local authorities; and,
8. By taking appropriate action to preserve the health and safety of employees, trade contractors and clients.

As the EPA develops an awareness campaign and enforcement plan for its proposed Public & Commercial LRRP Program, NARI asks that it identify and target those who fail to uphold such standards and ethical practices. Contractors who serve the public in the absence of such practices not only put themselves and workers at risk, but their customers and the general public as well. NARI believes that any final and enforced rule issued by the EPA should center squarely on the qualifications and practices of unscrupulous and non-certified contractors.

In closing, NARI asks the EPA to take into consideration: 1) the different types of work practices used to renovate public and commercial buildings; 2) the importance of EPA avoiding recurring, confusing and duplicative regulatory enforcement with other federal agencies; and, 3) NARI's commitment to worker and client safety. In doing so, NARI firmly believes that the EPA's final rule will reflect the realities of its industry, avoid becoming another burdensome federal regulation. The unscrupulous and non-certified contractors should be isolated, exposed, and removed.

Thank you again for the opportunity to share this statement on behalf of the National Association of the Remodeling Industry. The remodeling industry is a vital component to our nation's economic recovery. By taking the time to understand our industry, regulations may reflect the unique challenges facing our members while still achieving their objective. NARI stands ready to assist the EPA further in the event it has questions about the types of work conditions and practices involving Lead; Renovation, Repair and Painting Program for Public

and Commercial Buildings; as well as developing and maintaining strict standards and ethical practices for our industry.