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 171 Ashley Avenue  
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Carol Browner  
 Administrator  
 Environmental Protection Agency  
 Washington, D.C., 20460

Re: Docket Control number OPPTS-62156

Dear Administrator Browner,

The Children's Health Protection Advisory Committee met on November 5-6, 1998 to consider, among other topics, the implications of USEPA's proposed residential lead standards for children's health. The Committee and both its Science and Economics Work Groups were given extensive briefings by EPA and by additional scientific, public health, policy, and economics experts.

The proposed 403 rule is a critical opportunity to provide effective guidance and tools to prevent childhood lead poisoning in all children. Childhood lead poisoning disproportionately affects poor and minority children, largely based in areas of our nation's inner cities. No rule will be satisfactory to this Committee unless it directly addresses this problem. Based on its review, the Committee has concluded that the proposal, as currently drafted, does not accomplish this goal. The Committee's comments and concerns are as follows.

- A. The ultimate societal goal must be the eradication of childhood lead poisoning through prevention. All government agencies should keep their actions focused on making significant progress toward this goal, and this rule must result in measurable progress.
- B. The Committee has concluded that: 1) there is a lack of clarity associated with the scientific basis for the proposed reduction in national standards for lead contamination in dust and soil, and 2) the proposed rule is inadequate to address the most at risk populations. Although the proposed rule recommends a reduction in national standards for lead contamination in dust and soil, it remains unclear whether the proposed standards are actually protective of children. The Children's Health Protection Advisory Committee has concluded that on its face this rule does not address those children most at risk and that, in some respects, this rule is apparently a step backwards.

- C. Government standards such as the 403 rule, which are meant to give guidance, should be clear, logical, understandable, and consistent. It is our assessment that this draft rule is not. Specifically, the rule does not make clear what choices and value judgments were made by USEPA in drafting this rule and why. Of particular concern is that scientists with considerable expertise in lead poisoning prevention report that the proposal is extremely difficult and occasionally impossible to comprehend. USEPA must make the rationale for decision making and the consequences (based on clearly described models used and assumptions made) of those decisions clear both to scientists and to the lay public facing these risks.
- D. The Committee believes that EPA should establish a health-based standard in this rule, which is scientifically defensible as protective of all children – and it is the Committee's understanding that EPA intended to do so. However, as we read the draft document, it appears that the proposed health based protective standard was modified by cost considerations. The Committee is concerned that this approach confuses the scientific analysis with feasibility considerations. We understand that cost effectiveness may play an appropriate role in risk mitigation and that feasibility may play a necessary role in risk management, but cannot accept that scientific decisions about a health based standard can be modified by cost considerations.
- E. The evidence presented to the Committee demonstrated that childhood lead poisoning disproportionately affects poor and minority children. The proposed rule, as explained to the Committee, appeared to accept a national baseline rate of lead poisoning. If this is the case, it fails to appropriately target the population that is most affected. Current national baseline information (NHANES III, Part B 1991-4) indicates that we already have reduced lead poisoning to approximately five percent of children with blood lead levels above 10 ug/dL. Since the goal, as explained to the Committee, of this proposed standard has already been met, this rule will do nothing further for the remaining, large pockets of inner city, poor and minority communities with a high proportion of children with elevated blood lead levels. Not reducing the percentage of children with elevated blood lead levels in these communities is unacceptable.
- F. The proposed 403 Rule also appears to allow greater lead risk to children by:
1. Removing any standard for lead contamination in window wells .
  2. Not establishing a standard for carpeted floors,
  3. Allowing a *de minimus* standard for deteriorated surfaces (proposed to be two square feet), and
  4. By using a 3-foot above floor level as the height of concern, even though children can reach lead hazards at a height of 5 feet (for example, by standing on a sofa).

Therefore, it appears that USEPA has reduced the level of protection for children through this proposal. It is an understatement to say that the Committee does not understand the justification for these actions.

G. To make progress toward a societal goal of eradicating childhood lead poisoning, we need to move expeditiously to inspect homes. Cost and feasibility are critical considerations here. We need to make it easy for people to detect where the risks to their children are. Thus, the Committee is very concerned that the proposed standard unnecessarily restricts lead hazard testing to complete risk assessments done by certified inspectors. Many states do not have certification processes and, in states that do, there are a limited number of inspectors. While the Committee recognizes that risk assessment should be conducted by qualified professionals such as certified risk inspectors or industrial hygienists, the Committee advocates the use of simple screening tools to identify lead hazards. The net results of the proposal would be fewer inspections and a reduced ability to effectively manage cases of lead poisoning. EPA's rulemaking should encourage the development and use of multiple, easy, low cost and effective options for housing inspections to determine lead hazards. The Committee's analysis suggests the opposite effect will occur. By focusing solely on the comprehensive risk assessment that should precede remediation, the proposed standard leaves no room for simple but effective mechanisms (e.g. water, paint chip, or dust analysis) for collecting information valuable to families or health care providers. Such simple mechanisms would particularly benefit low-income families whose children are at greater risk of lead poisoning but who cannot afford the services of a certified risk assessor. It is essential that all families be given the opportunity to identify lead hazards.

H. It appears that EPA has assumed a limited number of options or measures for risk mitigation. By putting these options into the regulations, EPA inadvertently limits opportunities to learn about new (and, hopefully, more cost effective) measures and about which existing measures may actually increase blood lead levels. The Committee hopes that EPA would not prescribe specific risk mitigation activities, but rather would invest in new knowledge about risk mitigation measures through its Office of Research and Development.

The committee also has several underlying concerns about which it may request further information. At this time, we would like to raise two such questions:

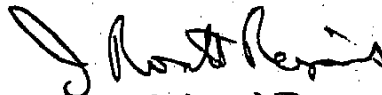
- 1. Many members of the Committee, who are experienced with the three-tier system for lead in soil and feel it works, were surprised to see it changed in the proposal and do not understand why it was altered. It would be helpful to receive additional information about the rationale for this change.

2. Executive Order 12898, entitled: Federal Actions to Address Environmental Justice In Minority Populations and Low Income Populations, encourages EPA to take into account the disproportionate impact on poor and minority populations in all of its activities, involving representatives of affected populations in the decision making process. Did EPA include adequate representation of poor and minority people in the process for this proposal?

The Children's Health Protection Advisory Committee remains very committed to supporting your strong efforts to better protect the health and safety of children through improved environments. Though we understand the enormous effort that went into developing the proposed 403 rule, we feel that as written it does not achieve measurable protections for children. As an advisory committee dedicated to the protection of children, we strongly urge a reconsideration of the decisions explicit in this rule. We also strongly urge that it be rewritten so as to be understandable by both scientists and lay people who wish to read and understand the process and the decisions and value judgments made in formulating the rule.

Thank you once again for your continued support of the Committee and of the health of our children.

Sincerely,



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Professor of Pediatrics

JRR/pc

cc. Ramona Trovato  
Paula Goode  
OPPT Document Control Officer (7407)