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Elizabeth Wilde's comments on EPA 2-16-18 Supplemental Response March 5, 2018

Ms. Wilde has three comments on EPA's latest supplemental response:

1. Commitment to Protect Children and Pregnant Women for Lead Exposure Still Lacking

Apart from vague aspiratory language about public education and outreach, the EPA supplemental response made only this concrete statement with respect to protecting children and pregnant women from lead exposure during repairs and renovations in older buildings:

“Region 4 collects evidence of occupants who are pregnant or may be children under age 18 if it can be obtained during the inspection either from the records reviewed or directly communicated by the company representative who is interviewed during the inspection. If the information cannot be obtained during the inspection, then the case development officer to which the file is assigned will follow-up to confirm occupancy at the time renovation work occurred. This information is then used as described above in calculating the penalties consistent with the Enforcement Response Policy.”

Two things of note:

A. This practice has no reference, even to a protocol. Absent a written procedure, nothing prevents lapses in this practice – even assuming it is followed now (see Comment 3, below).

B. By its terms, this practice is limited to Region 4. This geographic limitation suggests that in the rest of the country there is zero follow-up to determine the presence or absence of children and pregnant women.

As a basic matter of public health, EPA should make an affirmative regulatory commitment to ensure that women and pregnant women across all Regions are not exposed to lead dust during repairs and renovations. Protecting these most vulnerable individuals is the main purpose of the program and EPA should not continue to treat it as an afterthought.

2. Management Improvements Long Overdue

While some of the steps taken are salutary, they underline how poorly the Lead-based Paint Program had been run previously. For example, EPA Region 4 congratulates itself on hiring a contractor in May 2017 to set up a “robust filing system” for enforcement and inspection file

management. The prior lack of a filing system denotes just how serious the problems Ms. Wilde's disclosure highlighted.

Moreover, the data management improvements are limited to Region 4. This suggests that management of enforcement records may remain deficient in other regions.

It should also be noted that the listed recent improvements in inspector training and credentialing tracking confirm the thrust of Ms. Wilde's disclosure.

3. Agency Fails to Address Lack of Accountability

Although EPA in their latest response addresses new protocols and processes, the Agency does not address the lack of accountability that caused the failures in the Lead-based Paint Program that Ms. Wilde disclosed.

When Ms. Wilde first began working in this program in 2003, the agency had adequate protocols and processes but over time as management personnel changed, EPA adherence declined. Some of the basic failures Ms. Wilde documented included:

- The Agency ignored and then discontinued its existing electronic database to track inspection and enforcement action and status. There was no longer an electronic tracking of inspection or case status;
- The Agency also abandoned its paper filing system of inspections and cases. In so doing, it ignored the requirement that cases be organized by status and year. Files were arranged only by file number and/or by alphabetic name of the company;
- Log books that all inspectors entered their inspections into and log books that tracked all assigned case numbers were "lost" and discontinued;
- The Agency stopped enforcing the requirement that senior staff review and sign off on all inspection documentation and enforcement decisions; and
- The tracking of inspector training and certification status had been the responsibility of the Enforcement Coordinator, but when Elmore Johnson took over, that practice ceased.

As a result of the Agency ignoring its previous protocols and processes, the Region fielded uncertified inspectors; had inspections certified in ICIS that did not exist or were completely inadequate; many inspections where violations were documented, enforcement action was recommended but no action was taken; and inspections of facilities with violations received EPA letters stating that EPA found no violations. Finally, the EPA Inspector General confirmed the illegal disposal of inspection and enforcement files and other legal documents.

Staff did not follow the existing protocols and management did not correct the failures. This occurred despite the fact that Ms/ Wilde briefed the Section Chief, Branch Chief, Deputy Division Director and the Director about these problems many times. No one has been held responsible or appropriately disciplined for any of the failures in the program, not even when

requested by the Inspector General for illegally destroying and disposing of many documents, or when it was discovered that inspectors falsely claimed to have conducted Inspections they had not.

Even in this supplemental response, there is still no recognition of, or planned action to ensure accountability, without which, no improvement can be assured.

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