

ALLIANCE ALERT

A Publication by the Alliance for Healthy Homes

December 2008

Support the Alliance This Holiday Season!

As 2008 comes to an end, please consider making a tax-deductible donation to the Alliance. Your donation of any amount will support our efforts to ensure that housing across the United States is free from lead, carbon monoxide, radon, pests & pesticides, allergens, and other health hazards. We need your donation to help support our policy work and ensure we can provide the healthy homes movement a voice on Capitol Hill and beyond. It will also help ensure that we can continue to bring you the updates found in the Alliance Alert and on our listservs, LeadNet & HealthyHomesNet.

Giving to the Alliance takes just a few clicks at http://afhh.org/misc/misc_contrib.htm. If you prefer, you may also mail gifts to the Alliance at 50 F St. NW, Suite 300, Washington, DC 2001. As a 501(c)(3) non-profit, all gifts are fully tax-deductible to the maximum allowed by law. Thank you for your support!

Groups End Federal Air Freshener Lawsuit and Prepare for Next Phase of Safety Campaign

Under pressure from a coalition of environment and health groups, the seven largest air freshener manufacturers have disclosed their products' ingredients to the Environmental Protection Agency (EPA). The coalition of groups dropped a legal case regarding the issue against the EPA on December 11 and now plan to pressure the agency to evaluate the safety of the ingredients individually and in combination with each other.

The Alliance for Healthy Homes, Sierra Club, and Natural Resources Defense Council petitioned EPA in September 2007 to learn the risks of air fresheners and to require that manufacturers list ingredients on labels. In December 2007, EPA denied the petition but sent letters to the top seven air freshener manufacturers, asking them to voluntarily submit the ingredients in their products and the quantities used annually. The seven companies are Blythe, Dial, Lancaster Colony, Procter & Gamble, Redkitt Benckiser, S.C. Johnson and Shell. The petitioners sued EPA in April 2008 to help ensure that the companies actually provided ingredient information to EPA – which they did in two stages. In May, EPA received data about the non-fragrance ingredients and in October the agency obtained fragrance ingredient data.

EPA now has data for all ingredients present in 0.1% concentration or greater in air freshener products made by these seven companies. This is the first time that EPA has known the main chemical ingredients in a wide number of air fresheners, the function of each ingredient, and the aggregate amount of each chemical present in the products. The agency is now in a position to assess the risks posed by those chemicals and to take

appropriate regulatory action. The organizations will continue to request that ingredients present below 0.1% concentration be disclosed to the agency, too.

While EPA received the complete list of ingredients, public versions contained many redactions under company confidential business information claims. Even with the redacted version of the data, however, several hazardous chemicals are listed as air freshener ingredients. These chemicals include formaldehyde (a carcinogen and irritant deliberately generated as preservative), benzene compounds (benzene is a genotoxic carcinogen), naphthalene (a carcinogen), and other chemicals whose safety is questionable.

Because of the redactions in the public data, only EPA and the companies presently know what amounts of these chemicals are used. The coalition of groups is now attempting to use the Freedom of Information Act to challenge the companies' confidentiality claims and hope to make more ingredient information available publicly. Industry groups are also planning a new ingredient disclosure program for 2010, but say they will continue to keep many ingredients secret including those in their dyes, preservatives and fragrances.

The original petition, EPA's response, as well as all other public submissions from the Air Freshener Manufacturers are available at

<http://www.epa.gov/oppt/chemtest/pubs/petitions.htm#petition1>.

The submission from the fragrance houses is available at

http://www.fmafragrance.org/sub_pages/airfreshener_list.html.

DC Gets a New Lead Poisoning Prevention Law

On December 16, the Alliance and other District of Columbia lead poisoning prevention advocates won City Council approval of a new lead poisoning prevention law. Resulting from a two-year campaign, the legislation strengthens protections for children and begins to address primary prevention in some higher risk rental housing. DC's Mayor Adrian Fenty has pledged to sign the ordinance that was sponsored by Council Member Jim Graham.

Among the key provisions of the new law are:

- All housing (including common areas in multi-unit buildings) and child-occupied facilities built prior to March 1, 1978, must be free of lead hazards.
- With some noteworthy exceptions, pre-78 rental units occupied or regularly visited by a child younger than age six or a pregnant woman must now pass a lead clearance test performed within 12 months before the tenancy commences.
- The City gains expanded authority to proactively look for lead hazards in dwellings based on "reasonable belief" that a lead hazard may exist. This could allow the City to check properties in response to tenant requests or other known risk factors such as history of past violations or visible deterioration.
- Deteriorated paint in pre-1978 homes will be legally presumed a lead hazard, unless proven otherwise, reducing the need for specialized inspections.

- Government-ordered repair of lead hazards also will require repair of the underlying cause of any paint failure and clearance.
- Lead safe work practices will be required for all repairs disturbing paint in pre-78 properties.
- Federal and local lead disclosure requirements may be enforced by the City.
- The law creates the lead dust sampling technician discipline in DC and allows these technicians to perform non-abatement clearance tests or identify hazards.

Prevention advocates were disappointed that the ordinance did not include coverage for pre-1978 rental units where no young child or pregnant woman resides. This is a lost opportunity to bring lead-safety to thousands of additional homes each year and may encourage increased rental discrimination on the basis of familial status.

Due to significant loopholes, clearance will not be required in many key situations, including units where a child is born or adopted or where a woman becomes pregnant after the start of the tenancy. Clearance will also not be required for units where leases began before the effective date of the law. Advocates fought hard for an eleventh hour amendment to close some of these loopholes, but were opposed by the Mayor and fell short on votes. Advocates are already planning renewed efforts to build on their successes this year to further strengthen the law in 2009.

A copy of the ordinance is available at:
http://afhh.org/res/res_DC_Pb_Ordinance_Dec_08.pdf

Evaluation of Rochester Lead Law Finds Substantial Impacts

A thorough evaluation of Rochester's Lead-Based Paint Poisoning Prevention law, which went into effect in July 2006, determined that over 3400 units were made lead safe as a direct result, while lead poisoning rates fell more dramatically since its passage. The law, supported by a wide range of lead poisoning prevention advocates, required visual assessments of rental housing by city inspectors in order to receive a certificate of occupancy. Rental units located within a high-risk "target area" also had to pass lead dust wipe tests following the visual inspection.

The Center for Governmental Research, which conducted the evaluation, found of the 28,000 rental units inspected by the city in the two years covered by the evaluation, 2,338, or about 8%, failed the visual inspection for damaged paint surfaces and were required to be repaired using lead safe work practices. Lead dust tests were then conducted in 37% of the units that had passed the visual. In total, 1,100 of these units, or over 11% of those tested, failed the dust test, and were required to be repaired, cleaned, and re-tested. This finding clearly demonstrates the importance of quantitative dust testing.

The study also noted that two years after the law went into effect, the rate of blood lead levels exceeding 10µg/dL in children under six had dropped to half of what the levels were two years before the law went into effect. Between the first and second year of the law's enactment, EBL rates declined by 30%, compared to a decrease of 19% before the

law went into effect. Additionally, the evaluation found a substantial reduction in the disparity between EBL rates amongst those living in rental compared to owner-occupied housing.

The cost of law on the city and on landlords was also measured in the course of the evaluation. In a survey, a third of property owners spent no money to prepare or respond to an inspection, 37% spent \$1 to \$1000, and the remaining 30% spent more than a thousand dollars. The cost to clear a violation after corrections was found to only be on average \$150, less than half the amount anticipated when the law was passed. The City of Rochester spends \$600,000 annually to implement the law.

Evaluators recommended several improvements, including ensuring wider availability of lead safe work practices training and more enforcement of LSWP requirements, increasing the speed at which violations are addressed and enforced, and increased data collection.

The full evaluation is available online from CGR: http://www.cgr.org/reports/08_R-1563_Lead%20Evaluation.pdf. For more information or to see a copy of the Rochester Ordinance, see the January, 2006 Alliance Alert: http://www.afhh.org/res/res_alert_archives_jan06.htm#rochesterordinance.

Human Exposure to Flame Retardants Gaining more Attention, Research

On December 4th, the EPA released a draft version of its exposure assessment for polybrominated diphenyl ethers (PBDEs) (<http://cfpub.epa.gov/ncea/cfm/recordisplay.cfm?deid=198444>), a class of flame retardants commonly used in consumer and building products. The report provides information on the extent to which humans are exposed to and have a body burden of the chemicals. PBDEs have been associated in animal studies with liver toxicity, thyroid toxicity, developmental and reproductive toxicity, and developmental neurotoxicity.

Although EPA's report does not attempt to determine if the levels identified are "safe" or are associated with any particular health effects, it does note that American body burdens of PBDEs are higher than in people living in other countries (mostly European). The report also estimates exposures for different groups, estimating young children (1-5 years old) to have higher total daily exposures than adults.

The significant exposure to children is driven to a large extent by the presence of PBDEs in indoor dust. Like lead, PBDEs accumulate in dust and children are exposed through hand to mouth activity. The assessment notes that indoor dust had concentrations roughly 100 times greater than that found in outdoor surface soil, and indoor air concentrations roughly three times higher than outdoor air.

In another report released recently, levels of PBDEs measured in fetus livers was found to have increased significantly from 1998 to 2006. According to the study published Dec. 10th in Environmental Health Perspectives, ("Persistent Organic Pollutant Residues

in Human Fetal Liver and Placenta from Greater Montreal, Quebec: A Longitudinal Study From 1998-2006,”

<http://www.ehponline.org/members/2008/0800205/0800205.pdf>) exposures likely occurred because for the past 20 to 30 years, PBDEs have been used as additives in many plastics, foams, and other long-lived products that have widespread commercial and home use.

The team of researchers from Health Canada and McGill University Health Center in Montreal, Quebec concluded that while commercial production in North America of two types of PBDEs, penta- and octa-BDEs, stopped in 2004, products containing them will continue to release the chemicals in coming years. As a result their concentrations in fetal liver and placenta are now greater than the tissue burdens for the analyzed organochlorine pesticides and PCBs.

For more on PBDEs visit:

<http://www.ourstolenfuture.org/newscience/oncompounds/PBDE/whatarepbdes.htm>

Milwaukee Loses Appeal in Lead Industry Lawsuit

In another setback in efforts by many jurisdictions to hold former lead pigment makers liable for addressing lead paint problems, a Wisconsin appeals court rejected the city of Milwaukee's lawsuit to force NL Industries to fix lead paint hazards in several thousand city homes. A 2-1 majority voted to uphold a lower court jury's ruling that NL Industries should not have to pay the city costs of cleaning up the homes. The city sought \$52.6 million to cover the costs of a 1999-2006 lead hazard remediation program to replace or repair old lead-painted windows. The Milwaukee case is one of the few remaining lead industry lawsuits utilizing a public nuisance cause of action.

A Milwaukee County jury ruled last year the presence of lead paint in thousands of Milwaukee homes was a public nuisance, but said NL Industries did not “intentionally and unreasonably engage in conduct” that caused the nuisance and therefore was not negligent. The city appealed the verdict, raising claims of error in the jury instructions, evidence and court procedures. The city maintained that the company knew about the lead poisoning problem from its products but continued to sell and promote the product anyway. The appeals court rejected the city's contention that the company knowingly sold a dangerous product, saying dangers associated with lead paint dust were largely unknown at the time. The lone dissenting judge said the city deserves a new trial because of errors in the evidence and jury instructions. The city could ask the Wisconsin Supreme Court to review the case.

The decision is available at:

www.plol.org/Pages/Login.aspx?d=ei9xh%2fR2tbFmX2bswNnrwg%3d%3d&l=Cases
(free subscription is required).

Vermont AG Launching Lead Enforcement Campaign

Vermont's Attorney General William Sorrell announced on November 21 the creation of an enforcement campaign around the State's essential maintenance requirements for lead making Burlington a priority focus of the State of Vermont's lead law enforcement efforts. "Far too many children with lead poisoning come from the Burlington area," Sorrell said. "This is a serious public health problem, and yet, one that can be avoided."

Vermont law requires that certain essential maintenance practices be taken to protect against the release of lead in rental housing construction before 1978. Annual compliance reports are required.

Beginning in January, the Attorney General's Office will send letters to Burlington landlords whose maintenance compliance records aren't up to date. The letters will advise landlords to demonstrate that their properties are in compliance with the Vermont lead laws in the following 90 days or face a State enforcement lawsuit.

The Attorney General's Office plans on using the model of the Burlington program in other geographic areas of the State where large numbers of children have had elevated blood lead levels.

See the Attorney General's Press Release:

<http://www.atg.state.vt.us/display.php?smod=63&pubsec=4&curdoc=1588>

To understand more about Vermont's current lead in housing law (signed into law on May 28, 2008) see the summary of lead provisions in VT bill:

http://www.atg.state.vt.us/upload/1213366289_H863_summary_of_lead_provisions.pdf

EPA Considering Formaldehyde Regulations; Public Hearings Scheduled

On November 25th, the United States Environmental Protection Agency published an Advance Notice of Proposed Rulemaking (ANPR) regarding formaldehyde emissions from pressed wood products. This is the first step towards regulations that would limit the off-gassing of formaldehyde from composite wood materials, such as those responsible for the elevated levels of formaldehyde in FEMA trailers used following Hurricanes Katrina and Rita.

The EPA is soliciting comments, information, and data related to formaldehyde emissions from pressed wood products. Written comments may be submitted by February 2nd to [regulations.gov](http://www.regulations.gov) using docket number EPA-HQ-OPPT-2008-0627. Additionally, the EPA will be holding six public hearings in January in Triangle Park, N.C.; Portland, Ore.; Chicago, Dallas, and Washington DC. Conspicuously missing from the list of hearing locations is any gulf coast city where so many individuals were effected by the FEMA trailers. This oversight was severely criticized by the Sierra Club and other advocates. As a result of public pressure, an additional hearing on the Gulf Coast is likely to be announced.

EPA's decision is largely a response to a petition submitted in March by the Sierra Club, dozens of other organizations including the Alliance, and signed by approximately 5,000 individuals. The petition called for the EPA to make the strict formaldehyde regulations established by the California Air Resources Board nationally applicable. Formaldehyde is a probable human carcinogen and causes airway and eye irritation.

For more information on EPA's ANPR, the dates of the public hearings, or a copy of the petition, see <http://www.epa.gov/opptintr/chemtest/formaldehyde/index.htm>. For information on the attempt to include the gulf coast as a hearing location, see http://action.sierraclub.org/site/MessageViewer?em_id=80681.0.

HUD OHHLHC Offers Guidance on Lead, Healthy Homes as Part of the Neighborhood Stabilization Program

The Housing and Economic Recovery Act of 2008 allocated nearly four billion dollars to be distributed to states and localities for the purposes of redeveloping foreclosed and abandoned properties. Known as the Neighborhood Stabilization Program (NSP), it allows localities to purchase and rehabilitate foreclosed properties and make them available to low and moderate-income families.

Last month, HUD's Office of Healthy Homes and Lead Hazard Control (OHHLHC) issued guidance to states and localities on how the NSP related to lead and healthy homes efforts. As noted by OHHLHC, the NSP dollars are subject to the requirements of HUD's Lead Safe Housing Rule for rehabilitation, requiring testing, use of lead safe work practices, and possible abatement of identified lead hazards, depending upon the amount of federal assistance committed. OHHLHC also provides guidelines for utilizing lead hazard control dollars in conjunction with NSP dollars, which is allowable as long as the requirements of both programs are met.

As the NSP also encourages localities to, "not only to stabilize neighborhoods in the short-term, but to strategically incorporate modern, green building and energy-efficiency improvements..." there is an additional opportunity to incorporate healthy home treatments as part of the NSP. In their memo, OHHLHC implores localities to utilize NSP funding to improve health conditions within housing, and outline seven areas for consideration.

The Alliance encourages local advocates to contact their community's agency responsible for spending NSP dollars and urge them to include the healthy homes components suggested by HUD.

The OHHLHC Memo is available at http://www.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/docs/lead_hazard.doc

Visit the HUD website for a Q&A on the Housing and Economic Recovery Act of 2008
<http://www.hud.gov/news/recoveryactfaq.cfm>.

Forsyth County Toughens Standards for Monitoring Lead Poisoning, Lowers Intervention Level

The Forsyth County (North Carolina - Winston-Salem area) Board of Health approved regulations early December requiring environmental investigations for children with a Blood Lead Level of 8 mcg/dL or higher and allows parents with children with a BLL of 5 mcg/dL or higher to request inspections. North Carolina state law only requires such steps at a lead level of at least 20 micrograms.

The new regulations recommend creating a standard for primary-care physicians to check on elevated levels of lead in the blood of children younger than 6. It recommends that all children be screened for lead at age 1 and at age 2.

Forsyth County has conducted an average of three environmental investigations and remediations a year. Health Director Dr. Tim Monroe said that number could rise to as many as 30 with the new standards, which take effect January 1, 2009. Health officials warn that the challenge posed by lowering intervention levels is coming up with the money to ensure proper adherence to the new regulations.

Visit http://www.forsyth.cc/Documents/Health/proposed_lead_rules.pdf to view the regulations.

Federal Lead Disclosure Charges for Two New England Real Estate Corporations

In early November, The U.S. Environmental Protection Agency brought a lead disclosure violation complaint against NRT New England LLC and Coldwell Banker Real Estate Services LLC, the corporate owners of numerous Coldwell Banker real estate brokerage offices in southern Connecticut, Massachusetts, New Hampshire, and Rhode Island. These firms face civil penalties of up to \$11,000 per violation for 102 alleged violations of lead paint disclosure rules in 34 real estate transaction between 2005 and 2007. Federal law requires that landlords and property owners or their agents notify prospective tenants or purchasers about the potential for lead paint hazards in residential properties. This case is one of the largest cases brought against a real estate company. A spokesperson for NRT New England, said all Coldwell Banker offices would fully cooperate with the EPA. A press release from EPA Region 3 regarding the case is available at:

<http://yosemite.epa.gov/opa/admpress.nsf/6d651d23f5a91b768525735900400c28/a0b4d153ffa7b8ab852574f900681069!OpenDocument>

Alliance News

As announced in the November Alliance Alert, the Alliance is now offering a two-day “Train-the-trainer” class at locations around the country to help organizations to become accredited trainers under EPA’s new Remodeling, Renovation and Painting (RRP) rule. The first class will be held on January 21-22 in Trenton, NJ and then February 16-17th in Atlanta, GA (in partnership with the Neighborworks Training Institute). Two more classes will be held in Raleigh/Durham, NC and Denver, CO late February to early March (exact date TBA). A fifth class is scheduled for April 27th-28th in Orlando, FL, as a pre-conference workshop at the Lead and Healthy Homes Conference. Visit the Alliance's website for updates on the [dates and locations for these classes](#). To register for a class, or for more information, contact Patrick MacRoy at pmacroy@afhh.org.

Upcoming Events

A national conference on “Approaches to Managing Mold in Buildings” will be held April 27-29, 2009, in Orlando, FL. Sponsored by the University of Tulsa, the conference will cover the “latest research and applied outcomes to use in field practice from key national and international experts.” For more information, visit www.utulsa.edu/iaqprogram or call 918-631-3088.

The 2009 National Lead Poisoning Prevention and Healthy Homes Conference will occur April 28-May 1, 2009, in Orlando, FL. The conference will provide a wealth of information and a series of panel discussions from healthy homes professionals and advocates. For more information, see www.LeadMoldConferences.com.

Save the date for the symposium entitled “Promoting Environmental and Policy Change to Support Healthy Aging,” to be held Sept. 15-16, 2009, in Chapel Hill, NC. This symposium is a third in a series funded by CDC's Healthy Aging Program. More information on this symposium can be found at www.prc-han.org.

The University of Illinois at Chicago (UIC) School of Public Health will be hosting its First Annual Minority Health in the Midwest Conference, "Minority Health in a Global Community: Midwestern Perspectives on Health, Poverty, and the Environment" February 27, 2009. This conference will highlight the work of emerging scholars and researchers. Topics should reflect minority health in the Midwest. Registration is free. Conference and registration info is available at:

www.publichealthlearning.com/Public/Announcements/default.aspx#announcement203