



U.S. ENVIRONMENTAL PROTECTION AGENCY

OFFICE OF INSPECTOR GENERAL

Ensuring the safety of chemicals

EPA Not Effectively Implementing the Lead-Based Paint Renovation, Repair and Painting Rule

Report No. 19-P-0302

September 9, 2019



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Abbreviations

CFR	Code of Federal Regulations
CMS	Compliance Monitoring Strategy
EJ 2020	Environmental Justice 2020 Action Agenda
EPA	U.S. Environmental Protection Agency
FY	Fiscal Year
NPMG	National Program Manager Guidance
OCSP	Office of Chemical Safety and Pollution Prevention
OECA	Office of Enforcement and Compliance Assurance
OIG	Office of Inspector General
RRP	Renovation, Repair and Painting
TSCA	Toxic Substances Control Act
U.S.C.	United States Code

Cover Photo: House with lead paint undergoing renovation. (EPA photo)

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At a Glance

Why We Did This Project

The U.S. Environmental Protection Agency (EPA) Office of Inspector General (OIG) conducted this audit to determine whether the EPA has an effective strategy to implement and enforce the lead-based paint rule.

The EPA's Lead Renovation, Repair and Painting (RRP) Rule is intended to protect the public by addressing hazards associated with renovation, repair and painting activities that disturb lead-based paint in specific housing and child-occupied facilities. Lead-based paint was used in an estimated 38 million homes prior to its ban for residential use in 1978. Renovation, repair and painting activities that disturb lead-based paint can create hazardous exposures to lead. In children, exposure to lead can cause health problems, including the potential for slower growth, lower IQ and behavioral problems.

This report addresses the following:

- *Ensuring the safety of chemicals.*

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EPA Not Effectively Implementing the Lead-Based Paint Renovation, Repair and Painting Rule

What We Found

The EPA does not have an effective strategy to implement and enforce the lead-based paint rule. Specifically:

- The EPA does not have sufficient controls to assess RRP program effectiveness and progress toward goals. The agency does not review regional targeting strategies, track RRP resources and outreach activities, review inspections, or evaluate progress toward reducing disparities in blood lead levels among children.
- There is insufficient coordination and communication between the two EPA program offices primarily responsible for the RRP program—the Office of Chemical Safety and Pollution Prevention and the Office of Enforcement and Compliance Assurance.
- EPA regions could benefit from sharing regionally developed tools, ideas and approaches.

Effective oversight and enforcement are needed to further reduce lead exposures from renovation, repair and painting activities.

The issues noted above occurred because program guidance does not sufficiently define RRP program objectives, goals and measurable outcomes to track progress and determine accountability.

Without an effective strategy for the RRP program, the EPA cannot determine whether the program is achieving its intended purpose to protect the public, particularly related to specific housing and child-occupied facilities.

Recommendations and Agency Response

We recommend that the EPA identify the regulated universe for the RRP program; update current program guidance; establish management oversight controls as well as objectives, goals and measurable outcomes; and establish a forum to share best practices and innovations. We consider two of our six recommendations resolved with corrective actions pending, while four recommendations are unresolved.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
INSPECTOR GENERAL

September 9, 2019

MEMORANDUM

SUBJECT: EPA Not Effectively Implementing the
Lead-Based Paint Renovation, Repair and Painting Rule
Report No. 19-P-0302

FROM: Charles J. Sheehan, Deputy Inspector General

A handwritten signature in blue ink that reads "Charles J. Sheehan".

TO: Alexandra Dapolito Dunn, Assistant Administrator
Office of Chemical Safety and Pollution Prevention

Susan Bodine, Assistant Administrator
Office of Enforcement and Compliance Assurance

This is our report on the subject audit conducted by the Office of Inspector General (OIG) of the U.S. Environmental Protection Agency (EPA). The project number for this audit was OA&E-FY18-0162. This report contains findings that describe problems the OIG identified and corrective actions the OIG recommends. This report presents the opinion of the OIG and does not necessarily represent the final EPA position. Final determinations on matters in this report will be made by EPA managers in accordance with established audit resolution procedures.

Action Required

We consider Recommendations 1 through 4, addressed to the Assistant Administrator for Enforcement and Compliance Assurance, to be unresolved. In accordance with EPA Manual 2750, the resolution process begins immediately with the issuance of the report. We are requesting a meeting within 30 days between the Assistant Administrator for Enforcement and Compliance Assurance and the OIG's Assistant Inspector General for Audit and Evaluation. If resolution is not reached, the Office of Enforcement and Compliance Assurance is required to complete and submit a dispute resolution request to the Chief Financial Officer.

For Recommendations 5 and 6, the Office of Chemical Safety and Pollution Prevention provided acceptable corrective actions and milestone dates. In accordance with EPA Manual 2750, both recommendations are resolved and no further response is required. However, if you submit a response, it will be posted on the OIG's website, along with our memorandum commenting on your response. Your response should be provided as an Adobe PDF file that complies with the accessibility requirements of Section 508 of the Rehabilitation Act of 1973, as amended. The final response should not contain data that you do not want to be released to the public; if your response contains such data, you should identify the data for redaction or removal along with corresponding justification.

We will post this report to our website at www.epa.gov/oig.

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Chapter 1

Introduction

Purpose

The Office of Inspector General (OIG) of the U.S. Environmental Protection Agency (EPA) conducted this audit to determine whether the EPA has an effective strategy to implement and enforce the lead-based paint rule.

Background

Lead Renovation, Repair and Painting Rule

The EPA's Lead Renovation, Repair and Painting (RRP) Rule¹ is intended to protect the public by addressing hazards associated with renovation, repair and painting activities in target housing² and child-occupied facilities³ that disturb lead-based paint. The Residential Lead-Based Paint Hazard Reduction Act of 1992 and Sections 402 and 404 of the Toxic Substances Control Act (TSCA) authorized the creation of the RRP Rule, which was issued in 2008 and amended in 2010.

The RRP Rule established a three-pronged program consisting of regulation, compliance enforcement and education/outreach. Firms conducting RRP projects that disturb lead-based paint are subject to EPA enforcement and compliance monitoring inspections and must:

- Be certified by the EPA.
- Use certified renovators who are trained by EPA-approved training providers.
- Follow lead safe work practices.

Education and outreach efforts are focused on owners of child-occupied facilities, homeowners and renters in areas with older housing, vulnerable populations and renovation firms.

¹ For this report, we use the terms lead-based paint rule, RRP Rule, and the RRP program interchangeably when referring to the Lead Renovation Repair and Painting Rule.

² Target housing is defined in 15 U.S.C. § 2681(17) as any housing constructed before 1978, except housing for elderly persons or persons with disabilities or any 0-bedroom dwelling (unless any child who is less than 6 years of age resides or is expected to reside in such housing).

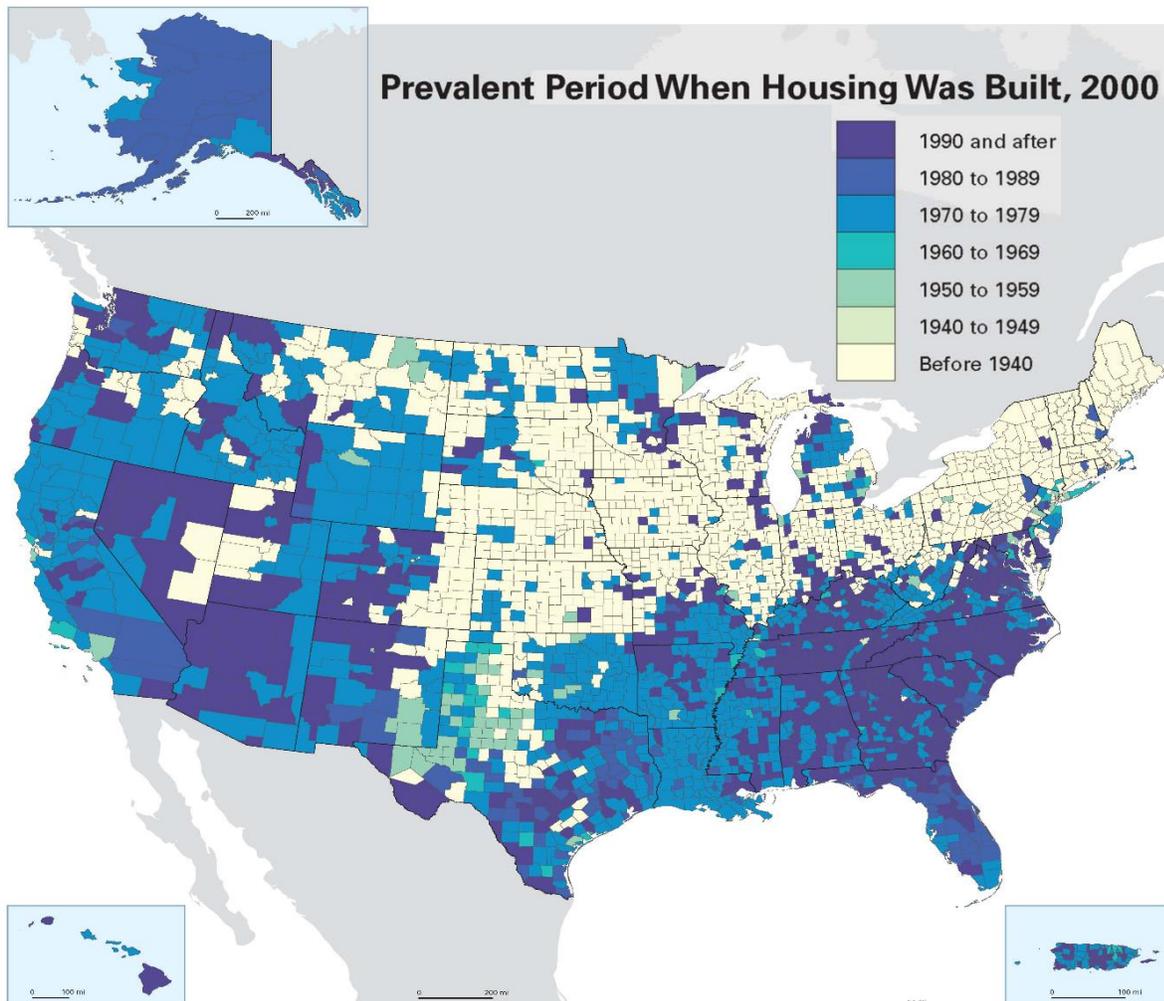
³ A child-occupied facility is defined under the rule as a building, or portion of a building, constructed prior to 1978, visited regularly by the same child, under 6 years of age, on at least two different days within any week (Sunday through Saturday period), provided that each day's visit lasts at least 3 hours and the combined weekly visits last at least 6 hours, and the combined annual visits last at least 60 hours. Child-occupied facilities may include, but are not limited to, day care centers, preschools and kindergarten classrooms. Child-occupied facilities may be located in target housing or in public or commercial buildings. (40 CFR §§ 745.83 and 745.223)

In 2010, the RRP program's regulated universe was estimated to comprise of approximately 320,000 renovators who performed approximately 18 million renovation, repair and painting projects annually.⁴

Health Risks from Lead Paint

Lead-based paint was used in an estimated 38 million homes in the United States prior to its ban for residential use in 1978. Older homes are more likely to contain lead-based paint. Approximately 87 percent of homes built before 1940 have some lead-based paint, while 24 percent of homes built between 1960 and 1978 have some lead-based paint.

Figure 1: Prevalent period when housing was built



Source: Census Atlas of the United States Census 2000 Special Reports.

⁴ The EPA-estimated renovators and renovations population includes regulated entities covered by both the 2008 RRP Rule and the 2010 amendment.

The EPA's RRP program is a key element in the EPA's efforts to reduce the prevalence of childhood lead poisoning, particularly lead poisoning caused by housing contaminated by renovation activities. According to the ["Childhood Lead Poisoning Prevention" webpage](#) of the Centers for Disease Control and Prevention's National Center for Environmental Health, lead-based paint and lead-contaminated household dust together are a major source of lead exposure for children. Common renovation, repair and painting activities that disturb lead-based paint (such as sanding, cutting and replacing windows) can create hazardous lead dust and chips that can be harmful to adults and children.

In children, exposure to lead can cause health problems, including the potential for slower growth, lower IQ and behavioral problems. In adults, lead exposure may result in poor pregnancy outcomes, memory problems and high blood pressure.

Lead Risks Addressed in EPA's Environmental Justice Program

Lead exposure to children is addressed in the EPA's Environmental Justice 2020 Action Agenda (EJ 2020) that is designed to meet the environmental and public health challenges confronting the nation's minority, low-income, tribal and indigenous populations. One priority of EJ 2020 is to eliminate disparities in childhood blood lead levels in low-income children compared to non-low-income children. EJ 2020 states the EPA will develop strategies to:

- Educate communities on sources of lead contamination and the health effects of lead.
- Raise awareness of lead-based paint exposure and prevention tactics.
- Increase efforts to ensure adequate lead-based paint workforces (e.g., inspectors, contractors, trainers, etc.).

The EPA committed to track disparities of blood lead levels as a measure of progress.

Federal Action Plan to Reduce Children's Exposure to Lead

In furtherance of Executive Order 13045, *Protection of Children from Environmental Health Risks and Safety Risks*, the EPA, working with other federal agencies, developed a federal strategy to reduce childhood lead exposure and associated health effects, commonly referred to in the news media as the "war on lead." The Federal Action Plan to Reduce Childhood Lead Exposures and Associated Health Impacts (Federal Action Plan) was released in

"Lead exposure is a significant health and safety threat to children across the country. EPA is committed to taking action to address this threat, and improve health outcomes for our nation's most vulnerable citizens – our children."

– Former EPA Administrator
Scott Pruitt, February 5, 2018

December 2018. The Federal Action Plan is the product of the President’s Task Force on Environmental Health Risks and Safety Risks to Children. The plan is a blueprint for reducing lead exposure through collaboration among federal agencies and with a range of stakeholders, including states, tribes and local communities, along with businesses, property owners and parents. The stated purpose of the Federal Action Plan is to help federal agencies work strategically and collaboratively to reduce exposure to lead and improve children’s health.

EPA Policy and Guidance

The implementation, enforcement and compliance of the RRP program is guided primarily by three documents:

- The Office of Chemical Safety and Pollution Prevention’s (OCSPP’s) National Program Manager Guidance (NPMG).
- The Office of Enforcement and Compliance Assurance’s (OECA’s) NPMG.
- The TSCA Compliance Monitoring Strategy (CMS).

“The NPM Guidances provide a national operational framework used by the regions, states, and tribes to implement programmatic activities protective of human health and the environment.”

– EPA’s Overview to the FYs 2018–2019 National Program Manager Guidances

RRP program requirements apply to firms and individuals performing renovation work that disturbs lead-based paint during renovation, repair and painting activities, and to training providers. The EPA RRP program provides information to help entities comply with RRP program implementation and helps this regulated community maintain program compliance.

Implementation

The OCSPP is primarily responsible for directing program implementation for the RRP program in regions, authorized states and tribes.⁵ The fiscal years (FYs) 2016–2017 NPMG identified lead risk-reduction as a national area of focus and directed that EPA regions and authorized states implement eight lead program activities, including RRP. Some example activities included RRP Rule implementation, as well as outreach to renovators, homeowners and owners of child-occupied facilities.

OCSPP guidance also stated that the EPA is working to reduce the number of children with blood lead levels of five micrograms per deciliter or higher, with a long-term goal of closing the gap between the geometric mean blood lead levels among low-income children versus non-low-income children from a baseline percentage difference of 28.4 percent (2007–2010) to a difference of 10 percent or less by FY 2018.

⁵ Fourteen states and one tribe have received EPA authorization to administer their own RRP programs.

Additionally, the OCSPP NPMG directed regional offices to provide outreach for the RRP program, provide information and compliance assistance to the regulated community, and coordinate implementation with OECA on lead program regulations and activities as identified in the TSCA CMS.

The FYs 2018–2019 OCSPP NPMG did not contain any specific RRP-related activities.

Enforcement and Compliance

OECA primarily directs enforcement and compliance for the RRP program at the EPA regional and authorized state and tribal levels. The FYs 2016–2017 OECA NPMG and TSCA CMS were intended to work together to direct enforcement activities. The OECA NPMG outlined enforcement and compliance priorities, while the CMS provided guidance for developing and implementing EPA regional TSCA compliance monitoring programs. Specifically, the OECA NPMG identified the national compliance and enforcement priorities, provided national direction for all compliance assurance programs, identified activities required to be carried out by authorized programs, and described how the EPA will work with states and tribes to verify compliance with environmental laws.

The CMS presents an overarching (multi-year) framework and principles for TSCA compliance monitoring. According to the CMS, the goal of targeting is to focus on the most significant environmental problems within a priority area and locate operations that are potentially in violation where such noncompliance may cause, or pose a risk of, childhood lead poisoning. Targeting for the lead-based paint program should include where an area has widespread childhood lead poisoning (a “Lead Hot Spot”⁶) or is an Environmental Justice, overburdened community.⁷ Regions are encouraged to concentrate their efforts in “Lead Hot Spots.” Effective targeting requires that regions possess accurate and up-to-date knowledge of their regulated universes. The CMS also notes that regional compliance strategies for the RRP program should aim to promote compliance with all the RRP requirements.

Each region is expected to have an overarching approach in allocating its resources to confirm that the region focuses on its most significant environmental problem(s) yet sustains essential capacity in each of its TSCA focus areas by, for example, responding appropriately to tips and complaints.

The FYs 2016–2017 OECA NPMG stated that regions should implement program priorities and activities, including those set out in detail in the CMS. The NPMG

⁶ “Lead Hot Spot” means any geographic area (or population sector) with widespread and/or severe childhood lead poisoning. “Lead Hot Spot” generally means the same as “target area.”

⁷ The EPA often uses the term “overburdened” to describe situations where multiple factors, including both environmental and socio-economic stressors, act cumulatively to affect health and the environment. This concept is particularly useful for understanding the stressors that contribute to persistent environmental health disparities.

further states that 90 percent of the regions' TSCA resources should focus on the lead compliance assurance program, and that 95 percent of the efforts in the lead program should focus on the RRP program.

The FYs 2018–2019 OECA NPMG does not contain any RRP-specific activities.

Responsible Offices

The EPA's national program managers for the RRP program are the OCSPP and OECA. The OCSPP is primarily responsible for RRP program implementation, such as outreach and education. OECA is primarily responsible for compliance and enforcement within EPA regions. The OCSPP and OECA are also responsible for oversight of 14 states and one tribe that have received authorization to administer their own RRP programs.

Scope and Methodology

We conducted this performance audit from May 2018 through June 2019 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our conclusions based on our objective.

To obtain an understanding of the agency's RRP program, we reviewed federal laws, regulations, and EPA policy and guidance documents, including:

- OECA NPMGs for FYs 2016–2017 and FYs 2018–2019.
- OCSPP NPMGs for FYs 2016–2017 and FYs 2018–2019.
- TSCA Compliance Monitoring Strategy.
- EJ 2020.
- RRP Program Inspection Manual.
- Federal Action Plan to Reduce Childhood Lead Exposures and Associated Health Impacts (December 2018).

We interviewed staff from the OECA's Office of Compliance and Office of Civil Enforcement, the OCSPP, and the Office of the Administrator's Office of Environmental Justice. We also interviewed RRP program managers, inspectors and the children's health experts in EPA's Regions 5 and 6.

We also sent a short survey to all 10 EPA regions to inquire about RRP program targeting strategies, funding and innovative approaches.

Prior Report

On July 25, 2012, we issued Report No. [12-P-0600](#), *Review of Hotline Complaint Concerning Cost and Benefit Estimates for EPA's Lead-Based Paint Rule*. The OIG had received a hotline complaint concerning the EPA's 2008 Lead Renovation, Repair and Painting Rule, and conducted a review to evaluate how the EPA determined the costs and benefits of that rule. The OIG found that although the EPA stated that its economic analysis underwent extensive intra-agency review and was approved by the Office of Management Budget prior to publication, the EPA used limited data to develop its cost and benefit estimates for the rule. Recommended corrective actions were agreed to and have been completed.

Chapter 2

EPA Lacks Effective Strategy to Implement and Enforce the RRP Program

The EPA does not have an effective strategy to implement and enforce the lead-based paint rule. We found that the regulated universe for the lead-based paint rule program is unknown and has not been estimated in approximately a decade. Specifically, we found that:

- The EPA lacks controls to define and track program objectives and goals.
- RRP strategies were not coordinated.
- Program staff innovations were not being shared.

The issues noted occurred because program guidance does not sufficiently define RRP program objectives, goals and measurable outcomes to track progress and determine accountability. As a result, the EPA cannot ensure equal and sufficient protection of human health, particularly the prevention of childhood lead poisoning.

EPA Lacks Controls to Define and Track Program Objectives and Goals

The EPA does not have sufficient internal controls to assess RRP program effectiveness and progress toward goals. OECA does not review regional targeting strategies, nor does it have up-to-date knowledge of the regulated universe. EPA national program managers do not track RRP program resources and outreach activities, review inspections, or evaluate progress toward reducing disparities in childhood-elevated blood lead levels.

According to the U.S. Government Accountability Office's *Standards for Internal Control in the Federal Government*, GAO-14-704G (September 2014), program managers should continually seek ways to improve accountability in achieving an entity's mission. Internal controls comprise the plans, methods, policies and procedures used to fulfill the goals and objectives of the entity. The Government Accountability Office's standards require documentation of agency activities, which provides a means to retain organizational knowledge and mitigate the risk of having that knowledge limited to a few personnel, as well to communicate that knowledge as needed to external parties. A key factor in improving accountability is to implement an effective internal control system, which helps an entity adapt to shifting environments, evolving demands, changing risks and new priorities.

Regulated RRP Universe Not Known

The CMS emphasizes that effective targeting requires that EPA regions possess accurate and up-to-date knowledge of their regulated universes (e.g., size, sectors and compliance issues). We found that the OCSPP and OECA could not identify or estimate a current number of renovators or renovations being conducted for each region. Moreover, it has been approximately 10 years since the EPA estimated the RRP program universe of renovators—which was approximately 320,000 firms conducting approximately 18 million renovations per year.

EPA’s Enforcement Office Does Not Review Regional Targeting Strategies

OECA national program managers could not identify or provide documented strategies for any of the 10 regions for targeting “Lead Hot Spots.” Further, OECA was not able to provide evidence of its review of any strategies. The TSCA CMS includes some criteria for what should be included in a region’s targeting strategy, such as:

- A balanced mix of work-site inspections.
- Training class audits.
- Record review inspections.
- Information request letters and subpoenas.

The CMS also directs EPA regions to focus their inspections on larger firms.

EPA regions used various targeting strategies. Some regions used tools such as EJSCREEN⁸ and GeoPlatform⁹ to conduct geographic targeting. Two of the 10 regions indicated they did not have formal targeting strategies. Other regions used lists of firms to target the largest firms in the region. Another region was recently focused on military housing. The lack of specific OECA guidance and national-level review of regional targeting strategies resulted in OECA relying only on the skills and expertise of regional inspectors to target inspections rather than targeting strategies as directed by the CMS. Without review of regional targeting strategies, it is unclear if the regions are following the CMS criteria and targeting approach or even have a targeting strategy.

⁸ The EPA’s EJSCREEN is an Environmental Justice mapping and screening tool that provides the EPA with a nationally consistent dataset and approach for combining environmental and demographic indicators.

⁹ The EPA’s GeoPlatform Online is a collaborative web Geographic Information System that allows EPA staff, contractors and collaborators to create and share maps and data internally and with the public.

EPA Not Tracking RRP Program Resources

In both the FYs 2019 and 2020 administration's proposed EPA budgets, the lead risk-reduction program¹⁰ was targeted for elimination and lead paint certifications would have continued under the Chemical Risk Review Reduction program. Despite the proposed program defunding, in FY 2019 the lead risk-reduction program received \$12.627 million and 66 full-time equivalents to address exposure to lead from lead-based paint through regulations, certification, training programs and public outreach efforts. OECA and OCSPP do not allocate their full-time equivalents and budget by sub-program. We found that EPA regional staff assigned to the RRP program also work on other EPA programs.

Regional staff indicated that limited resources have impacted their ability to adequately implement the RRP program. Two regions noted that a significant challenge was the immense size of the regulated universe compared to the available resources. One regional staff member indicated that, with existing resources, it is difficult to provide a sufficient field presence to conduct training and inspections that broadly impact compliance. A staff member from a different region said that a declining number of inspectors and case development officers limits the region's ability to adequately address the number of inspections conducted, resulting in fewer cases developed. Additionally, a staff member from a third region indicated that there is a significant backlog of inspections that have not been developed into cases.

The FYs 2016-2017 OECA NPMG instructed that 90 percent of a region's TSCA resources should focus on the lead compliance assurance program. The NPMG further instructed that regions should strive to concentrate 95 percent of their efforts to the RRP program. OECA does not track how the regions use their resources between sub-programs and therefore is unable to evaluate whether the funds are used effectively. In addition, nine out of 10 regions were unable to provide information regarding how their resources were used at the sub-program level.

The FYs 2018-2019 OECA NPMG does not include instructions on the use of lead compliance assistance program resources.

EPA Not Tracking Specific RRP Program Inspections and Compliance Activities

OECA FYs 2016-2017 and FYs 2018-2019 NPMGs contain two lead-based paint Annual Commitment System measures: (1) the number of TSCA inspections conducted by regions broken out by the four major TSCA programs (see Figure 2) and (2) reporting on other compliance activities by the four program areas.

¹⁰ The lead risk-reduction program includes RRP as well as the Pre-Renovation Education Rule (406), the Lead Abatement Rule (402(a)), and the Disclosure Rule (1018).

Figure 2: Four major TSCA programs



Source: EPA OIG based on the EPA’s FYs 2016–2017 OECA NPMG.

The contributing RRP program inspections and compliance activities are included in the overall Annual Commitment System measures tracked as a part of the lead-based paint measures. The Annual Commitment System measures¹¹ for lead-based paint are not included in the FYs 2020–2021 National Program Guidances.¹²

For the first measure—overall lead-based paint inspections¹³ conducted by regions—we found that total lead-based paint inspections in the regions vary greatly (see Figure 3). For example, the 5-year average of lead-based paint inspections reported in the Integrated Compliance Information System¹⁴ for Region 10 was 184, but for Region 6 was only 18. Over the last 5 years, the average number of lead-based paint inspections as reported in the Integrated Compliance Information System was 1,131, or less than one-half-of-1 percent of the last estimated universe of renovators. OECA was unable to break down lead-based paint inspections by sub-program (e.g., RRP program). In addition, six out of 10 regions were not able to provide a breakdown of lead-based paint inspections by sub-program level.

Figure 3: Lead-based paint inspections under TSCA by region for FYs 2014–2018



Source: OIG analysis of EPA data.

¹¹ According to OECA and OCSPP, the Annual Commitment System has been eliminated for FYs 2020 and 2021.

¹² NPMGs are being referred to as National Program Guidances in FYs 2020–2021 guidances.

¹³ Overall lead-based paint inspections include RRP program inspections as well as inspections conducted for the Lead Abatement Rule, the Pre-Renovation Education Rule and the Lead Disclosure Rule.

¹⁴ The Integrated Compliance Information System is a system that allows EPA managers and staff to view current data on trends in compliance inspections, among other things.

We asked OECA the basis for determining regional RRP program inspection projections and whether the basis included a workload assessment of regional staff. OECA indicated that regional commitments are initiated by the regions, which are asked by OECA to follow the NPMG and TSCA CMS when developing commitments. A specific criterion for determining regional commitments was not specified in OECA guidance or OECA responses to the OIG.

For the second measure—other compliance activities (which include off-site records reviews broken out by TSCA program)—we found that OECA reported that they did not have any FYs 2016 or 2017 reports, as this measure was not a mandatory requirement for the regions and allowed for optional reporting of other compliance monitoring activities.

Neither of these two measures help identify progress toward any RRP program or other TSCA lead programs' outcomes.

EPA Not Tracking Outreach Activities

OCSPP national program managers reported that outreach activities were being performed, but OCSPP did not track the extent to which regions were implementing outreach activities or resources used for implementation. The EPA did not have measures to determine meaningful results of these activities.

The OCSPP NPMG provided specific RRP program outreach activities expected for regions to implement, including encouraging state and tribal RRP program authorization, providing information on the hazards of renovation activities in homes and child-occupied facilities with lead-based paint, and engaging with state/city permitting and licensing officials.

Some outreach activities that the EPA reported include:

- The EPA training of 70 EPA staff, renovation contractors and citizens on ways to address environmental health risks to children.
- EPA staff conducting in-person outreach to building permit offices in two states to help inform contractors during the permit application process about the RRP program requirements.

The EPA informed us that discussion of regional activities is covered in conference calls and meetings with regional program managers. However, these conference calls and meetings, covering RRP program activities, were only held intermittently, and no meeting summaries were recorded. As noted earlier, federal internal control standards require documentation of agency activities to provide reasonable assurance that program objectives and goals are achieved, and organizational knowledge is retained to mitigate the risk of having knowledge limited to a few personnel.

The FYs 2018–2019 OCSPP NPMG no longer provides specifics on activities regions should be conducting that will contribute to providing reasonable assurance that program objectives and goals are achieved.

EPA Does Not Evaluate Changes in Childhood Blood Level Disparities

OCSPP national program managers said they did not track measures related to elevated blood lead levels. The RRP program is a key effort in reducing the prevalence of childhood lead poisoning, particularly lead poisoning caused by housing contaminated by renovation activities. While there is no safe level of lead for children, who are particularly vulnerable to the dangers of lead exposure, the FYs 2016–2017 OCSPP NPMG states that the EPA is working to reduce the number of children with blood lead levels of five micrograms per deciliter or higher. The FYs 2018–2019 OCSPP NPMG does not address this area. The EPA EJ 2020 action agenda aims to eliminate disparities in childhood blood lead levels as an integral part of reducing lead exposure for all people.

EJ 2020 states that the EPA determines the performance result for this measure from National Health and Nutrition Examination Survey studies designed to assess the health and nutritional status of adults and children in the United States.¹⁵ EJ 2020 identifies the OCSPP as the national program manager for this program. According to the OCSPP, it tracks and analyzes elevated blood lead levels using the National Health and Nutrition Examination Survey data but does not report on measures related to elevated blood levels.

RRP Strategies Not Coordinated

OECA and OCSPP provided inconsistent responses when asked about program goals and available guidance in the management of the RRP program. During interviews with these offices, we received conflicting responses indicating there is a lack of coordination and communication.

As noted previously, OCSPP did not report progress toward the stated goal of reducing the difference in elevated blood lead levels between low-income and non-low-income children. The EPA’s Office of Environmental Justice within the Office of the Administrator shared that it has not received updates on achieving this goal from the OCSPP. OECA program managers indicated that they do not track these efforts and do not have awareness on how the EPA is achieving these goals. They further said that this was a responsibility of the OCSPP and not their own.

OCSPP program managers responded that the reduction in elevated blood lead levels was no longer a measured goal and was not in the FYs 2018–2019 NPMG despite it being identified as the EPA’s long-term goal in the FYs 2016–2017

¹⁵ For lead, the Centers for Disease Control and Prevention uses these data to update the lead reference level.

NPMG. Further, OECA and OCSPP had not coordinated the tracking or measurement of the RRP program's outcomes.

The disconnect in program tracking and measurement was also apparent in proposed program guidance. The agency has released its FYs 2020–2021 National Program Guidance. National Program Guidances like the NPMGs are intended to reflect the current administration's priorities by setting forth the strategies and actions for the EPA and its partners to protect human health and the environment. The FYs 2020–2021 OECA National Program Guidance reintroduces the RRP program efforts, but the OCSPP guidance continues to not mention the RRP program, a silence which is not supportive of the RRP program and the agency's lead paint program efforts.

The EPA is legislatively mandated to implement the RRP Rule and continues to have responsibility for ensuring that RRP programs are developed and implemented and that the RRP program requirements are complied with and enforced. OCSPP and OECA program offices should work together to improve coordination to provide a unified and coordinated response to protect the public from lead hazards related to the RRP program.

EPA Program Offices Inconsistent on What RRP Guidance Regions Should Follow

The current FYs 2018–2019 NPMG for OCSPP and OECA do not provide specific program objectives and goals nor include measurable outcomes for the RRP program. OCSPP national program managers suggest the regions follow the old FYs 2016–2017 NPMG in the absence of specific objectives in the current NPMG. In contrast, OECA national program managers do not acknowledge the old NPMG as being in effect in the absence of specific guidance in the current NPMG.

OCSPP and OECA staff generally referred EPA regions to the old NPMG in the absence of specific guidance for the lead risk-reduction program. One region indicated that the lack of guidance was a challenge in implementing the lead-based paint programs. Further, this region conveyed that the lack of program guidance sends the message that these programs are not important. Two regions told the OIG that this hurts employee morale.

EPA Program Guidance Documents Do Not Consistently Support Federal "War on Lead" Action Plan

The EPA, working with other federal agencies, developed a federal strategy to reduce childhood lead exposure and associated health effects, commonly referred to in the news media as the "war on lead." The Federal Action Plan to Reduce Childhood Lead Exposures and Associated Health Impacts goals describe key priorities, objectives, potential impacts and actions, many of which are dependent

in part upon the EPA's lead risk-reduction program implementation and enforcement responsibilities. However, the current OCSPP program guidance is silent on lead risks and no longer includes lead risk-reduction as an agency priority. The FYs 2020–2021 OECA guidance includes a National Compliance Initiative to reduce children's exposure to lead, but the guidance does not provide details on any potential measurable outcomes for the lead risk-reduction program.

The current NPMGs no longer identify lead risk-reduction as a national area of focus as did the old NPMGs. The current NPMGs no longer provide EPA regions and authorized states with direction or descriptions about RRP program activities that should be undertaken, optional activities, priorities for enforcement and compliance, or inspection expectations. The lack of focus on lead risk-reduction is inconsistent with goals in the administration's December 2018 Federal Action Plan. The action plan promotes goals for identifying lead-exposed children and improving their health outcomes, as well as communicating effectively with stakeholders to reduce lead exposures and related health risks.

Program Staff Innovations Not Being Shared

During interviews with regions, some RRP program themes that emerged were the lack of resources, the need for program investment, and program staff independently creating solutions to challenges faced. We found that EPA regions work to create solutions individually but would benefit from the sharing of regionally developed tools, ideas and approaches to common shared problems.

For example, in our discussions with EPA regions, each shared innovations, such as the launching of pilot programs to test new ideas, partnerships with external stakeholders, and other geographic initiatives. One region created a mapping tool to assist in targeting. Another region created a flowchart of the enforcement process as well as an electronic checklist that auto-populates estimated penalties based on the penalty policy guidance. These, along with other examples, appeared to be solutions to difficulties that multiple regions experience. However, regional staff said that the regions did not have a consistent forum to share solutions and issues, such as an electronic bulletin board or information repository. OECA and OCSPP managers indicated there are regular calls and forums available for the regional staff that could be used to share innovations.

Regional inspectors seemed to be the most creative in developing additional tools because of challenges they encountered in the field. While some regions may work with other regions to a certain extent, the current communication structure is informal and not supportive of the sharing of these creative tools, ideas, solutions and approaches. There is potential for a problem that was resolved in one region being needlessly encountered in another region, with redundancies and wasted resources being used to resolve it. The EPA regions could benefit from structured information sharing and collaboration.

Conclusion

Explicit and measurable program objectives, goals and outcomes are needed to demonstrate whether the RRP program is achieving its intended results to protect the public by addressing hazards associated with renovation, repair and painting activities in target housing and child-occupied facilities.

EPA national program managers need to first define the RRP program's regulated universe to design targeting strategies for "Lead Hot Spots" and outreach activities. Also, NPMGs or other appropriate national program guidance must clearly communicate expectations for RRP program objectives, goals and measurable outcomes. The measurable outcomes should be useful in determining RRP program progress, identifying needed changes and providing accountability for program resources. Better overall communication and sharing of information with regions and authorized states should also provide additional opportunities for RRP program effectiveness and efficiencies. Lastly, and more broadly, improvements to the RRP program should focus on providing additional measurable outcomes and support for the administration's Federal Action Plan to Reduce Childhood Lead Exposures and Associated Health Impacts goals to reduce childhood lead exposures and the EPA EJ 2020 goal to eliminate disparities in childhood blood lead levels as an integral part of reducing lead exposure for all people.

Recommendations

We recommend that the Assistant Administrator for Enforcement and Compliance Assurance:

1. Identify the regulated universe of Lead-Based Paint Renovation, Repair and Painting Rule firms in support of regional targeting strategies, in coordination with the Office of Chemical Safety and Pollution Prevention.
2. Establish Lead-Based Paint Renovation, Repair and Painting Rule enforcement objectives, goals and measurable outcomes.
3. Establish management oversight controls to verify that Lead-Based Paint Renovation, Repair and Painting Rule Program guidance and expectations are being met; this may also involve specific reporting requirements for regions and authorized states and tribes.
4. Establish or identify an effective forum to document and share best practices and innovations related to the Lead-Based Paint Renovation, Repair and Painting Rule Program.

We recommend that the Assistant Administrator for Chemical Safety and Pollution Prevention:

5. Establish specific guidelines for resources and funding allocated to the Lead-Based Paint Renovation, Repair and Painting Rule Program that will further the goals of the Federal Action Plan to Reduce Childhood Lead Exposures and Associated Health Impacts.
6. Establish the Lead-Based Paint Renovation, Repair and Painting Rule Program's objectives, goals and measurable outcomes, such as measures to demonstrate the effectiveness of program contributions toward decreasing elevated blood lead levels.

Agency Comments and OIG Evaluation

For Recommendations 1 through 4, the agency believes that the recommendations have been completed and, thus, no corrective action are necessary. However, for the following reasons, we do not believe the proposed corrective actions for Recommendations 1 through 4 meet the intent of the recommendations, and we consider those recommendations unresolved.

- For Recommendation 1, the EPA does not describe how it will identify the regulated universe of lead-based paint RRP firms.
- For Recommendation 2, the EPA does not identify specific objectives linked to measurable outcomes to document the progress for the goals.
- For Recommendation 3, the EPA does not identify management oversight controls to verify that lead-based paint RRP program guidance and expectations are being met.
- For Recommendation 4, the EPA does not identify a forum that is used to document and share best practices and innovations that regional staff could use to share and document best practices and innovations.

The agency provided acceptable corrective actions and completion dates for Recommendations 5 and 6. The EPA's response to Recommendation 5, to issue guidance for resources and funding that will further the goals of the Federal Action Plan, met the intent, but not the wording, of the recommendation. Therefore, we slightly revised the recommendation to enable flexibility in EPA's delivery of guidance.

The agency's response and our additional comments are in Appendix A. In addition, the agency provided specific suggestions for our consideration, and we made revisions to the report as appropriate.

Status of Recommendations and Potential Monetary Benefits

RECOMMENDATIONS

Rec. No.	Page No.	Subject	Status ¹	Action Official	Planned Completion Date	Potential Monetary Benefits (in \$000s)
1	16	Identify the regulated universe of Lead-Based Paint Renovation, Repair and Painting Rule firms in support of regional targeting strategies, in coordination with the Office of Chemical Safety and Pollution Prevention.	U	Assistant Administrator for Enforcement and Compliance Assurance		
2	16	Establish Lead-Based Paint Renovation, Repair and Painting Rule enforcement objectives, goals and measurable outcomes.	U	Assistant Administrator for Enforcement and Compliance Assurance		
3	16	Establish management oversight controls to verify that Lead-Based Paint Renovation, Repair and Painting Rule Program guidance and expectations are being met; this may also involve specific reporting requirements for regions and authorized states and tribes.	U	Assistant Administrator for Enforcement and Compliance Assurance		
4	16	Establish or identify an effective forum to document and share best practices and innovations related to the Lead-Based Paint Renovation, Repair and Painting Rule Program.	U	Assistant Administrator for Enforcement and Compliance Assurance		
5	17	Establish specific guidelines for resources and funding allocated to the Lead-Based Paint Renovation, Repair and Painting Rule Program that will further the goals of the Federal Action Plan to Reduce Childhood Lead Exposures and Associated Health Impacts.	R	Assistant Administrator for Chemical Safety and Pollution Prevention	12/31/20	
6	17	Establish the Lead-Based Paint Renovation, Repair and Painting Rule Program's objectives, goals and measurable outcomes, such as measures to demonstrate the effectiveness of program contributions toward decreasing elevated blood lead levels.	R	Assistant Administrator for Chemical Safety and Pollution Prevention	12/31/20	

¹ C = Corrective action completed.
R = Recommendation resolved with corrective action pending.
U = Recommendation unresolved with resolution efforts in progress.

Agency Response to Draft Report



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, DC 20460

JUL 23 2019

MEMORANDUM

SUBJECT: Response to OIG Draft Report: Additional Actions Needed for EPA to Effectively Implement the Lead-Based Paint Renovation, Repair and Painting Rule (Project No. OA&E-FY18-0162)

FROM: Susan Parker Bodine, Assistant Administrator
Office of Enforcement and Compliance Assurance

A handwritten signature in blue ink that reads "Susan Parker Bodine".

Alexandra Dapolito Dunn, Esq., Assistant Administrator
Office of Chemical Safety and Pollution Prevention

A handwritten signature in blue ink that reads "Alexandra Dunn".

TO: Jeffrey Harris, Director
Toxics, Chemical Management and Pollution Prevention Directorate

Thank you for the opportunity to respond to the findings and proposed recommendations in the June 21, 2019 Office of Inspector General's (OIG's) Draft Report entitled "Additional Actions Needed for EPA to Effectively Implement the Lead-Based Paint Renovation, Repair and Painting (RRP) Rule." The Office of Enforcement and Compliance Assurance (OECA) and the Office of Chemical Safety and Pollution Prevention (OCSPP) have reviewed the Draft Report and have met several times with OIG representatives to discuss the RRP program and OIG's preliminary recommendations and offer the comments below. The objectives, goals, strategies and methods of accountability for the RRP program are consistent with OECA's and OCSPP's overall approach for all programs and are commensurate with available resources.

Discussion of Recommendations to OECA:

OECA believes each recommendation identified below has been completed, thereby leaving no additional corrective actions necessary. Each recommendation is followed by a descriptive response identifying the specific activities, reports and/or memorandum that fulfil the requirement.

1. Identify the regulated universe of Lead-Based Paint Renovation, Repair and Painting Rule firms in support of regional targeting strategies, in coordination with the Office of Chemical Safety and Pollution Prevention.

Response: OECA agrees with the importance of targeting for the Lead-Based Paint RRP Rule and already uses an appropriate and effective targeting method that does not require the identification of the regulated universe of firms.

During the rulemaking process for the Lead RRP Rule, the universe of facilities subject to the Lead RRP Rule was identified by OCSPP for the economic analysis (see 73 FR 21692, 21751-21752 (April 22, 2008); EPA-HQ-OPPT-2005-0049), and OECA believes that an update is not needed to facilitate targeting for enforcement purposes. OECA's development of a new lead mapping tool helps to define the regulated universe of renovators as needed to target inspections. Additionally, the Toxic Substances Control Act (TSCA) Compliance Monitoring Strategy (CMS) and the OECA's Fiscal Year (FY) 2020-2021 National Program Guidance (NPG) both recommend a geographic approach to address known "Lead Hot Spots" through a "Place-based Initiative." With this approach, EPA will focus on ensuring compliance in areas where our efforts will have the greatest impact to reduce lead exposures, which does not require collecting additional information on the regulated universe.

OIG Response: The agency did not agree or disagree with the recommendation, and the proposed corrective action does not meet the intent of the recommendation. Specifically, the EPA does not describe how it will identify the regulated universe of lead-based paint RRP firms, a CMS requirement for effective targeting strategies. Instead, the proposed corrective action indicates that the EPA is using a targeting method that does not require the identification of the regulated universe of firms. We consider Recommendation 1 unresolved.

2. Establish Lead-Based Paint Renovation, Repair and Painting Rule enforcement objectives, goals and measurable outcomes.

Response: OECA agrees with the recommendation and already uses several mechanisms responsive to this recommendation.

First, OECA's National Compliance Initiative (NCI) memorandum identifies reducing lead exposure as a high priority and summarizes how the national enforcement and compliance assurance program will contribute to the agency-wide lead initiative (as part of the *Federal Action Plan to Reduce Childhood Lead Exposure*, <https://www.epa.gov/lead/federal-action-plan-reduce-childhood-lead-exposure>). Memorandum, Susan Parker Bodine, *FY2020-2023 National Compliance Initiatives* (June 7, 2019). Second, OECA's final FY 2020-2021 NPG articulates specific RRP enforcement objectives, goals and outcomes. The NPG charges Regions to prioritize investigations of entities with far-reaching influence on the compliance landscape and take enforcement as appropriate. For example, Regions are expected to: (a) conduct geographic initiatives in Lead Hot Spots; (b) focus on firms that operate through multiple physical locations across the nation; and/or (c) focus on firms that record renovation work for televised renovation shows.¹⁶ See <https://www.epa.gov/planandbudget/national->

¹⁶ For an example of an enforcement action taken under the RRP Rule that was identified through national televised programming and can have far-reaching impact across the industry, see the Settlement Information Sheet for Magnolia Waco Properties, LLC on EPA's website: <https://www.epa.gov/enforcement/magnolia-waco-properties-llc-residential-property-renovation-rule-settlement-information>.

[program-guidances#fy20202021](#). These approaches align with OECA’s commitment to contribute to the Agency’s implementation of the *Federal Action Plan to Reduce Childhood Lead Exposure*.

Furthermore, the NPG and OECA’s elevation of lead to national priority status operate in conjunction with other mechanisms to promote program progress and accountability. OECA requires each Region to submit an annual strategic plan with performance commitments consistent with NPG expectations. Moreover, program support and accountability are further enhanced through quarterly teleconferences with the OECA AA, and routine communications between OECA senior leadership (including the Assistant Administrator) and regional enforcement managers regarding programmatic goals and outcomes. In addition, OECA captures and reports enforcement outcomes, as well as inspections, in its internal Integrated Compliance Information System (ICIS) reporting system. Also, OECA reports RRP enforcement outcomes publicly via its annual lead-based paint enforcement accomplishment reports. See e.g., <https://www.epa.gov/newsreleases/epa-enforcement-actions-help-protect-vulnerable-communities-lead-based-paint-health-0>. These reports demonstrate the increasing effectiveness of the program. For example, in FY2018, EPA reduced lead exposures from lead-based paint through 140 enforcement actions, including 117 RRP actions – compared to 75 RRP cases in FY2015.

OIG Response: The agency agreed with our recommendation, but the proposed corrective action does not meet the intent of recommendation. The EPA does not identify specific objectives linked to measurable outcomes to document the progress for the goals. Instead, the proposed corrective action describes the EPA’s priority of reducing lead exposure and contributing to the agencywide lead initiative. We consider Recommendation 2 unresolved.

3. *Establish management oversight controls to verify that Lead-Based Paint Renovation, Repair and Painting Rule program guidance and expectations are being met; this may also involve specific reporting requirements for regions and authorized states and tribes.*

Response: OECA agrees with the importance of oversight and is currently implementing controls that are effective for the RRP program and responsive to this recommendation.

As discussed above, OECA requires each Region to submit an annual strategic plan, including performance commitments. Program support and accountability are further enhanced through quarterly teleconferences and ongoing communications between OECA senior leadership (including the Assistant Administrator) and regional enforcement managers regarding programmatic goals and outcomes. Furthermore, OECA captures and reports inspections in its internal ICIS reporting system. Also, End-Of-Year reports from state, tribal, and territorial grantees that receive OECA State and Tribal Assistance Grants (STAG) funding are reviewed annually as a form of oversight control.

OIG Response: The agency did not agree or disagree with the recommendation, and the proposed corrective action does not meet the intent of the recommendation. Specifically, the EPA does not identify management oversight controls to verify that lead-based paint RRP program guidance and expectations are being met. As described in the report, the agency was unable to provide evidence that annual strategic plans were reviewed or information on regional RRP inspections and compliance activities, as they are one program added into the overall Annual Commitment System measures being tracked as a part of the lead-based paint measures. We consider Recommendation 3 unresolved.

4. *Establish or identify an effective forum to document and share best practices and innovations related to the Lead-Based Paint Renovation, Repair and Painting Rule Program.*

Response: OECA agrees with this recommendation and has already established and identified a variety of effective mechanisms and forums to document and share RRP program best practices and innovations.

OECA provides a variety of forums and mechanisms that are widely used and effective for communications with and among the Regions. These mechanisms support the timely exchange of best practices and innovations that Regions can employ to address issues in the RRP program. These mechanisms include:

- Monthly calls with lead-based paint enforcement practitioners;
- Quarterly calls with lead-based paint inspectors;
- On-demand access to a vast array of resources (e.g., guidance, models, prototypes, examples) via the lead-based paint Intranet repository;
- Internal EPA inspector website;
- The lead enforcement practitioners' mentoring network (information available via the Intranet site); and
- On-demand communications and ad hoc workgroups for interested practitioners to address new, emerging and intransient issues.

OIG Response: The agency agreed with our recommendation, but the proposed corrective action does not meet the intent of the recommendation. Specifically, the EPA does not propose to establish or identify a forum that regional staff could use to share and document best practices and innovations. Instead, the proposed corrective action describes mechanisms that are not designed to support regional staff sharing best practices and innovations. We consider Recommendation 4 unresolved.

Discussion of Recommendations to OCSPP:

5. *Update its National Program Guidance to establish specific guidelines for resources and funding allocated to the Lead-Based Paint Renovation, Repair and Painting Rule Program*

that will further the goals of the Federal Action Plan to Reduce Childhood Lead Exposures and Associated Health Impacts.

Response: OCSPP agrees with this recommendation and already has initiated efforts to this end. OCSPP is currently drafting a memorandum from OCSPP to the Regions to establish guidelines for resources and funding that will further the goals of the Federal Action Plan to Reduce Childhood Lead Exposures and Associated Health Impacts (“Federal Action Plan”). This guidance will be commensurate to what is provided in the NPG.

Proposed Corrective Action: By December 31, 2020, OCSPP will establish guidelines for resources and funding allocated to the Lead-Based Paint RRP Rule Program that will further the goals of the Federal Action Plan to Reduce Childhood Lead Exposures and Associated Health Impacts.

OIG Response: The agency agreed with our recommendation and provided an acceptable planned corrective action and completion date. The EPA agrees to issue a guidance that will be commensurate to what is provided in the NPMG. We have revised Recommendation 5 as follows: “Establish specific guidelines for resources and funding allocated to the Lead-Based Paint Renovation, Repair and Painting Rule Program that will further the goals of the Federal Action Plan to Reduce Childhood Lead Exposures and Associated Health Impacts.” We consider Recommendation 5 resolved with corrective action pending.

6. Establish the Lead-Based Paint Renovation, Repair and Painting Rule Program’s objectives, goals and measurable outcomes, such as measures to demonstrate the effectiveness of program contributions toward decreasing elevated blood lead levels (EBLLs).

Response: OCSPP agrees with the recommendation to develop performance measures of the effectiveness of the Lead RRP program, but has concerns about focusing those efforts on measuring the RRP program’s specific contributions to decreases in EBLLs. The RRP program contributes directly to lowering of blood lead levels in the United States by minimizing the creation of lead dust hazards to which children are exposed in the course of renovation, repair and painting projects. Given the number of federal agencies involved in reducing exposure to lead and to the resulting lowered blood lead levels, however, EPA cannot apportion with any certainty the contribution of the RRP program to declining blood lead levels. In lieu of this, OCSPP is currently developing other, equally meaningful Lead RRP performance goals and measures, such as the extent to which EPA Regions are implementing outreach activities, or the utilization of Regional resources used for Lead RRP program implementation.

Proposed Corrective Action: By December 31, 2020, OCSPP will develop one or more performance measures to meaningfully demonstrate the effectiveness of the Lead RRP program's contributions to the protection of public health and the environment.

OIG Response: The agency agreed with our recommendation and provided an acceptable planned corrective action and completion date. We consider Recommendation 6 resolved with corrective action pending.

Thank you for the opportunity to comment on this Draft Report. If you have any questions or concerns regarding this response, please contact the OECA Audit Liaison, Gwendolyn Spriggs, at (202) 564-2439, or the OCSPP Audit Liaison, Janet Weiner, at (202) 564-2309.

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