

Advocacy Recommends That OSHA Revise Its Lead In Construction Standard

On October 28, 2005, the U.S. Small Business Administration's Office of Advocacy (Advocacy) submitted comments to the Occupational Safety and Health Administration (OSHA) on OSHA's notice of a Regulatory Flexibility Act Review of Lead in Construction standard (70 Fed. Reg. 32739). OSHA's review of its lead in construction standard is being conducted in accordance with Section 610 of the Regulatory Flexibility Act (RFA), which requires federal agencies to review their regulations periodically to determine whether they should be continued without change, amended, or rescinded in order to minimize any significant economic impacts of the rule on a substantial number of small entities. Any changes or revisions to regulations must be consistent with the objectives of the underlying statute.

Advocacy recommends that OSHA open a formal notice and comment rulemaking process to consider changes to its lead in construction standard that would make it less costly and burdensome to small business.

A complete copy of Advocacy's letter to OSHA is available at www.sba.gov/advo/laws/comments/.

- Because OSHA's interim final lead in construction standard was adopted in 1993 – nearly thirteen years ago – without the benefit of notice and comment rulemaking, Advocacy recommends that OSHA commence a formal notice and comment rulemaking process to develop a final lead in construction standard.
- OSHA's rulemaking process should comply with the RFA, including preparation of an Initial Regulatory Flexibility Analysis (IRFA) to assess the economic impact of the final rule on small business and consider less burdensome alternatives that achieve the statutory purpose.
- OSHA should consider whether its lead in construction standard might overlap, duplicate, or conflict with the U.S. Environmental Protection Agency's forthcoming proposed renovation and remodeling rule for lead.
- OSHA should carefully evaluate the quality of data and other technical information that underpin its current rule, and base any final rule on the latest available scientific data.

Advocacy commends OSHA for undertaking a Section 610 review of its current lead in construction standard, and looks forward to working with OSHA to develop a final standard that reduces regulatory burdens on small business. For more information about OSHA's lead in construction standard, please visit Advocacy's Web page at www.sba.gov/advo or contact Bruce Lundegren, Assistant Chief Counsel, at (202) 205-6144 or bruce.lundegren@sba.gov.