AmericanCoatings
ASSOCIATION

June 11, 2010

Information Quality Guidelines Staff
Mail Code: 2811R
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Assistant Secretary for Administration/
Chief Information Officer
U.S. Department of Housing and Urban Development
Seventh Street, S.W.
Washington, DC 20410

**Re: Request for Correction of Information due to clear violations of EPA and HUD Information Quality Guidelines and for agencies' withdrawal as campaign partners in favor of revision of product-disparaging and dangerously misleading campaign images which anchor national multimedia public service advertising, announced April 20, 2010, intended to protect children and families from lead poisoning ("Lead PSA's")**

Dear Informational Quality Guideline Staff (EPA); Assistant Secretary for Administration (HUD):

This is a Request for Correction of Information by withdrawal of agency participation and sponsorship in favor of revision of the ill-conceived, and falsely-depicted, prejudicial, and counter-productive Lead PSA's now being disseminated in an effort to raise awareness of the consequences of lead poisoning among parents and pregnant women who live in homes built before 1978. Specifically, the Coalition to End Childhood Lead Poisoning, U.S. Environmental Protection Agency (EPA), U.S. Department of Housing and Urban Development (HUD) have joined the Ad Council to launch a national multimedia public service advertising (PSA) campaign. (**National Campaign Launches to Protect Children and Families from Lead Poisoning** – *New national survey shows lead poisoning in homes is not top concern among parents* New York, NY, April 20, 2010 http://multivu.prnewswire.com/mnr/adcouncil/43516/)

The American Coatings Association (ACA) is a non-profit Washington, D.C.-based trade association representing the vast majority of American paint and coatings manufacturers, suppliers, and chemists. Our industry often has been recognized and commended by EPA and HUD for its longstanding progressive and innovative activities to prevent childhood lead exposure, but its products and reputation are being purposely maligned by this campaign.

According to the April 20, 2010 national campaign press announcement, which displays both EPA and HUD logo's and agency descriptors, and includes endorsements by HUD Deputy Secretary Simms and EPA Assistant Administrator for Prevention, Pesticides and Toxic

Substances Owens, the PSA content and depictions were created by a New York-based ad agency which boasts: "We believe the campaign is *arresting*, conveys a sense of urgency and will motivate parents and caretakers to act quickly to ensure their young children are safe." (emphasis added.) (Exhibit 1)

Unfortunately, the ads constitute bright-line egregious compliance violations of both EPA and HUD's final guidelines for ensuring and maximizing the quality, objectivity, utility, and integrity of information disseminated ("Guidelines") developed in response to Guidelines, by the same name, issued by the Office of Management and Budget (OMB) under Section 515 (a) of the Treasury and General Government Appropriations Act for fiscal year 2001(Public Law 106-554; H.R. 5658), commonly referred to as "OMB Guidelines re: The Information Quality Act." (2002:67FR8452).

The agencies' Guidelines apply for information such as the Lead PSA's, which are disseminated to the public, where the agency comments on the information distributed by an outside party, indicating that it endorses it. [EPA Guidelines: **5.3 When Do these Guidelines Apply?**; HUD Guidelines **VII B. Dissemination**.]

The April 20, 2010 public notice describes EPA and HUD as "joining the AD Council today to launch a national multimedia public service advertising (PSA) campaign." Thus, the affirmative information dissemination and the dual agency participation and endorsement clearly trigger the affirmative obligations to ensure and maximize the information's quality, objectivity, utility, and integrity by the agencies under the law, OMB Guidelines, and their own processes for adhering to the basic standards. Indeed, EPA's home page for its web-site, www.epa.gov/lead, now incorporates the campaign message and graphic depiction as part of its masthead; obviously, this is information covered under OMB and agency Guidelines.

The respective quotations in the April 20 public notice by high-ranking agency officials indicate participation and endorsement of the public information campaign, as follows: *Dust from paint containing lead is especially toxic to young children*, said Steve Owens, EPA Assistant Administrator for Prevention, Pesticides and Toxic Substances. *Parents can protect their children from exposure to toxic lead paint dust by hiring a lead-safe trained contractor if they live in an older home and plan to renovate or repair.*

*The new PSA campaign primarily aims to reach parents and caregivers of children age six and under, and pregnant women, who are at the greatest risk of lead poisoning. The objective is to educate parents about the dangers of lead poisoning so they can take immediate action to safeguard their children.*

*To grow up healthy, children need to live in healthy homes, and getting homes tested for lead is an essential part of that process,* said Ron Simms, HUD Deputy Director. *There are*

*approximately 38 million U.S. homes that still contain lead-based paint, so it's important to know the age of your home and get it tested if it was built before 1978.*

**Unfortunately, the Lead PSA's do fundamental harm to fulfilling these laudatory substantive objectives by the agencies. The self-described "arresting" campaign ads are presented in an extraordinarily biased, misleading, disassociated, unreliable, and irresponsible way. The campaign's depiction, or graphic logo, centers on what appears to be white and orange paint, respectively, being poured into a cereal bowl or a baby bottle, or into a child's "sippy cup," from what appears to be an unmarked 5-gallon rusted paint container.**

As noted by the agencies' Guidelines (e.g. EPA Guidelines, FN 19, at 22): "OMB stated in its guidelines that in disseminating information agencies shall develop a process for reviewing the quality of the information. 'Quality' includes objectivity, utility and integrity. 'Objectivity' involves two distinct elements: "'presentation and substance.'" (OMB, 2002 67FR8452).

OMB Guidelines admonish that *it is crucial that information federal agencies disseminate meets these guidelines. In this respect, the fact that the internet enables agencies to communicate information quickly and easily to a wide audience not only offers great benefits to society, but* <u>*also increases the potential harm*</u> <u>*that can result from the dissemination of information that does not meet basic information quality guidelines*</u>. (OMB, 2002, Final Guidelines: Supplemental Informatuion) (emphasis added)

The Lead PSA "increases the potential harm" by transmitting a picture which connotes a gross misunderstanding and misperception of how lead poisoning actually occurs and how parents, guardians, and pregnant women, can take steps to avoid dangerous exposure on behalf of their children's health and safety.

The undisputed authoritative source of information on childhood lead poisoning, its pathways, scope, and prevention, are the Centers for Disease Control and Prevention (CDC). According to CDC's online source for credible health information on its Childhood Lead Poisoning Prevention Program, committed to the "healthy people" goal of eliminating elevated blood lead levels in children: "Approximately 250,000 U.S. children aged 1-5 years have blood lead levels greater than 10 micrograms of lead per deciliter of blood, the level at which CDC recommends public health actions be initiated." (http://www.cdc./gov/neeh/lead/)

Obviously, this figure is substantially different (one-fourth the total claimed) than the one on which the advertising campaign is premised. While this is not the thrust of ACA's request for correction, the fact that the Lead PSA's do not substantiate the "one million children" claim is indicative of a lack of quality control over the dissemination of information. Conflicting and unfounded baseline statistics issued by different U.S. agencies, however they may be justified, dangerously detract from public understanding and credibility. Despite its apparent intention to "shock" Americans into a renewed appreciation of continuing threat, the campaign

should not be at liberty to magnify its scope without sufficient explanation, and present inflammatory misleading images in pursuit of that purpose, and still satisfy basic information quality standards and duties.

In its description of **"Who is at risk?"** CDC states: "All children under the age of 6 years old are at risk because they are growing so rapidly and because they tend to put their hands or other objects, which may be contaminated with lead dust, into their mouths." (http://www.cdc.gov/neeh/lead/tips.htm) (emphasis added)

Thus, it is hand-to-mouth activity involving lead dust which is the recognized pathway for exposure, according to the world's foremost health agency, for children - not through eating cereal or drinking milk or orange juice from baby bottles and sippy cups, obviously. It should not be the public's responsibility to discern reality from "clever" public advertising device. Public service advertisement is not in the same realm as rental car or light beer sales - public safety information this serious demands honest, straightforward, and readily discernable messaging.

**Informal Request for Correction**

Both HUD and EPA were contacted by our association's May 20, 2010 letter, which was intended to trigger informal consultation of the issues identified herein with EPA and HUD. This letter, signed by ACA President Andy Doyle, expressed our dismay over the misguided arresting nature of the campaign, and the fact that it does not clearly tie itself, for example, on its face, to the new renovation repair and painting rule requiring contractors from becoming lead-safe certified as of April 22, 2010.

ACA ended the letter with a request for *the opportunity to provide additional information about our industry's efforts on this important matter.* (Exhibit 2)

The Agencies and their outside campaign partners issued a cursory response by letter stamped June 9, 2010, arguing that: *Lead poisoning affects more than one million children in the United States each year. The concept represented by paint pouring from a rusted paint can into a baby bottle, cereal bowl, or sippy cup is designed to create awareness about this tragic issue. The campaign brings into focus that old lead paint in millions of older American homes remains an issue that affects children today. We are confident that the general public understands that the campaign targets old lead paint. All of the statistics and claims made in the PSAs are factually accurate, and each of the advertisements attributes lead poisoning to homes built before 1978.*

The June 9 curt response does not offer a chance to confer informally in order to discuss the possibility of revamping the "concept" with ACA, and others who have similarly objected, despite the goal of OMB Guidelines that such informal consultation be encouraged as a

means to resolve such information quality disputes; for the two federal agencies, the letter is signed by Wendy Cleland-Hamnett, Director, Office of Pollution Prevention and Toxics, U.S. EPA, and Jon L. Gant, Director, Office of Healthy Homes and Lead Hazard Control, U.S. HUD, respectively.

The agency signatories and their outside partners end their joint letter with this tacit assurance: *We know that this campaign will help us achieve that goal.* (Exhibit 3)

It should be noted that the design of the PSA's had evoked a strong protest letter, copied to HUD and EPA, dated June 1, 2010, by the International Dairy Foods Association (IDFA), which emphasizes that the campaign's prejudicial imaging is directly contrary to a sound public information message: *These visuals denigrate milk and mislead consumers to think milk is somehow responsible for poisoning children. In fact, the opposite is true. Milk, cheese, and yogurt as foods recommended by health professionals to help mitigate lead poisoning in children. Dairy products are calcium-rich foods that reduce lead absorption. We urge you to immediately remove these video and print materials from distribution, TV placements, You Tube and…web sites…*(Exhibit 4) For good reason, the IDFA does not share the agencies "confidence" that the general public understands that the campaign merely "targets old lead paint."

On June 3, 2010, the Grocery Manufacturers Association (GMA) sent a equal expression of outrage at the campaign's message: *We are shocked that in all three PSA's that we have seen, paint…is made to look like either milk or orange juice. Furthermore; its white paint is poured into a milk bottle and on cereal, and the orange juice is poured into a child's "sippy cup." These images are disingenuous and dangerous, and represent a total distortion…we ask that the PSAs cease immediately.* (Exhibit 5) The IDFA and GMA letters of protest attest that more groups far outside the paint industry reasonably feel that a campaign designed in this way will not help achieve its objectives.

"Quality," according to OMB and the agencies' Guidelines, as noted, includes "objectivity" and "utility," as defined: "Objectivity focuses on whether the disseminated information is being presented in an accurate, clear, complete and unbiased manner and as a matter of substance is accurate, reliable, and unbiased;" "Utility refers to the usefulness of the information to the intended users." (EPA Guidelines, Section 5.1; HUD 67FR69645).

{"Integrity" as defined by Webster's New College Dictionary, connotes "an unimpaired condition: soundness 2. firm adherence to a code of (esp.) moral or artistic values: incorruptibility 3. the quality or state of being complete or undivided; completeness."}

The lead PSA's are presented in a sharply contradictory way to each of the requirements for objectivity: they are purposely inaccurate in a vain attempt to seize public attention in an "arresting" depiction; unclear; incomplete; and irresponsibly-biased. As for utility, the depiction and corresponding information on the face of the ads are hardly identifiable with the

cited twin purposes expressed by HUD and EPA as to why they are sponsoring the campaign, which are, respectively: to focus on alerting parents and guardians to hire "a lead-safe trained contractor if they live in an older home and play to renovate or repair" (EPA); and to "know the age of your home and get it tested if it was built before 1978" (HUD).

In fact, as ACA's May 20 letter notes, the Lead PSA's facial depiction and its supporting text are inconsonant with EPA's current major public information campaign directed to contractors associated with its renovation, repair and painting new (RRP) rule, and its implementation of the national system for lead-based paint hazards in housing. Compare EPA's current RRP post-card brochures, text, as follows:

***FRONT: "If You're Not Lead-Safe Certified, Distributing Just Six Square Feet Could Cost You Big Time"***

***BACK: "Become Lead-Safe Certified by April 22, 2010 any contractor, from plumbers to electricians to painters, who disturb lead paint while working in a pre – 1978 home, school or day care center, now must be Lead-Safe Certified. If you're not, you can face tens of thousands of dollars in fines. Plus, you put this health of yourself, your workers and your customers at risk, which could result in lawsuits.***

***Visit epa.gov/getleadsafe to learn about the dangers of lead paint poisoning and the precautions you can take against it. You'll also find an EPA accredited train in your area where you can be certified. One class certifies you for five years. It's that easy. Sign up at epa-gov/getleadsafe or call 800-424-LEAD."*** (Exhibit 6)

Yet the Lead PSA's, ostensibly directed to parents and guardians of young children and pregnant women, on their face make no mention of this new national certification system and the associated EPA web-site, a universal program central for their children's' enhanced lead exposure safety.

In sharp contrast, as ACA's May 20, 2010, letter points out, <u>every</u> container of consumer paint sold in the United States, one quart or larger, contains the following information: **"WARNING! If you scrape, sand, or remove old paint, you may release lead dust – LEAD IS TOXIC. EXPOSURE TO LEAD DUST CAN CAUSE SERIOUS ILLNESS, SUCH AS BRAIN DAMAGE, ESPECIALLY IN CHILDREN. PREGNANT WOMEN SHOULD ALSO AVOID EXPOSURE. Wear a NIOSH-approved respirator to control bad exposure. Clean up carefully with a HEPA vacuum and a wet mop. Before you start, find out how to protect yourself and your family by contacting the National Lead Information Hotline at 1-800-424-LEAD or log on to www.epa.gov/lead."**

Thus, contrary to the inflammatory "rusted paint can" image serving as the centerpiece for the Lead PSA's, the face of an <u>actual</u> can of consumer paint contains precisely the message and

is directed explicitly to the targeted audience which the self-described "arresting" PSA's miss! It includes detailed critical lead-safe work practice information, tied to the new RRP rule's thrust. Note too, that the web-site reference on a can of paint directs a parent or guardian immediately to EPA's web site, unlike the PSA's.

Thus, the PSA's are actually working at cross-purposes to their stated objectives, as they are doubly misleading and disingenuous: an actual can of paint, and milk and orange juice provide critical positive sources of information and sources of childhood dangerous lead poisoning prevention. "Artistic license," in this instance, is wholly out of step with the fundamental notions of honesty and artistic value, which define integrity. To use a common expression, the Lead PSA's are "over-the-top," and perform a serious disservice to the important cause of childhood lead exposure prevention, while unnecessarily disparaging necessary and beneficial products. The campaign's central concept lacks fundamental integrity.

**Petitioner and the Public are Directly and Adversely Affected**

The fallacious Lead PSA campaign images are profoundly disconcerting and especially unfair to our industry; as ACA's May 20, 2010 letter to the National Campaign partners states: *The American Coatings Association and its members have vigorously pursued efforts to reduce and ultimately eliminate childhood lead. From labeling all consumer paint products (some 760 million gallons each year) with lead surface preparation warnings containing the EPA lead information hotline and website, to distribution of EPA consumer information booklets at the retail point-of-safe, to training over 17,000 contractors, tuition free, [in courses] offered in English and Spanish in all 50 states and D.C. on lead-safe work practices, our industry's initiatives have been extraordinarily comprehensive and fruitful. Further, the ACA was instrumental in establishing CLEARCorps, the Community Lead Education and Reduction Corps, and served on two Council of Environmental Quality Task Forces under President Bush and Clinton, which developed constructive public awareness campaigns aimed at increasing consumer awareness of childhood lead poisoning. Those ads, in English and Spanish, were developed by media experts working with a diverse panel of public health and technical experts representing stockholders across the spectrum.*

The May 20, 2010 letter indicates, also, that ACA worked to support the finalization of EPA's Renovation, Repair and Painting (RRP) Rule, which it did, foremost, by underwriting and delivering its own major national program, using an EPA/HUD approved curriculum, from 2003-2008, which proved how this could be accomplished efficaciously; beyond this, we assisted EPA by urging members of Congress (including then-Senator Obama of Illinois) and others to support issuance of a rule which we pointed out could serve as "the final link in a long over-due national system for addressing control of lead-based point hazards in housing."

Since 2003, ACA has also helped facilitate (with EPA's favorable acknowledgement) the availability in the hundreds of thousands, of copies combining two published EPA lead public

safety brochures, printed back-to-back in Spanish and English, at virtually all point retail outlets throughout the U.S.

This year, EPA has revised one of those two brochures under the title "**Renovate Right**," designed to comport with the new RRP rule. Note that its effective cover shows a very young girl holding her teddy standing outside a doorway cordoned-off with "caution" tape where lead-safe contractors work is occurring: "**Important lead hazard information for families, childcare providers and schools**" is the message to the left of the girl. While the image may not have Madison Avenue-inspired "shock" appeal, it certainly gives a clear picture and delivers the kind of invaluable practical information parents, guardians, and pregnant women, can rely on to help prevent childhood lead exposure. Both HUD and EPA logos and key contact information are on the brochure cover and back pages. The publication connotes information quality and integrity. (Exhibit 7)

Secondly, EPA Region I and the six New England states, working together through the University of Connecticut at stores per the New England Lead Coordinating Committee, have developed a new consumer information brochure titled "**Don't Spread Lead**," which replaces their previous brochure "**Keep it Clean**."

Working at the invitation of EPA and NELCC, ACA helped devise a unique layout for both of these important new public information brochures that aligns with the style and formatting of the previous version and will thus facilitate distribution at retail outlets throughout the nation. Indeed, ACA members and others are directed via ACA's website, www.paint.org, to download the two new brochures in a combined, and in English and Spanish, format, for such dissemination.

The public, the agencies, and industry stakeholders alike are well-served by combining resources in this manner to conceive, coordinate, and disseminate public information in the lead arena which is consistent, accurate, targeted, up-to-date, and effective. But all of this positive public health and safety information is subject to corruption through confusion, by the Lead PSAs' and "arresting" images.

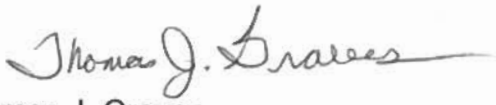
## Conclusion

In conclusion, the new National Campaign, and its PSA's designed to protect children and families from lead poisoning, is graphically and substantively flawed to a degree which violates Information Quality Guidelines as formally published by both EPA and HUD pursuant to OMB Guidelines. The depictions fail to meet the Guidelines' crucial elements including objectivity and utility. Beyond disparaging our industry products and those of others in the food industry, they act, for example, to undermine the good and useful images and information that EPA and HUD are currently disseminating and the vital reliable public health information and programs promulgated by the CDC. Advertising images designed admittedly

to be "arresting," sending the wrong message, cannot be effectively relied on by the appropriate targeted audiences: they purposely undermine the concerted progressive and effective campaigns to eliminate childhood lead poisoning by public/private partners alike.

Without question, the legitimate goals stated by EPA and HUD for their partnering with the Lead PSA's are actually distorted by their obvious lack of fundamental information quality and integrity. **The agencies should withdraw from the campaign altogether unless the images are revised to meet basic information quality standards and to conform with their own depictions and imagery in the nation's major public information campaigns dedicated to public lead safety and childhood lead poisoning prevention.**

Sincerely,



Thomas J. Graves
Vice-President, General Counsel, and Corporate Secretary
American Coatings Association
1500 Rhode Island Avenue, N.W.
Washington, D.C. 20005
202-462-6272 phone
202-4628549 fax
tgraves@paint.org