



VIA ELECTRONIC SUBMISSION

May 15, 2017

Scott Pruitt
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20460

Re: Comments on EPA's Request for Comment on an Evaluation of Existing Regulations

Dear Administrator Pruitt:

Associated Builders and Contractors Inc. (ABC) submits the following comments to the Environmental Protection Agency (EPA) in response to the above-referenced request for comment published in the *Federal Register* on April 13, 2017, at 82 Fed. Reg. 17793.

About Associated Builders and Contractors Inc.

ABC is a national construction industry trade association representing more than 21,000 members. ABC and its 70 chapters help members develop people, win work and deliver that work safely, ethically and profitably for the betterment of the communities in which ABC and its members work. ABC's membership represents all specialties within the U.S. construction industry and is comprised primarily of firms that perform work in the industrial and commercial sectors. Moreover, the vast majority of our contractor members are classified as small businesses. Our diverse membership is bound by a shared commitment to the merit shop philosophy in the construction industry. The philosophy is based on the principles of nondiscrimination due to labor affiliation and the awarding of construction contracts through open, competitive bidding based on safety, quality and value.

Comments on the EPA Regulations:

As builders of our nation's communities and infrastructure, ABC members believe exceptional jobsite safety and health practices are inherently good for business. They understand the value of standards and regulations when they are based on solid evidence and are developed with appropriate consideration to implementation costs and input from the business community. However, many of the regulations issued during the Obama administration do not meet this standard and have imposed

crippling costs on the construction industry with questionable benefits. For the construction industry, unjustified and unnecessary regulations translate to higher costs, which are then passed along to the consumer or lead to construction projects being priced out of the market. This chain reaction ultimately results in fewer projects and hinders businesses' ability to hire and expand. As you begin to implement your agenda, we encourage you to work with stakeholders and establish a more collaborative approach to crafting common-sense regulations.

ABC appreciates the opportunity to comment on existing EPA regulations that are unnecessary and burdensome. We have serious concerns about the below regulations and policies, which impede our members' ability to create jobs and grow the economy.

- ***Permitting on Projects and the Environmental Review Process:*** Major federal projects have been unnecessarily delayed or abandoned, resulting in jobs being deferred or never created because of a dysfunctional permitting system. ABC supports a streamlined process for developers to obtain environmental permits and approvals for their projects in a timely and efficient manner, fostering job creation and economic growth in the process.
- ***Definition of “Waters of the United States” Under the Clean Water Act Final Rule:*** On June 29, 2015, the EPA and the U.S. Army Corps of Engineers (USACE) issued a final rule which dramatically expanded the scope of federal authority over water and land uses across the country.¹ The final rule caused uncertainty surrounding what would actually be considered a “waters of the United States,” which could potentially lead to a flood of unnecessary and excessive permitting requests that would create project delays and increase costs. On Oct. 9, 2015, the final rule was blocked by a nationwide stay issued by the U.S. Court of Appeals for the Sixth Circuit. On Feb. 28, President Trump issued an executive order requiring the EPA to review the controversial final rule and rescind or revise it through public comment.² ABC looks forward to the EPA rescinding the 2015 final rule and proposing a new rule for notice and comment. It is important that the EPA and USACE get the rule right, as a poorly crafted regulation will lead to fewer construction projects and negatively impact job creation in the construction industry.
- ***Post-Construction Stormwater Runoff:*** Under the Obama Administration, the EPA gathered stakeholder input on regulating stormwater runoff after the “active” phase of construction. ABC is very concerned with a possible rulemaking, as the industry is not responsible for funding, operating or maintaining post-construction stormwater controls. A one-size-fits-all approach to stormwater control will add unnecessary costs to the process. ABC urges the

¹ <https://www.epa.gov/sites/production/files/2015-06/documents/epa-hq-ow-2011-0880-20862.pdf>

² <https://www.whitehouse.gov/the-press-office/2017/02/28/presidential-executive-order-restoring-rule-law-federalism-and-economic>

administration to remove post-construction stormwater runoff from the unified regulatory agenda.

- ***Lead Renovation, Repair and Painting (RRP) Program for Commercial and Public Buildings:*** Under the Obama Administration, the EPA looked to expand the Lead Renovation, Repair and Painting program from residential construction to the commercial construction sector.³ In response to a request for information in 2013, ABC submitted comments on this subject as a member of the Commercial Properties Coalition, and we urge the agency to refer back to those comments.⁴ It is important that the EPA determine whether a lead hazard exists in routine maintenance and repair and painting on renovations in public and commercial buildings before moving forward with a rulemaking. There are fundamental differences between residential and commercial buildings, and the agency should not rely on the information that was gathered for “target housing.” In addition, the agency should consider whether existing regulatory programs and industry practices already address any potential lead-based paint hazards and renovation work practices in public and commercial buildings. We urge the administration to consider all the implications of such a rulemaking on the construction industry.

The EPA is charged with a critical mission; however, it is important that the agency take into consideration implementation costs and input from the business community. As we move forward with critical infrastructure projects across our country, it is important they are not delayed by unnecessary and burdensome regulations.

Thank you for the opportunity to submit comments on this matter.

Respectfully Submitted,



Ben Brubeck
Vice President of Regulatory, Labor and State Affairs

³ <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201610&RIN=2070-AJ56>

⁴ Please refer to Docket ID EPA-HQ-OPPT-2010-0173 (<https://www.regulations.gov/docket?D=EPA-HQ-OPPT-2010-0173>)