

# Getting The Lead Out: New EPA Regulations Increase Renovators' Responsibilities

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Contractors take note: Renovations and repairs of pre-1978 housing must now be conducted under new lead-safe practices mandated by the U.S. Environmental Protection Agency's new Lead Renovation, Repair and Painting Rule.

## **New Procedures**

The rule requires contractors working in pre-1978 housing and child-occupied facilities to follow a number of prescribed procedures to reduce potential exposure associated with the disturbance of lead-based paint. These include:

- Minimizing dust
- Containing the work area
- Conducting a thorough cleanup

In addition to these work practices, the rule also includes increased training and certification requirements for firms and individual employees, as well as new verification and record-keeping requirements. Violations of the rule are punishable by fines of \$32,500 per violation, per day.

As originally proposed in 2008, the lead-based paint rule included a provision allowing a contractor to opt out of the requirements by obtaining certification from a property owner residing at the work site that no child under age six or pregnant woman resides in the home, and the home is not a child-occupied facility. This opt-out provision will be eliminated effective July 5, 2010. Accordingly, after July 5, 2010, there are no exceptions to the new requirements for renovation or repair of any covered structure built before 1978.

An estimated 80 million homes built before 1978 contain some lead-based paint. The National Association of Home Builders estimates that the new rule could add \$500 to \$1,500 to the cost of a project estimated at \$5,000 or more.

## **New Proposals**

In addition, on May 6, 2010 the EPA published two more proposals for the lead-based paint program.

- The agency proposes to require dust-wipe testing after most renovations and delivery of wipe test results to the owners and occupants of the building. The EPA will take public

comment on this proposal until July 5, 2010, and expects to finalize the rule by July 2011.

- The agency published an advanced notice of proposed rule-making that will apply lead-safe work practices to renovations on public and commercial buildings. The EPA requests public comment on the types of buildings that should be considered "public" or "commercial," and provides the following examples: industrial and office buildings, government-owned buildings, colleges, museums, airports, hospitals, churches, stores, warehouses and factories.

For further information concerning these new requirements and proposals, please contact Scott Hubbard, Scott Watson, Mary Tell, or any member of the Environmental Law Group at Warner Norcross & Judd LLP.