

# Environmental Advisory: EPA's New Rules for Renovation of Buildings Containing Lead Paint

6/9/2010

By [Jennifer Sulla](#)

The U.S. Environmental Protection Agency (EPA) has new rules for work that disturbs lead-based paint in pre-1978 housing and facilities serving children under six. The new rules currently allow an “opt-out” for those homeowners who can certify that there are no children younger than six or pregnant women residing in the home. As of **July 6, 2010** the new rules will apply to all pre-1978 housing. The EPA has announced its intention to impose similar requirements on work in any public and commercial buildings.

Under the new Renovation, Repair and Painting Rule (the RRP Rule), work done for compensation that disturbs more than a specified amount of lead-based paint in pre-1978 housing and facilities serving children under six must be done by certified renovators employed by certified contractors. Notably, lead-based paint is assumed to be present unless a certified inspector or renovator determines that there is less than a specified level of lead in components affected by the renovation. Therefore contractors will need to test for lead-based paint before beginning any renovation.

Contractors must take mandated training classes, provide specified information to owners and occupants, and comply with the work practice standards and record-keeping and notification requirements specified in the RRP Rule. Penalties for failure to comply are significant: up to \$37,500 per day, per violation. Enforcement may be delayed for at least a year, however, under a bill introduced on May 4th by Sen. James Inhofe (R-Okla.). And because of concerns about too few providers of the mandated training classes, on May 27th the Senate approved by a 60-37 vote a bill sponsored by Sens. Inhofe and Susan Collins (R-Maine) that would bar the EPA from fining contractors who have signed up for such classes by September 30, 2010.

For exterior renovations of public and commercial buildings, the EPA must issue a proposed rule requiring lead-safe work practices by December 15, 2011 and must take final action by July 15, 2013. For interior renovations, the EPA must consult with the EPA Scientific Advisory Board (SAB) by September 30, 2011 regarding a methodology for evaluating the risk posed by renovations in public and commercial buildings. If the EPA concludes that interior renovation activities do create lead-based paint hazards, the EPA must issue a proposed rule applying specified work practices to such activities within 18 months after receiving the SAB report and must take final action 18 months thereafter.

Please let us know if you would like more information on EPA’s regulation of buildings presumed to contain lead paint.

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*For assistance in this area please contact one of the attorneys listed below or any member of your Mintz Levin client service team.*

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