



UNDER CONSTRUCTION

December 2011



James J. Sienicki
602.382.6351
jsienicki@swlaw.com
vCard



Timothy J. Toohey
213.929.2637
ttoohey@swlaw.com
vCard



Scott C. Sandberg
303.634.2010
ssandberg@swlaw.com
vCard

Ready EPA Finalizes and Revises Its Lead Renovation, Repair and Painting Program Rule

By Marc A. Erpenbeck and Chris P. Colyer

The Environmental Protection Agency's (EPA) Lead Renovation, Repair and Painting Rule (RRP Rule), effective October 4, 2011, may impact contractors of residential housing, schools and some commercial buildings.

The RRP Rule establishes requirements for the renovation of homes and buildings that may contain lead-based paint. Its purpose is to both inform residents of housing and "child-occupied facilities" of lead-based paint hazards and to ensure that the individual(s) renovating these properties have the proper training, certification and work practices to minimize these hazards.



Shawn M. Rodda
303.634.2036
srodda@swlaw.com
vCard



Michael J. Yates
602.382.6246
myates@swlaw.com
vCard



Gerard Morales
602.382.6362
jmorales@swlaw.com
vCard



Marc A. Erpenbeck
602.382.6512
merpenbeck@swlaw.com
vCard



Christopher P. Colyer
602.382.6579
ccolyer@swlaw.com
vCard



Jason Ebe
602.382.6240
jebe@swlaw.com
vCard

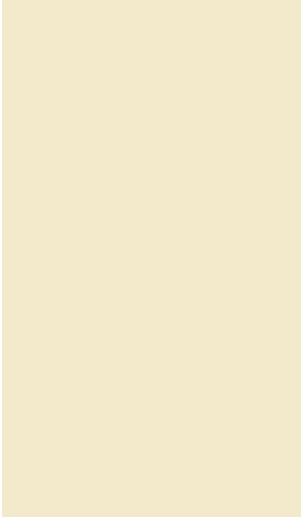
The RRP Rule does not apply to buildings built in or after 1978. Instead, the RRP Rule only applies to pre-1978 construction in residences and so-called “child-occupied facilities.” The rationale underlying this limited applicability is that the use of lead paint was eliminated in 1978 and that children are the most susceptible to lead’s adverse effects. EPA defines a “child-occupied facility” as a building (or portion of a building) constructed prior to 1978 that is visited by a child less than six years of age, at least twice a week, for an average of three hours per visit, for at least 60 hours per year. Given these parameters, many buildings are excluded from the RRP Rule. However, individual(s) and contractors engaging in home remodels, as well as landlords, schools, hospitals and child care providers should be alert to its applicability.

The final RRP Rule institutes a variety of changes from the interim rule, including:

- Revisions to containment requirements for exterior renovations;
- Changes to cleaning verification requirements;
- Amendments to paint chip collection and testing requirements;
- Revisions to requirements imposed upon states and Indian tribes that have received permission to administer and enforce the RRP Rule in lieu of EPA; and
- Clarification of High Efficiency Particulate Air (HEPA) vacuum requirements and on-the-job training requirements.

The final RRP Rule is not as drastic as originally proposed. Initially, EPA proposed to require a renovator to conduct dust-wipe testing as part of the renovation process. However, after feedback from stakeholders, EPA chose to eliminate this proposed requirement given the undue burden it would place on the renovating parties.

Owners, contractors and building professionals should note that other federal, state and local laws and



regulations may also apply. For example, Colorado has implemented its own lead-paint rules that establish certification and abatement requirements.

Prior to any renovation, owners, contractors and building professionals should determine whether the RRP Rule is applicable to their particular project. If applicable, these parties should ensure that the appropriate controls and processes are in place to comply with the final RRP Rule. A knowledgeable construction attorney can assist owners, contractors and building professionals if they have questions or need guidance on compliance with the final RRP Rule.

Past Issues
Snell & Wilmer
Construction Practice

©2011 All rights reserved. The purpose of this newsletter is to provide our readers with information on current topics of general interest and nothing herein shall be construed to create, offer or memorialize the existence of an attorney-client relationship. The articles should not be considered legal advice or opinion, because their content may not apply to the specific facts of a particular matter. Please contact a Snell & Wilmer attorney with any questions.