

## Lead Paint Rule Opt-Out Revoked

On April 23, the [U.S. Environmental Protection Agency](#) announced release of an amendment to the [Lead: Renovation, Repair and Painting rule](#) that removes the opt-out provision for pre-1978 homes without pregnant women or children under age six in residence. The amendment also instructs contractors to provide a copy of the records required under the rule to be shared with home owners within 30 days of completing the remodeling work. The amendment goes into force 60 days from its publication in the *Federal Register*, which has not yet occurred. NAHB expects publication in the *Federal Register* sometime in the next few weeks, so the estimated effective date to remove the opt-out is the beginning of July. Once the exact date is determined, NAHB will update its members. Nevertheless, all provisions of the Lead: Renovation, Repair and Painting rule went into effect on April 22, which requires remodelers and other contractors disturbing painted surfaces in pre-1978 homes attend the required training and submit firm certification. The rule also dictates lead-safe work practices, pre-renovation consumer education, and record keeping practices.

The amendment to the rule goes into effect in July 2010 and

**Removes the opt-out provision.** Under the current rule, owner-occupied pre-1978 housing units (i.e., not inclusive of rental properties) where no pregnant women nor children under age six, nor a property qualifying as a "child occupied facility" (such as a day care facility) could sign a waiver. The remodelers must keep a record of the waiver for three years, which waives the implementation of the work practices dictated by the rule. The new amendment to the regulation that goes into effect in July revokes the opt-out completely. All work in pre-1978 must then follow all work practices dictated by the regulation as of the effective date in July.

**Requires remodelers to share rule compliance records with customers.** Remodelers will have to share a copy of the compliance records required for remodelers under the regulation (such as the checklist of followed practices) with home owners within 30 days of completion of the work.

The EPA has also given advanced notice of [additional plans](#) to change the lead rule as a direct result of a voluntary legal settlement with several environmental groups that challenged the original regulation. Specifically, rule makings will be conducted to

**Require abatement-style dust wipe testing and share results with home occupants and owners.** This rule change will apply to certain remodeling activities and require the contractor to achieve the EPA's strict numerical limits for lead dust levels on window sills, window troughs, and floors. The EPA's numerical lead dust standards are the same as those dictated to lead-based paint abatement firms for achieving "clearance" under EPA's abatement rules. Depending on the outcome of this upcoming amendment, remodelers and other contractors may also be subject to additional regulatory restrictions at the state and local level triggered by the knowledge of disturbing lead-based paint. After this proposal is published, it will be out for a 60 day comment period with the goal of completing and finalizing this rule change in July 2011.

**Apply the lead rule to public and commercial buildings.** The EPA plans to amend the rule to expand its scope over both public and commercial buildings. NAHB will follow this development but expects the proposal to come out after the clearance testing amendment.

### Rule Enforcement

EPA Assistant Administrator Owens visited the NAHB Remodelers Board of Trustees meeting last week to answer questions about the lead paint regulation effective April 22. He explained that the EPA will not take enforcement action against firms that in good faith submitted firm certification paperwork before April 22 but have not received official approval yet from EPA. A

copy of the [letter](#) is available for download. However, the EPA will still be taking enforcement actions against parties that fail to follow work practices in pre-1978 homes.

**Future Actions**

NAHB is closely following the continuing actions of the EPA to amend the rule and will be commenting and asking members to submit comments on proposed rule changes.

On May 20 at 2 pm EDT, NAHB is hosting a webinar free for members about the lead rule, removal of the opt-out, and guidance for remodelers on managing requirements of the rule.

Registration for this event will be available shortly.