



Environmental Policy Alert - 01/09/2013

## EPA Seeking Data To Assess Need For Commercial Lead Paint RRP Rule

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EPA is seeking data to determine whether it should continue with plans to propose a rule governing renovations and repairs of public and commercial buildings with lead paint, a controversial measure Senate Republicans have questioned, but that EPA agreed to consider as part of a 2009 settlement with environmental groups.

According to an amended settlement agreement, EPA has until July 1, 2015, to either propose a rule covering renovation, repair and painting (RRP) in public and commercial buildings or determine those activities do not create lead-based paint hazards, according to a Dec. 31, 2012, *Federal Register* notice.

Meanwhile, EPA's Office of Chemical Safety and Pollution Prevention (OCSPP) has resolved recommendations from the agency's Office of Inspector General (IG) that included a request for OCSPP to reexamine the costs and benefits analysis it conducted in advance of the agency's rule addressing lead-based paint hazards of RRP in housing.

In the wake of a hotline complaint concerning the residential RRP rule, the IG said EPA used "limited" data in its economic analysis, though the IG now says in a Dec. 21 memo that its recommendations have been resolved after OCSPP defended its analysis in an Oct. 22 memo to the IG. In the memo, the OCSPP says its analysis was appropriate, subject to public comment, and cleared by the White House Office of Management & Budget. OCSPP also pledged to contact a broader range of the regulated community in its costs and benefits analysis for future lead-paint RRP rulemakings, including the rule for commercial buildings, according to a Nov. 28 memo. *Relevant documents are available on InsideEPA.com. (Doc ID: [2420558](#))*

The settlement of environmentalists' challenge to the 2008 residential RRP rule, *Sierra Club et al v. EPA*, also set deadlines for the lead-based paint rule governing exterior RRP of public and commercial buildings. Amendments to the settlement filed in the U.S. Court of Appeals for the District of Columbia Circuit last year extended the deadline to 2015 for EPA to propose the commercial buildings rule so EPA has additional time to review whether science supports the regulation.

The delay drew praise from Sen. James Inhofe (R-OK), then-ranking member of the Senate Environment and Public Works Committee. Inhofe, one of nine Republicans who in 2011 petitioned EPA to delay the rule, argued that a scarcity of data was available to evaluate health risks of lead paint on commercial buildings. Inhofe has also sponsored legislation to restore a controversial "opt-out" provision for EPA's residential lead paint renovation rule that the Obama administration removed in 2010.

In the Dec. 31, 2012, *Federal Register* notice offering public comment, EPA says it is in the process of determining whether RRP activities on public and commercial buildings create health risks and requests information on the manufacture, sale and use of lead-based paint since 1978, as well as information specific to public and commercial buildings such as: how lead-based paint is used, how often renovations are needed, work practices, and dust generation and transportation from exterior and interior renovations.

EPA says it is seeking information from all types of potentially affected businesses and other interested parties. So far, a dozen people including painting companies and individuals have commented on the possible rule with most saying a rule is unnecessary. An environmental consultant says the initial concern of regulators was lead-based paint where children either resided or regularly visited and asks EPA's grounds for seeking to regulate RRP in public buildings.

A renovator and lead dust sampler says more stringent requirements are needed because lead is not good for anyone and children are likely to visit public places like libraries. Additionally, the commenter says regulation will increase awareness about the risk of lead-based paint.

<http://insideepa.com/Environmental-Policy-Alert/Environmental-Policy-Alert-01/09/2013/epa-seeking-data-to-assess-need-for-commercial-lead-paint-rrp-rule/menu-id-1095.html>

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EPA also plans to hold a June 26, public meeting where interested parties may provide data for the rule. And the agency plans to release a discussion guide summarizing public comment on the proposed rule at least two weeks prior to that meeting. The agency says it will publish additional information on the public meeting in the spring.

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