

Senators and Industry Fight EPA Rules

"Clearance Testing" Requirements May Be Published in July

In case you think that no one feels your EPA pain, some senators in Washington and some renovation industry officials are on your side. Their efforts may be making some progress.

On May 24, in response to President Obama's call for a review of the regulatory system, EPA announced that it is "reviewing the efficacy of both its original (RRP clearance) testing requirements as well as those additional requirements proposed in 2010 and expects to issue a final rule in summer 2011."

Here is a summary of recent actions by legislators and industry members who are fighting aspects of the EPA's RRP rule.

On April 15, 12 Republican U.S. senators called for oversight hearings on EPA's lead-based paint rule. The senators sent two letters to EPA Administrator Lisa Jackson identifying problems with EPA's implementation of the RRP rule. Several of the senators serve on the Senate Committee on Environment and Public Works (EPW).

In Letter #1 (on Clearance Testing) ...

The senators questioned new amendments to the RRP rule that would require renovators to conduct "clearance testing" to prove the presence or absence of lead after completing a project. "This would impose significant confusion and complication for renovators and remodelers,"

said the senators, "and will also result in additional costs for homeowners and renovators to pay for the clearance testing."

"EPA significantly underestimated the cost of compliance for small businesses and individuals," stated the letter. "The higher costs ... have pushed homeowners to either hire uncertified individuals or to perform renovation work themselves. This is absolutely counter to the intent of the rule."

According to Brian Schoolman, legal counsel for IDA, this additional requirement, which includes "dust wipe testing," probably does not apply to typical garage door work. Rather, the proposed rule applies to "jobs involving demolition or removal of plaster through destructive means or the disturbance of paint using machines designed to remove paint through high-speed operation."

The amendments, if not stopped, are set to be published sometime in July 2011, taking effect sometime thereafter.

In Letter #2 (on Commercial and Public Buildings) ...

By Dec. 15, 2011, EPA must issue a proposal to expand the current residential focus of RRP to regulate renovations on the exteriors of commercial buildings and public buildings built before 1978. EPA must take final action on that proposal and propose regulations for the interior of buildings by July 15, 2013.

The senators criticized EPA's rulemaking for commercial buildings and public buildings, noting that "the agency lacks sufficient data on which to promulgate such a rule."

Senator James Inhofe (R-Okla.), ranking member of the Senate EPW Committee, said:

- The proposed oversight hearings would seek to "identify the agency's errors, correct them immediately, and realize the full public health benefits of this rule."
- "EPA's latest proposal governing how renovators and remodelers handle lead-based paint is impractical, confusing, costly, and not based on the best available science."
- "Once again, EPA is fumbling implementation of this rule, to the point that it will cost jobs

and fall far short of fully realizing the rule's laudable public health goals."

On April 28, after the EPA offered no response to the senators' pleas, 11 of the senators sent a letter to the White House Office of Information and Regulatory Affairs (OIRA), seeking to stop the clearance-testing proposal.



Senator James Inhofe (R-Okla.)

Industry Speaks Out

In addition to the efforts of these senators, the National Association of Home Builders (NAHB) met in May with Capitol Hill staffers to explain the detrimental effect that the RRP rule is having on the remodeling industry.

On several occasions, DASMA and IDA, acting through an industry task force, jointly communicated several garage door-related concerns directly to EPA.

On May 16, six representatives of the Window & Door Dealers Alliance (WDDA) met with officials of OIRA, urging them to block EPA from implementing the clearance-testing requirements.

On Jan. 11, the National Association of the Remodeling Industry (NARI) took a different approach. NARI, on behalf of its 7,000 companies, wrote a letter to EPA Administrator Lisa Jackson saying, "The only way for EPA to address the problem of non-certified contractors is to aggressively and publicly enforce the LRRP rule." ■