

EPA Lead Rule Enforcement Facts

The Environmental Protection Agency's schedule of fines for violating the federal Lead: Renovation, Repair, and Painting Rule demonstrate that the federal government is serious about its intentions regarding enforcement: Penalties can range from \$130 to as much as \$37,500 per violation, per day.

The regulation applies to contractors working in pre-1978 homes on projects that disturb more than six square feet on an interior or 20 square feet on an exterior painted surface. The rule dictates pre-renovation education of the home owners and residents, containment of work area, lead-safe work practices, clean up, cleaning verification, and record keeping. The responsible contractor must be employed by an EPA-certified firm and be trained as a Certified Renovator by an EPA-approved training provider. (More details on the rule are available at <http://www.nahb.org/leadpaint>.)

All complaints will be referred to EPA's regional offices for investigation, and if the office determines that a violation has taken place, it can do one of four things:

- **Notice of Noncompliance.** This solution may be used for first-time violators or in cases where the contractor has substantially followed the regulation. The notice may require corrective action from the contractor and proof of the change. This action would not result in a fine.
- **Civil Administrative Complaint.** EPA sends written notice and the contractor has 15 days to request a hearing. The complaint usually includes a penalty calculated on the severity of the charges.
- **Civil Judicial Referral.** EPA seeks relief in the United States District Court to order the violator to comply.
- **Criminal Proceedings.** If the civil case team has reason to believe that the violator knowingly violated the regulation, criminal charges may be filed.

Penalty Calculation

The EPA will consider many factors when assessing a fine for violation of the lead rule, including the:

- number of rule violations by the contractor;
- economic benefit or how much the contractor profited by non-compliance of the regulation and his or her ability to pay the fine;
- nature and circumstances of the violation, plus any harm caused by non-compliance. This penalty can also take into account the violator's ability to pay the fine and stay in business, history of prior violations, and degree of responsibility;
- attitude of the violator – whether he or she is taking steps to comply and cooperate with the lead rule.

Penalty Examples

If a contractor fails to maintain the required records in a home with no child occupants, the fine may be \$130. The fine increases if children and/or pregnant women live there. Failure to conduct

pre-renovation education by distributing the *Renovate Right* pamphlet to residents and posting signage at the job site carries heavier fines.

Download the EPA's entire enforcement guidance document at <http://www.nahb.org/generic.aspx?sectionID=1826&genericContentID=144456>.