

# Enforcement Alert

Office of Enforcement and Compliance Assurance

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## EPA Enforces Lead Paint Laws to Protect Human Health, Ensure Renovators Comply with Requirements, and Promote Level Playing Field

Do you know that if you are not lead-safe certified, disturbing just six square feet of a lead-based paint covered surface could cost you fines and even jail time? The Renovation, Repair and Painting (RRP) Rule generally covers any activity that disturbs lead-based paint (LBP), including remodeling, electrical work, window replacement, plumbing and painting. The rule requires that renovation firms obtain certification and ensure compliance with regulatory requirements. Renovators must also obtain training and certification and comply with lead-safe work practice standards. This Enforcement Alert highlights criminal and civil enforcement actions that addressed violations of the RRP Rule and other federal lead-based paint regulations, putting children and others at risk of exposure to lead and potential lead poisoning. Violators run the risk of significant penalties and even prison time for knowing or willful violations.

### Have You Updated Your Certification?

Firms and individual renovators that perform renovations on pre-1978 properties are required to update their EPA certifications. **Don't let your certification lapse.** More than half of EPA's LBP cases enforce certification violations. [Apply Online—See the Lead Renovation, Repair and Painting Program page.](#)

## Renovation Company Pleads Guilty for Failing to Follow Lead-Safe Work Practices

On May 22, 2018, Bitner Brothers Construction Co., Inc. (Bitner Brothers) of Carlisle, Pennsylvania, [entered a two-count guilty plea](#) for knowingly violating lead-safe work practices under federal law. In February 2017, Bitner Brothers conducted work inside two apartments in Harrisburg, Pennsylvania while families with small children were present. The company failed to comply with the requirement that power grinding equipment have a shroud or containment system equipped with a HEPA vacuum during the renovation. The 2017 events marked the second time in three years that EPA had investigated the company for

RRP violations.

As part of the plea agreement, the defendant company, and its President and owner, Charles H. Bitner, Jr., were directed not to undertake new work contracts that require a special skill, training or certification related to the handling and/or management of lead, including LBP, for the period of probation. The Magistrate Judge accepted the plea and set a sentencing date. The maximum penalty is a \$200,000 fine and one year in prison, as well as the costs of prosecution or probation and a special court assessment. On September 18, 2018, Bitner

Brothers was sentenced to two years of probation, a \$10,000 fine and a \$125 special assessment fee.



## Magnolia Homes Settles Enforcement Action for Alleged “Fixer Upper” Show Violations

On June 4, 2018, EPA’s Environmental Appeals Board issued a Final Order approving a [Consent Agreement with Magnolia Waco Properties](#). The settlement resolves violations of EPA’s RRP Rule during home renovations that were broadcast to a national audience on the reality television program, *Fixer Upper*.

Under the settlement, Magnolia will implement an internal monitoring program to ensure its future renovations are compliant. Also, Magnolia will spend \$160,000 to abate lead-based paint hazards in homes in its local community of Waco, Texas, where

occupants are at the highest risk for exposure to dust from LBP. Magnolia also is getting the message about lead-based paint out to a national audience. In Season 5, Episode 16 of *Fixer Upper*, which aired on HGTV on March 20, 2018, Magnolia’s Chip Gaines talked about testing an old home for LBP and depicted some of the work practices required by the RRP Rule. Furthermore, Magnolia is producing a video about renovating homes that contain LBP for its large internet audience, and it will post that video, which will feature Chip Gaines, to social media and to Magnolia’s website. Magnolia

took immediate steps to obtain EPA certification and bring its activities into compliance shortly after EPA first contacted the company in 2015. Magnolia also paid a civil penalty of \$40,000.

### Did You Know?

ACCORDING TO THE U.S. CENTERS FOR DISEASE CONTROL AND PREVENTION, LEAD PAINT POISONING AFFECTS NEARLY ONE MILLION CHILDREN. MORE INFORMATION: [WWW.EPA.GOV/LEAD](http://WWW.EPA.GOV/LEAD)

The Section 1018 Lead Disclosure Rule requires that landlords, sellers and their agents provide prospective tenants and purchasers required disclosures about lead-based paint. Although this has been the law for more than 25 years, EPA continues to find people who do not comply, sometimes with tragic consequences.

## Realtor Pleads Guilty to Withholding Information about Lead-based Paint Hazards; Child Diagnosed with Lead Poisoning After Non-Disclosure



On September 7, 2017, New York real estate agent Maureen S. Walck [pleaded](#)

[guilty](#) to knowingly failing to provide a required lead paint hazard warning notice, a criminal misdemeanor. On January 9, 2018, Walck was [fined \\$1,000 and ordered to pay about \\$53,000](#) in restitution to the victim.

In January 2014, a Lockport, N.Y. homeowner signed a contract with Walck, granting her exclusive rights to sell his

house, which was built around 1900. The seller knew about the presence of LBP hazards because he had the home tested for lead in 2009 after his son developed lead poisoning. The seller showed Walck a copy of the LBP inspection report.

On February 6, 2014, prospective buyers offered to buy the house. As part of the

sales contract, Walck indicated that the seller had no knowledge of LBP at the residence and that there were no records indicating such potential hazards. This contradicted Walck's signed statement to an earlier prospective buyer, who had backed out of the deal after being notified about and reviewing the LBP records.

The second prospective buyers – lacking the legally required disclosure of the lead testing report and unaware of the known lead hazards – purchased the residence on April 11, 2014. In September 2015, the new owner's child was diagnosed with lead poisoning. These facts led to Walck's prosecution and 2018 sentencing.



### **Settlement with NYC Public Housing Authority, Nation's Largest, to Address Lead-based Paint and Other Violations**

On June 11, 2018, the United States simultaneously filed a [Complaint](#) and [proposed Consent Decree](#) to settle admitted violations by the New York City Public Housing Authority (NYCHA) of federal lead-based paint, housing standard, and other laws. NYCHA is by far the nation's largest public housing authority – bigger than the next 11 authorities combined. EPA and the U.S. Department of Housing and Urban Development (HUD) cooperated on the case, which was brought by the U.S. Attorney for the Southern District of New York. The City of New York also was a party to the settlement. The proposed Consent Decree is subject to court approval.

In the proposed Consent Decree, NYCHA admitted and

accepted responsibility for violations of federal LBP requirements; false statements to HUD regarding its compliance; and violation of housing standards related to pests, mold, heating and elevators. The LBP offenses included violations of EPA's Renovation, Repair and Painting Rule.

The Complaint specifies that NYCHA for years violated and continues to violate regulations requiring NYCHA to protect children from lead-based paint, including failure to comply with HUD and EPA lead paint regulations, failure to ensure workers used lead-safe work practices, failure to inspect apartments for lead paint hazards, and failure to remediate peeling lead paint. At least 19 children associated with NYCHA apartments were

diagnosed as having elevated blood-lead levels – a sign of lead poisoning – and thousands more were put at risk.

To reform NYCHA and ensure compliance with federal law, the proposed Consent Decree requires appointment of a monitor with authority to set performance standards and action plans, in consultation with the United States. Also, the proposed settlement requires New York City to provide at least \$1.2 billion in capital funding to NYCHA over the next five years, and \$200 million every year thereafter until the problems are fixed.

## Health Effects of Lead

Lead exposure affects the nervous system and can cause a range of health effects, from behavioral problems and learning disabilities to seizures and death. Children six years old and younger are most at risk. If not detected early, children with high levels of lead in their bodies can suffer from:

- Damage to the brain and nervous system
- Behavior and learning problems, such as hyperactivity
- Slowed growth
- Hearing problems
- Headaches
- Anemia
- In rare cases of acute lead poisoning from ingestion of lead, seizures, coma and even death.

Lead can accumulate in our bodies over time, where it is stored in bones along with calcium. During pregnancy, lead is released from bones as maternal calcium is used to help form the bones of the fetus. This is particularly true if a woman does not have enough dietary calcium. Lead can also be easily circulated from the mother's blood stream through the placenta to the fetus. Mothers with high levels of lead in their bodies can expose their developing fetuses, resulting in serious and developmental problems including:

- Miscarriages
- Premature births or low birth weight
- Brain damage, decreased mental abilities and learning difficulties
- Reduced growth in young children

### Did You Know?

[In 2018, EPA announced 141 federal enforcement actions](#) to protect the public, particularly children, from exposure to lead in lead-based paint.

U.S. Environmental Protection Agency  
1200 Pennsylvania Ave., NW  
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[www.epa.gov/compliance/criminal](http://www.epa.gov/compliance/criminal)

### Lead Hotline

<https://www.epa.gov/lead/forms/lead-hotline-national-lead-information-center>