

## EPA Enforcement Against Contractors Increasing

EPA enforcement of the recently enacted Renovation, Repair and Painting Rule ("RRP Rule") is finally becoming more common after a period of very little enforcement. NAPAC has reviewed a number of EPA enforcement-related actions against its members. The most common approach is for the EPA to send a simple letter advising that it is concerned about the contractor's compliance with the RRP Rule and is requesting documentation and information concerning the contractor's compliance. Of course, if the request for documentation and information is ignored, a formal government subpoena follows.

Aside from the obvious ruinous fines that the EPA can impose on a contractor for non-compliance with the RRP Rule (\$37,500 per violation), an EPA request (via letter) or demand (via subpoena) is a tremendous burden on the contractor. In the EPA correspondence that NAPAC has reviewed, the EPA asks for a list of all jobs performed by the contractor, a list of each individual acting as a Certified Renovator on behalf of the contractor, the steps taken by the contractor to ensure that lead-safe work practices are being utilized in pre-1978 housing, etc. Any NAPAC member that has ever had to comply with a government subpoena can not only appreciate how much time it takes to compile the requested documentation and information, but also how costly it is to have legal counsel review all of the documentation and information first to make sure you are not blindly turning over documentation and information that makes it obvious that you violated the law.

How can NAPAC members avoid being targeted? First and foremost, you must comply with the RRP Rule. This is predicated on fully understanding the RRP Rule, whether the EPA rule or your state rule.

NAPAC's lead-based paint memos, which are available on [www.NAPAC.net](http://www.NAPAC.net) for FREE to NAPAC members, are the best place to learn what you must be doing to comply. Leaving aside compliance, many contractors who have encountered run-ins with the EPA in the past can trace their problem to either a child testing for elevated blood levels or a disgruntled ex-employee or installer who has reported (ironically) his unlawful actions while he worked for the contractor. As NAPAC has noted before, ex-employees or installers know nearly everything about your business, and a disgruntled one is all too happy to "air your dirty laundry" to anyone who will listen. If it happens to be about your non-compliance with the RRP Rule, it can turn into a nightmare.