

Renovators Beware: Lead Paint Regulations Due to Change in April

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Timothy Hughes

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Timothy Hughes

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Owners, developers and builders working in the renovation business beware: the Environmental Protection Agency's (EPA) new regulations on lead paint take effect on April 22, 2010. The new regulations, contained in Title 40, Part 745 of the Code of Federal Regulations, are the result of a 2008 decision by the EPA to take measures to protect against the risks of lead paint particulate disturbed by common renovation practices such as sanding and demolition.

Under the new rules, contractors performing renovation, repair and painting projects in homes, schools and daycare facilities constructed prior to 1978 must follow accepted work standards and must obtain certification prior to the commencement of the project. Even relatively minor work is swept up in the requirements. Generally, work disrupting more than 6 square feet of painted area is regulated (40 CFR 745.80, 745.83). There are only very limited exceptions to this rule, such as where a certified inspector has determined that the project site is free from lead paint beyond permitted levels (40 CFR 745.82). Project sites which have no occupancy by children or pregnant women occupancy can also qualify for exclusion, but only if the owner signs off that the contractor is not required to meet the accepted regulatory practices (40 CFR 745.82).

The new standards fall into three main areas:

1. standards for renovation activities;
2. standards for post-renovation cleaning verification; and
3. optional dust clearance testing. Each arena contains highly detailed regulations.

With the introduction of these new standards, contractors should be mindful of their insurance coverage in light of potential employee personal injury claims and OSHA inspections and violations as well (40 CFR 745.85). In addition to the new standards regarding actual work, contractors performing renovations have extensive obligations to provide disclosure and notice to building occupants in writing prior to commencing work (40 CFR 745.84). This includes the provision of mandated EPA publications, such as Renovate Right, provision of which is already expressly required by the EPA rules (40 CFR 745.81).

On a final note, the EPA has established an entire training and certification regime. In a down economy, this may be a good area in which contractors can focus their expertise in order to improve marketability and distinguish themselves from the rest of the pack.