

EPA ENACTS NEW LEAD-BASED PAINT LEGISLATION

Effective April 22, 2010, contractors performing home renovations will need to ensure they comply with a new law enacted by the Environmental Protection Agency. Failure to do so could result in penalties up to \$32,500 per violation, per day. While contractors are encouraged to review the new law carefully, following are some highlights of its new requirements and its impact.

Under this legislation, the EPA requires that any contractor renovating a home built before 1978 obtain Renovation, Repair, and Painting (“RRP”) certification. Current estimates project that over 200,000 contractors will need to obtain this certification, which is valid for five years, in order to comply with the new law. However, right now the EPA has only 190 trainers on hand. The curriculum for this certification includes an eight hour class and two hours of hands-on training. Certified contractors must take a four hour “refresher” course to earn recertification.

The new law requires that contractors provide homeowners with a brochure written by the EPA, entitled *Renovate Right*, prior to beginning any renovation work. This brochure may be previewed at <http://www.epa.gov/lead/pubs/renovaterightbrochure.pdf>. There are a few exceptions built into this legislation regarding the distribution of the *Renovate Right* pamphlet. For example, a contractor is not required to present the pamphlet to a homeowner if the interior work area is less than six square feet, or the exterior work area is less than twenty square feet. Also, if the house has been tested by a Certified Risk Assessor, Lead Inspector, or Certified Renovator and is found to be lead-free, homeowners do not have to receive the brochure. Furthermore, if there are no children under age six that frequently visit the property, no one in the home is pregnant, and the property is not a child-occupied facility, such as a daycare center or school, then a homeowner may sign a waiver that does not require the contractor to follow the EPA’s lead-safe work practices or meet the certification requirements.

A cleaning inspection is now mandatory following the contractor's completion of the renovation work. After the cleanup, the contractor must verify the cleaning by matching a used disposable cleaning cloth with an EPA verification card. This verification card shows examples of both acceptable and unacceptable cloth appearances. If the cloth is found to be too dirty, then the cleaning must be repeated.

Some specific work practices are also being banned under the EPA's new rule. For example, contractors working on homes built prior to 1978 are no longer allowed to use open flame burning or torching, or use a heat gun exceeding 1100°F. Sanding, planing, needle gunning, blasting, or grinding tools that are not equipped with HEPA vacuum systems are now also prohibited for use on homes built prior to 1978.

Given the changes this new legislation has made to the business of contracting, complete records on the project are also required to increase accountability. According to the EPA, files must include confirmation of the homeowner's receipt of the *Renovate Right* brochure, documentation of the work practices completed, cleaning records, records of the contractor's RRP certification, and any waivers signed. Files must be kept for three years.

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