

SAFETY ALERT

What you should know about Lead-Based Paint

The USEPA has issued the Renovation, Repair, and Painting Program (the “Rule”), which mandates that starting on **April 22, 2010** that renovations in target (pre-1978) housing and child-occupied facilities must be conducted by **certified renovation firms**, using **certified renovators** following the work practice requirements of the Rule.

This alert summarizes the EPA requirements for a new rule to date (40 CFR Part 745 page 137 of 167). However, the EPA has indicated that there may be some revisions before this new rule is officially published in the Federal Register and/or in additional amendments proposed to be adopted in July 2011.

On April 22, 2010 the EPA new rule entitled “The Lead-Based Paint Renovation, Repair and Painting Program Rule” known as (RRP) that is aimed at preventing lead poisoning became effective. This rule applies to the following:

- 1) Anyone who owns or manages “target-housing” or “child-occupied facilities” built before 1978
- 2) “Contractors” who perform activities that disturb painted surfaces in housing or child-occupied facilities built before 1978.

The RRP currently defines “target-housing” as any housing (e.g., residential, apartment, etc.) that was built prior to 1978, except housing for the elderly or persons with disabilities (unless children under 6 re-

side or are expected to reside their) and except for zero-bedroom dwellings, which are any residential dwelling where the living area is not separated from the sleeping area. This term includes efficiency and studio apartments, dormitory housing, and military barracks.

A child-occupied facility may include, but is not limited to, day care centers, pre-schools and kindergarten classrooms. Child-occupied facilities may be located in target housing or in public or commercial buildings. Child-occupied facilities are a building, or portion of a building, constructed prior to 1978, visited regularly by the same child, under 6 years of age, on at least two different days within any week (Sunday through Saturday period), provided that each day’s visit lasts at least three hours and the combined weekly visits last at least six hours, and the combined annual visits last at least 60 hours.

This RRP rule excludes the following target-housing or activities:

- 1) Housing built in 1978 or later
- 2) Housing or components declared

to be “lead-free” by a certified inspector or risk assessor

3) Minor repair and maintenance activities that disturb 6 square feet or less of paint per room inside, or 20 square feet or less on the exterior of a home or building. NOTE: Minor repair and maintenance activities do not include window replacement and projects involving demolition or prohibited practices.

4) Activity is being conducted as a Lead Abatement Project

So if you own or manage the housing or child-occupied facility and plan on having a contractor, which is considered to be anyone who is paid to perform work (your employees) and not just an outside vendor, perform the work in a pre-1978 building, you will need to know the following:

1) Unless you have had a lead survey conducted and received a document that certifies that the building or work area is “lead-free” this rule applies. Be careful that the document does not say “lead-free hazard” as this certificate means that there is lead-based paint but it is in good condition.

2) If your in-house employees (i.e., your employees or contractors) are performing the work, you or your facility will have to become an EPA certified Firm and have an individual who will be physically disturbing the LBP become an EPA “certified renovator”. The certified renovator can train other in-house workers that are part of the Firm.

3) If you use an outside vendor (e.g., painter, plumber, carpenter, electricians, etc.), you will need to make sure that the Vendor/Contractor provided documentation that their firm is certified with the EPA; provides documentation that all individuals who perform activities that disturb LBP on behalf of the firm are either “certified renovators” or have been trained by the firms’ certified renovator; and, will follow the RRP work practice standards.

4) Share the results of any previous lead tests with the contractor/vendor.

5) Have a detailed description of the interior/exterior work area.

6) Ensure that the contractor will use work practices so that no dust/debris leaves the work area while the renovation is being performed.

7) Ensure that the RRP pre-education requirements are met. This includes distributing a specific EPA lead pamphlet to appropriate parties and acquiring confirmation that it was received, distribute renovation notices to appropriate parties or post specific detailed informational signs about the renovation or repair job.

8) Ensure upon completion of the scope of work, the certified renovator performs project cleaning verification before re-occupancy of the work area. This cleaning verification is performed using an EPA approved verification card, which the renovator uses to subjectively determine by visual methods if the work area was adequately cleaned. This cleaning verification card is not analyzed by a laboratory.

9) Ensure that the RRP record-keeping requirements are met. It should be noted that the states of WI, NC, IA, MS, KS, RI and UT have been authorized by the EPA to administer and enforce the RRP rule, requiring contractors to be trained and licensed in that state and allow the state to have greater local oversight. Although New Jersey has applied to administer and enforce the RRP rule, it has not been currently approved by the EPA.

Renovation Work Practices: The Rule identifies seven stages of the project:

1. Information distribution requirements. Contractors will be required to provide a copy of the EPA’s new lead information pamphlet — *“Renovate Right: Important Lead Hazard Information for Families, Child Care Providers, and Schools”* to owners and tenants of buildings that will undergo renovations that disturb lead-based paint. There are time constraints and documentation requirements to ensure that this documentation was received by the intended party.

2. Occupant protection. Signs that define the work area and caution people to remain outside it must be posted before the project starts and remain posted until the very end. The certified renovator must be present for this step.

3. Containing the Work Area. The Rule lays out extensive requirements for isolating the work area to prevent dust and debris from escaping while work is being performed. The certified renovator assigned to the project must be present while containment is established.

4. Prohibited and restricted Work Practices. The Rule specifically bans certain techniques when renovating an area containing lead paint

5. Waste from Renovations. Individuals working on the project must follow the lead-safe work practices previously mentioned. The rule establishes involved processes for ensuring that lead dust doesn’t contaminate beyond the work area. All personnel

and items leaving the work area must be free of dust and debris, and all waste must be properly contained. As noted, the certified renovator does not have to be present for the entire renovation, but must provide on-the-job training to workers and must be reachable at all times while work is being done.

6. Cleaning the Work Area. The Rule describes specific final cleaning techniques for interior and exterior work after the renovation has been completed, to ensure that no dust, debris or residue remains.

7. Standards for post-renovation cleaning verification. The Rule states that after the renovation is complete and the renovation firm has cleaned the work area, a certified renovator has to complete a “Cleaning verification” The cleaning verification is simply a “white glove test” in which certified renovators are required to wipe down surfaces in the work area with a damp white cloth and compare it to a cleaning verification card provided by the EPA. If the color of the cloth matches or is lighter than the card, the surface is considered clean; if darker, the surface will have to be re-cleaned and then retested, with the process repeating until the cloth matches the card.

The cleaning verification will not be required to be completed only if the contract between the Client and certified renovation firm states that the renovation firm is to perform dust clearance sampling at the conclusion of a renovation, which are to be collected by a certified inspector, risk assessor or dust sampling technician.

For further information, please contact Patrick Guilmette at 732-751-0799 ext 6502 or pguilmette@birdsall.com, or check-out the following web site:

USEPA: www.EPA.GOV

“Renovate Right: Important Lead Hazard Information for Families, Child Care Providers, and Schools” and “Small Entity Compliance Guide to Renovate Right EPA’s Lead-based Paint Renovation, Repair, and Painting Program”

