

# **HIGHER GROUND: EPA lead paint rule requires certified renovators and work practice requirements**

By Harvey W. Berman

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On April 22, federal regulations will require that renovations of certain existing buildings be conducted by certified renovation firms, using renovators with accredited training, and following stringent new work practice requirements.

The new lead paint rule was issued in 2008 by the [Environmental Protection Agency](#) under the Toxic Substances Control Act and is now in its last phase of implementation. The 77-page rule is comprehensive and may apply to anyone that performs renovations of target housing or child-occupied facilities for compensation or dust sampling.

“Target housing” is defined as any housing constructed before 1978 except housing for the elderly or persons with disabilities (unless any child under age 6 resides or is expected to reside in such housing) or zero-bedroom dwellings. Target housing not only includes child-occupied facilities in residences but facilities in commercial and public buildings, subject to a few exceptions. The EPA estimates that more than 37 million facilities are affected by this rule.

## **Scope of rule**

The rule establishes requirements for:

- Training renovators, other renovation workers, and dust sampling technicians
- Certifying renovators, dust sampling technicians, and renovation firms
- Accrediting providers of renovation and dust sampling technician training
- Renovation work practices
- Record keeping

States may apply for and receive authorization to administer and enforce all of the elements of these new renovation requirements. Michigan has received authorization to do so through the Michigan Department of Community Health.

## **Lead Hazard Information Pamphlet**

The rule requires that the EPA's new lead hazard information pamphlet be provided by firms performing renovations for compensation to owners and occupants of target housing and

child-occupied facilities in commercial and public buildings and to the proprietor of child-occupied facilities before beginning renovations. There are additional distribution requirements for child-occupied facilities.

### **New Training Requirements**

The rule's new training requirements apply to "renovators," individuals who perform and direct renovation activities, and "dust sampling technicians," persons who perform dust sampling not pursuant to an abatement.

The training includes enrollment in an EPA-approved course and hands-on training. Trainers must be accredited by the EPA and the training program includes a rigorous set of requirements.

Persons fulfilling the training requirements will receive an EPA certification but must periodically take a refresher course to maintain the certification.

Click [here](#) for a listing of scheduled training courses.

### **Oversight by Certified Renovator**

Each renovation project covered by the rule must be performed and/or directed by an individual who has become a certified renovator. The certified renovator is required to perform or direct certain critical tasks during the renovation such as posting warning signs, establishing containment of the work area and cleaning the work area after the renovation. The actual work can be performed by workers who have been provided with on-the-job training in those activities by a certified renovator. However, the certified renovator must be physically on site when the above tasks are being performed.

Although a certified renovator does not have to physically be on-site while the project is ongoing, a certified renovator must regularly direct the work being performed by other workers to ensure that the work practices are being followed. Also, the certified renovator must be immediately available by telephone or other means and must perform a post-renovation cleaning verification.

### **Work Practice Requirements**

Comprehensive work practice requirements are contained in the rule. They pertain to warning signs and work area containment, the restriction or prohibition of certain practices (e.g. big heat gun, torch, power sanding, power planing), waste handling, cleaning, and post-renovation cleaning verification.

## **Concerns by Renovators**

Renovators are concerned about the impact of the rule including the cost of compliance with the rule and their exposure to liability as a result of the requirements of this rule. Questions have already arisen as to when a renovation project is exempt from this rule and whether a statement signed by the owner will allow the owner to opt out of application of the rule in certain situations. Contact your lawyer as to forms and contract terms to address these concerns.