

NEW EPA LEAD PAINT RULES FOR CONTRACTORS ARE YOU CERTIFIED?

With Fines up to \$37,500 per day, don't assume that this new law only applies to painting contractors.

If your company is a construction company (General Contractor, Painter, Carpenter, Drywall, Plumber, Electrician, HVAC, Window Installer, Stucco, Mason, Insulation, Tile, Glass or Glazier Contractor, etc.) who performs renovation, repair or painting projects that disturbs lead-based paint in homes or child occupied facilities, you must be trained, certified and follow specific work practices to prevent lead paint contamination. **Failure to comply by April 22, 2010 or to properly follow EPA procedures could result in fines up to \$37,500 per day of non-compliance.**

Prior to the 1978 ban, harmful lead-based paints were used in more than 38 million homes across the U.S. In 2008 the Environmental Protection Agency updated its rules to prevent poisoning from lead-based paint. Beginning April 22, 2010 these new rules will directly impact contractors. These will apply if the project affects more than 6 square feet of interior space or more than 20 square feet of exterior space.

To satisfy the new EPA requirements a contractor must attend the 8 hour certification course including a 2-Hour Hands-On Training. They must also follow the guidelines outlined by the EPA. The EPA estimates that between 200,000 and 250,000 contractors will need to be trained by April 22nd. Contractors with multiple construction sites may find it necessary to train and certify multiple employees.

The EPA is responsible for ultimate enforcement (unless the State applies for enforcement). However, they will work closely with local building inspectors to ensure compliance with the law. Should a building inspector determine that the contractor has not been certified or has not performed the proper procedures, they may inform the EPA. The EPA determines the penalty for non-compliance.

Litigation & Contractor Suits. Up to this point suits against contractors have been limited, but with lead safe work rules changing, such suits are now likely and will be based on the charge that the work done in the course of a renovation project disturbed lead-based paint, releasing toxic dust into the air, which was then not contained or cleaned and resulted in lead poisoning. Attorneys familiar with the lead issues believe that the number of lawsuits are likely to rise as homeowners become aware of the issue and as law firms that specialize in class action suits take note.

Insurance companies, which once covered damages caused by hazardous wastes such as mold and asbestos, had all but excluded such coverage from commercial general liability policies by the mid-1980s. While workers' compensation insurance will protect your own employees from lead poisoning, your general liability policy likely will not cover civil suits.

Furthermore, if a contractor fails to properly train their own employees, they could find themselves in litigation due to the employee exposure.

That leaves contractors who wish to be covered obliged to purchase pollution insurance as a separate policy. Pollution insurance covers damage done by mold, asbestos, and other toxic substances, including lead. Two or three years ago, it wasn't on the radar screen of either remodeling companies or those who insure them. Today an increasing number of insurers offer pollution policies. Contact your insurance agent to purchase a Pollution Policy.

EPA Lead Paint Certification Course will be held on Friday, March 26th at the Utah Builders Conference – Dixie Center - St. George. Pre-Registration is mandatory. Class is limited to 30 attendees. Contact the Utah HBA for registration information. 801-352-8266. Cost is \$325 per person and includes conference registration & meals.

Mark Hunter of Summit Risk Management contributed to this article as they are an approved trainer for the National Center for Healthy Housing to train contractors in the EPA Required training; Contact Mark at 801-671-2431. Segments of this article were taken from an article written on February 3, 2010 by Jim Cory of Replacement Contractor Online. For additional information visit the EPA Website: <http://www.epa.gov/lead/pubs/renovation.htm>