

New EPA Lead Rules to Impact Replacement Industry

Training and certification on lead-safe practices will be required for work on pre-1978 homes

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In April 2010, new Environmental Protection Agency rules go into effect requiring that contractors "take the proper precautions to work lead-safe, including minimizing the dust, containing the work area, and conducting a thorough cleanup to reduce the potential exposure associated with disturbing lead-based paint." The rules will affect companies doing window and door replacements, and failure to follow the practices could result in hefty fines.

Many replacement window dealers are still unaware of the new requirements, industry executives report. And many who are aware of the requirements are concerned about the costs involved and the potential impact on their businesses.

THE REQUIREMENTS The EPA issued the new rules and practices in April 2008. The first phase of the rules went into effect in December 2008, requiring contractors to provide owners, tenants and child-care facilities with a copy of EPA's lead hazard information pamphlet.

*A compliance guide for the new rules is available for **download** from the EPA Web site. The **Renovator and Trainer Tool Box** page on the site also provides further information on the new rules, forms, sources for training and a download of the *Renovate Right* brochure designed for contractors to provide to homeowners.*

The second phase, more stringent phase, goes into effect in April 2010, and mandates that contractors completing work on these pre-1978 properties be certified and follow specific work practices to prevent lead contamination, according to the EPA. There is still a question mark, however, concerning the extent of the requirements. When the lead-safe rules were issued in 2008, they applied to "contractors working in pre-1978 housing where children under six or pregnant women reside." In October 2009, EPA issued a rule "proposal" to expand such requirements to cover nearly all homes built before 1978. At this point, EPA says it will issue a decision on the proposal by April 2010, when the new rules go in effect.

Under the new lead-safe rules, contractors should take a lead-safe work practices training, and then be certified. On the job site, contractors should take several steps, including: provide a copy of EPA training certificate to the customer, tell the customer about the lead-safe methods, ask the customer for any previous lead test results, and keep records that show employee training in lead-safe practices, and the use of the practices on the job, according to the EPA. Contractors must apply for certification through the EPA.

INDUSTRY CONCERNS Contractors caught in violation of the rules could receive a penalty up to \$37,500 per day per violation, says Brian Zimmerman, executive vice president, Gorell Windows & Doors, a replacement window manufacturer based in Indiana, Pa. He says awareness should be a top priority for the window replacement industry at the moment. “We’ve been surprised at how few of our customers know about the rules. There are customers that have been at the forefront, handing out the pamphlets, getting certified. But, for other companies, smaller companies, or those that sub out the installations, you get the impression that they haven’t been handing out pamphlets, that they don’t know about the new rules,” he says.

Jim Lett, owner, A.B.E. Doors & Windows, a dealer based in Allentown, Pa., agrees. “Currently, we’re supposed to be handing out booklets with every job for a home built before 1978. Very few people are aware of the responsibility,” he says.

Lett, who attended the day-long lead-safe training and plans to send his employees to do the same, says the rules will add at least several hundreds of dollars to a job, because of increased time and materials needed to complete the lead-safe practices. “A contractor will need to send someone ahead of time to prep, move everything out the area, put the plastic down. We’ll have to put cones up, tape around the outside.”

EPA is also considering requiring third-party inspections, which would add \$500 to \$700 to verify that the space was cleaned correctly, Lett adds.

“Lead paint has health issues for people. We don’t want the EPA to back off on the legislation, but we do want to make sure that the legislation is realistic,” Zimmerman says. “These procedures could add a lot of cost and make some projects cost prohibitive for homeowners.”

The increased costs will not go over easily with homeowners, says Tom Higgins, owner, Superior Products Siding, Littleton, Colo. "This recession is a hardship on all families," he says. "I've never had a time where consumers are trying to find more reasons to not pay me on the back end of a job."

Lett says small jobs will likely be the most affected. "On a small job, just one or two windows, the cost is just \$500 installed," he says. "Homeowners aren't going to want to add several hundred more dollars to that. That is what's really burdensome, and I don't think the EPA realizes, and I don't think most contractors are aware that this burden is being placed on us."

Lett expects many homeowners to either forgo the project or find a contractor willing to take a chance and not follow the regulations. "That's a concern, that this is going to really affect the legitimate businessman," he says.

Higgins agrees. "There is no doubt in my mind that some contractors will ignore the [new rules]. It's already going on—people turn their back on asbestos," he says. On the other hand, he foresees some business owners will be tempted to avoid projects pre-1978 projects. "Closing contracts could be very difficult. I'm sure some businesses will work with homes only above 1978."

Zimmerman agrees, and says the new laws may provide an opportunity. "There will be companies that say, 'I don't want to go through expense, I don't want to make all installers certified.' They will avoid homes that are pre 1978," he says. "However, if you do go through the motions and get trained, you can have a niche there with decreased competition. It will be a good differentiator from the truck and ladder guy who hasn't kept up with regulations."

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