



## New Lead-Based Paint Removal Regulations and Certification Requirements as of April 22, 2010

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Pursuant to EPA federal regulations, beginning on April 22, 2010 individuals and contractors performing renovations, repairs, or painting activities in homes, child-occupied facilities, and schools built before 1978 must be certified and follow specific work practices to prevent lead-based paint contamination. (40 CFR §§ 745.81 - 745.91.) The new rules apply to renovations that would disturb more than six square feet of potentially contaminated lead-based surface in structures frequented by pregnant women or children under six.

### **STEPS FOR A CONTRACTOR FIRM TO BECOME CERTIFIED**

- The contractor (firm) must fill out an application and pay the applicable fee to the EPA. Visit <http://www.epa.gov/lead/pubs/firmapp.pdf> for the application.
- At least one person of the contractor firm must take a required training course. After completion of the training, the person will become certified as a "Certified Renovator." This person will be responsible for training other employees within the firm, overseeing the work procedures and follow-up cleaning upon completion of the renovation. Information regarding local training programs can be obtained at [http://cfpub.epa.gov/flpp/searchrrp\\_training.htm](http://cfpub.epa.gov/flpp/searchrrp_training.htm). The certification is good for both the contractor firm and the Certified Renovator for five years. To remain certified, the Certified Renovator must take a four-hour refresher course before the five year expiration date.

### **LEAD SAFE WORK STANDARDS AFTER CERTIFICATION**

Notably, after proper certification, there are many requirements that must be met before and during a renovation project. A few of the lead safe work standards required are listed below, but it should be noted that this list is not all inclusive and you should contact an attorney for further details.

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#### **PRACTICE AREAS**

Construction Law

Landlord-Tenant

Real Estate Law

Real Estate Litigation



- Before completing any renovation project of a residential building, child-occupied building or school built before 1978, the contractor must provide the owners, tenants, and/or child-care provider with a copy of the EPA pamphlet, *The Lead-Safe Certified Guide to Renovate Right*. A copy of the pamphlet can be obtained at <http://www.epa.gov/lead/pubs/renovaterightbrochure.pdf>.
- Contractors should memorialize the disclosure of the pamphlet listed above by having the owner, tenant, and/or child-care provider execute a Pre-Renovation Disclosure Form. A sample form can be obtained at <http://www.epa.gov/lead/pubs/pre-renovationform.pdf>.
- All records regarding compliance for each project must be retained for a minimum of three years.
- Additional work safe standards include:
  - Post warning signs before work begins.
  - Refrain from using certain work tools, such as open flame or torch burning tools, heat guns exceeding 1100 degrees, etc.
  - Perform specific cleaning and waste disposal procedures that must be followed once the renovation is completed.

#### **PENALTIES FOR NON-COMPLIANCE**

In the event the EPA regulations are not complied with, penalties may be assessed. The penalties may include civil and criminal sanctions. The EPA is authorized to seek penalties upwards of \$32,500.00 per violation, per day.

Therefore, the best practice is to have at least one person of the contractor firm complete the required training and become a Certified Renovator. The certification requirements are not that tedious, proper certification will likely be required for many future projects, and the potential penalties are too significant to risk incurring.

Foster, Swift's team has years of experience in handling compliance with federal regulations. Please let us know if you would like Foster, Swift, Collins & Smith, P.C. to help with any questions you may have regarding compliance with the new lead-based paint regulations.