Getting the Lead Out Is a New Business Opportunity

By James J. Fradenburg, Esq.

The United States Congress has just created a new business opportunity for remodelers by making lead abatement a new legislative priority. Apart from asbestos standard headaches, remodelers need to become qualified for a new target market.

The new federal Lead Exposure Reduction statute is concerned with three types of hazards: lead-based paint, lead-contaminated dust and lead-contaminated soil. The lead-based paint hazard deals with the removal of lead-based paint found on accessible surfaces in buildings that have deteriorated paint. These new regulations will have a significant impact on future remodeling and rehabilitation projects that involve both public and private buildings. The lead abatement standards will be important to many trades, including general contractors, renovators, demolishers and paint suppliers.

Congress has put the Environmental Protection Agency in charge of creating the specific regulatory structure for implementing the general provisions of the statute. The congressional scheme expects to bring the EPA, the Housing and Urban Development Administration and the Occupational Safety and Health Administration together to cooperatively administer the lead abatement regulations.

NEW JOB OPPORTUNITIES

Lead abatement is a new industry that will rival asbestos abatement in terms of volume. General contractors and subcontractors who engage in renovation or demolition need to become certified and market their services accordingly.

The EPA will create training courses for lead abatement contractors. In addition to that, the Secretary of Health and Human Services, whose office supervises HUD and OSHA administration, will also be involved in drafting and coordinating the lead abatement regulations. The training courses will have two branches: residential and public housing, and steel structures. This division recognizes the different skill requirements for lead abatement in such structures. The EPA recently published its regulations and training course guidelines in the Federal Register, which is available from the Government Printing Office in Washington, D.C.

Construction firms that can comply with the training and skill requirements of the new regulations will have a competitive edge against bidders without the same ability to comply. This will be true for both public and private jobs. The statute has incentives for states to develop accredited lead abatement training and certification programs. HUD is expected to provide $90 million to state and local governments to subsidize the reduction of lead hazards in private housing, although states will have to implement certified training programs before they can qualify for any of the federal money.

The training programs will require the accreditation of instructors, a training curriculum, training hour requirements, hands-on training requirements, trainee competency and proficiency requirements, and training program quality control measures. The EPA is
expected to pattern the lead abatement standards after the asbestos standards already implemented. The training and certification programs will be similar in operation. Although the hazards are different, administration of lead and asbestos abatement programs should be roughly the same for contractors’ purposes.

**HELP IS ON THE WAY**

Lead-contaminated dust, the second hazard addressed by the statute, is surface dust that comes off surfaces with lead-based paint. Lead-contaminated soil, the third identified hazard, refers to the lead levels in soils at residential real properties that exceed the levels to be identified as hazardous by EPA regulations. This quantitative measure will be used in all aspects of the lead abatement regulations. The EPA will be responsible for determining what level of lead contamination in a particular building is acceptable and what level is to be considered a hazard requiring abatement by contractors under the regulations.

The statute identifies “target housing” as any housing constructed before 1978 that will require lead abatement procedures. Exceptions will be made for elderly and handicapped housing and zero-bedroom dwellings. If a state banned the use of lead-based paint prior to 1978, then the HHS Secretary has the discretion to designate an earlier cut-off date for “target housing” in that state.

The EPA, in consultation with HUD and OSHA, will publish and distribute an information pamphlet sometime after October of this year. The pamphlet will have general information, which will be extremely useful to contractors who work in this area and want to become certified contractors.

The pamphlet will contain information on the health risks that lead-based paint hazards cause, as well as the risks involved in the renovation and removal of such materials. It will also recommend that a risk assessment or inspection for lead hazards be conducted prior to the purchase, lease or renovation of “target housing” or suspected commercial structures. This means that every time property is sold, there may be a business opportunity for a remodeler who can comply with the lead abatement regulations. The pamphlet will advise the reader how to obtain a list of certified contractors, and that certain state and local laws may impose requirements in excess of the federal requirements.

Remodelers need to become certified contractors and indicate their special status to owners, architects and general contractors in competitive bidding situations.

**About the Author**

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