

Cloud of controversy over new lead rules

Removal regulations a big step for safety, but at a high cost

By Jenifer B. McKim, Globe Staff | March 6, 2010

Homeowners, landlords, schools, and child-care centers could pay significantly more for repairs and renovations of buildings once strict federal regulations aimed at reducing the risk of lead poisoning in children take effect next month.

The Environmental Protection Agency's rules, which apply to buildings built before 1978, are intended to reduce the amount of lead paint dust created by projects even as modest as a window replacement or a paint job that covers as little as 6 square feet in a room. Although there are no definitive projections on how much the requirements will add to the price of renovation work, members of the National Association of Homebuilders estimate it at between \$500 and \$1,500 for projects costing more than \$5,000, according to an official of the Washington, D.C., trade group. The EPA says the additional expense may be as low as \$35 a job.

Environmentalists and health advocates called the new regulations long overdue, saying they reinforce decades-old laws that protect children from living in homes known to have lead paint. In Massachusetts, homeowners and landlords are required to remove or cover lead paint hazards in homes built before 1978 and whose occupants include children under 6 years old. But remodeling and repair work had not been similarly regulated. The new regulation applies to all homes, even those without children living in them.

Lead dust is considered a major cause of childhood lead poisoning, which even at low levels can cause learning disabilities and behavioral problems.

About 30 percent of childhood lead poisoning cases in Massachusetts involve dust stirred up by renovation work, according to the state Childhood Lead Poisoning Prevention Program. That means about 245 of 816 children who tested for elevated lead levels last year were poisoned at least partly because of building projects, according to state data. Lead poisoning is often called a "silent epidemic" because children may show no obvious symptoms, although the toxins diminish their ability to think and sit still. Higher levels of lead can cause stomachaches, cramping, and even death. Poisoning may also come from other sources, including lead in toys, imported candies, or water.

"There's been some fairly horrible incidents of kids who have been poisoned because of remodeling in their houses," said Caroline Cox, research director for the Center for Environmental Health, a nonprofit in California that focuses on reducing chemical poisoning. "These regulations are way overdue."

The rules that go into effect April 22 require contractors to be EPA-certified and follow specific work practices to prevent contamination, including covering floors

with plastic sheeting, dressing workers in protective clothing, and carefully disposing of tainted debris. They must also test for surface contaminants when the work is finished and keep records that document their efforts and confirm the absence of lead-based paint. Violators could be fined as much as \$37,500 per day per incident.

In general, tradesmen - including painters, plumbers, and carpenters - who are paid to perform work that disturbs paint in housing and child-occupied buildings are subject to the rules. Homeowners who do their own work are exempt.

But less than two months before the regulations go into effect, many questions remain about enforcement, public awareness, and the rules themselves. While the EPA estimates that 236,000 renovators nationwide need to be trained in new practices, only 431 in Massachusetts and 14,000 across the country have taken the required one-day certification course offered by EPA-accredited trainers.

Contractors say they are scrambling to learn about the new rules. Many worry about how the changes will affect their businesses, which already are suffering because of the anemic housing market.

Some complain the rules are excessive and nonsensical, while others say the EPA has failed to carry out a widespread education campaign to increase awareness of the requirements.

"There are a lot of very unhappy remodeling contractors," said Bradford Campbell, executive director of the Home Builders and Remodelers Association of Western Massachusetts. With the economy already lagging, Campbell said, "we just don't need these kinds of challenges."

EPA officials say they have tried to educate contractors through mass mailings and conference presentations. Over the next few weeks, the agency is planning advertisements in trade magazines and public service announcements in 10 cities, not including Boston.

Meanwhile, state officials say they will request permission to enforce and administer the federal rules. Laura M. Marlin, commissioner of the Massachusetts Division of Occupational Safety, said that makes sense because the state already enforces federal lead-painting and asbestos standards. The federal government often grants states such regulatory authority. Marlin said the state is examining the federal rules and would propose similar, but not identical stipulations. If the federal government agrees, it would allow for fines of up to \$5,000 per violation, she said.

Health advocates say contractors shouldn't be surprised by the tough new rules, which are the result of a 1992 law that directed EPA to ensure that renovators are properly trained in lead-safe work practices. After years of delay, the federal

agency carried out a “dust study” to determine what activities create dust and in 2008 published the regulations that take effect next month.

Officials from the National Center for Healthy Housing, a Maryland nonprofit that works to create safe homes for children, said they hope contractors don’t use the economy as an excuse to balk at compliance with requirements that have been in the works for 18 years. While the number of lead-poisoned children has decreased significantly over the last 40 years as public awareness of the issue has grown, tens of thousands of children are still affected each year. About 250,000 US children between the ages of 1 and 5 have elevated blood lead levels, according to the US Centers for Disease Control and Prevention.

“A bad economy is not a good excuse to poison children,” said Rebecca Morley, executive director of the center. “We know the long term ramifications of lead poisoning.”

Some contractors, like Andrew Crane of Chicopee, fear homeowners will turn to unlicensed workers rather than pay higher costs for companies who follow the federal rules. Crane hopes the government, be it federal or state, strictly enforces the regulations so he won’t be priced out of even simple jobs by unscrupulous competitors. He predicted the regulations would add as much as 20 percent to the cost of work. For example, he said, a \$350 window replacement might cost \$70 more.

“Most homeowners are not going to know the regulations, nor do they care. They mostly look at numbers,” said Crane, owner of A-Crane Construction Co. “Only the good contractors get penalized for following the rules.”

Greg Antonioli, an Arlington contractor, said the new rules mandate an excessive use of plastic and force workers to wear booties on plastic sheeting, which he considers a safety hazard because it makes floors slippery. Antonioli said his firm, Out of the Woods Construction and Cabinetry Inc., takes precautions to control lead-tainted dust by putting down reusable, rubber-backed felt carpet he later cleans, and by using a negative air pressure fan to filter air. He plans to take advantage of the regulations to promote his company’s record of sophisticated safety practices.

“I plan to leverage it to differentiate me from other companies. I am an opportunist.”

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