

New Federal Lead Rule Around the Corner

By Harold Shultz



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Read the July 2008 Inside Edge
EPA's New Layer of Lead Paint Rules

Citizens Housing & Planning Council

42 Broadway, Suite 2010
New York, New York 10004
Tel: 212-286-9211
Fax: 212-286-9214
Email: info@chpcny.org

This is part of a series of CHPC briefings examining current issues of importance to the NYC housing and community development industries.

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Seventeen years after the passage of the federal *Residential Lead-Based Paint Hazard Reduction Act of 1992*, the final pieces of the implementing regulations are about to go into effect. As set forth in a prior *Inside Edge* (July 2008, *EPA's New Layer of Lead Paint Rules*), unless action is taken by the New York City Council and the relevant city agencies this will result in a new level of confusion and complexity in New York City.

These rules were issued by the US Department of Environmental Protection (EPA) in April of 2008. They govern the precautions that must be taken by homeowners, owners of rental housing, and contractors with regard to the renovation and repair of pre-1978 private housing that has, or is assumed to have, lead-based paint.

This new federal regime for renovation and repair will become layered on top of New York City's Local Law 1 of 2004 (LL1) which, among other things, also covers the treatment of lead paint in the renovation and repair of pre-1978 apartments housing a child under 6 years old.

While there are many similarities between the two regulatory schemes, in a number of important respects LL 1 and the new EPA rules specify different ways of dealing with similar situations. Attempting to figure out which set of rules apply will often be confusing.

The new federal rules are scheduled to go into effect on April 22, 2010.

Planning for the New Rules

The federal rules have provided a 24 month staged preparation to the final implementation in April 2010. However,

within New York City nothing has been done to try to reconcile the conflicts that we pointed out in July 2008, or even to explain the differences between the two set of requirements.

This is particularly important in the context of treatment of lead paint issues. Both the federal and the city schemes are complex and highly technical. Compliance with either of them is not a simple task. To achieve the primary objective of getting owners to comply with lead paint requirements to protect young children, they must first be understandable.

What to Do

New York City needs to do one of two things:

Ideally, the City Council should act immediately to conform local law to the federal standard.

If the Council does not act in a timely manner, the NYC Department of Health and Mental Hygiene and the NYC Department of Housing Preservation and Development, should provide immediate guidance so that all owners of multi-family buildings, homeowners, tenants, and other affected parties are aware of how the two laws work together.

Failure to act will mean that implementation of the new federal rules within New York City will be marked by confusion.

This brief was written by Harold Shultz, Senior Fellow. E-mail any questions to hshultz@chpcny.org

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