

MEMORANDUM

TO: Mike Porta
Assistant Chief, Air Division

THROUGH: Ellen Carpenter
Chief, Legal Division

FROM: Deborah Pitts
Attorney, Legal Division

DATE: October 12, 2005

RE: Analysis Of Proposed Changes For Regulation 25, Lead-Based Paint-Hazard
Regulation Pursuant To Executive Order 05-04

1. Executive Order 05-04 requires a determination on whether or not the proposed rules will affect small business.
2. The proposed changes for Regulation No. 25 include the following:
 - a. Changes in Chapter One, Section 25.102 :
 - (1.) Deleting the definitions of target housing and child-occupied facilities which are also defined in Chapter Two of the Regulation;
 - (2.) Making the list of lead-based paint activities conform to the list in Section 25.801 by adding lead-hazard skills;
 - b. Changes in Chapter Three, Section 25.305(C) and Chapter Four, Section 25.409(C) to conform to Ark. Code Ann. § 8-1-106(b)(1) by adding language which requires the completion of a disclosure statement and payment of an applicable fee;
 - c. Changes to conform to provisions of the Code of Federal Regulations, 40 CFR 745, Subpart L, Lead-Based Paint Activities which involve the following:
 - (1.) Changing the Title of Regulation No. 25 to Lead-Based Paint Activities Regulation;
 - (2.) Adding definitions to Chapter Two;
 - (3.) Adding language to Section 25.402(B) to require risk assessors to successfully complete a licensed inspector training course;
 - (4.) Adding language to Section 25.404 to require project designers to successfully complete a licensed supervisor training course;
 - (5.) Adding language to Section 25.801 listing instances in which the work practice standards do not apply;
 - (6.) Adding language to Section 25.804 to require additional testing for the presence of lead under certain circumstances;
 - (7.) Adding language to Chapter Eight as follows:
 - (a.) to list the conditions which identify the presence of any of the following: lead-based paint, a paint-lead hazard, a dust-lead hazard, and a soil lead hazard;

- (b.) to add a new section on recordkeeping;
 - d. Changes to Chapter Four to remove sections which imposed the January 1, 1999 deadline and involve the following:
 - (1.) Deleting Section 25.401(A)(3) and deleting and reserving 25.405 regarding certification based upon prior training;
 - (2.) Deleting language in Section 25.403 regarding requirements for applicants for certification.
3. Executive Order 05-04 exempts from the required analysis rules that substantially codify existing state or federal law.” Each substantive change proposed in the rulemaking codifies existing state or federal law as outlined above therefore this rulemaking should be exempt from the analysis required in Sections 3 through 5 of Executive Order 05-04.