

EPA's
Renovation, Repair,
and Painting Rule:
Responsibilities for
Real Estate Professionals
Who Manage Property

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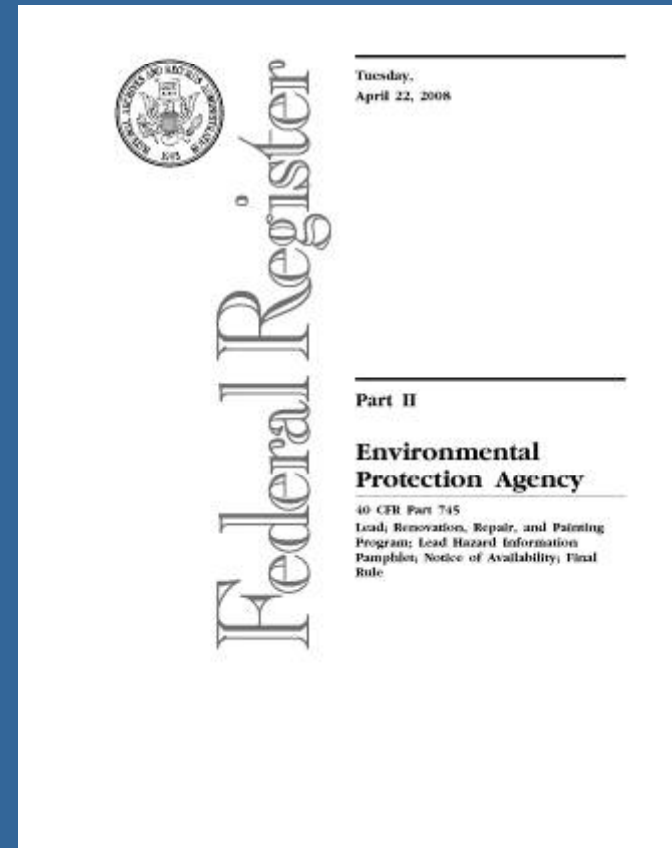
Agenda

- Why is Environmental Protection Agency's (EPA) Renovation, Repair, and Painting (RRP) rule important?
- Is there a way out of the rule?
- Should you become a "certified renovation firm"?
- Next steps
- Test your knowledge



Basics of RRP Rule

- Effective April 22, 2010
- Applies to pre-1978:
 - Target Housing (same as disclosure rule)
 - Child-occupied facilities
- Triggers:
 - Compensation
 - Paint disturbance (a/k/a renovation)
- 40 CFR 745.80 to 745.91
- April 22, 2008 *Federal Register*



Impacts of RRP Rule

- 8.4 million renovation events annually
 - Impact may drop to 4.4 million events
- Requires certification of:
 - 210,000 renovation firms by EPA after October 22, 2009
 - 235,000 individuals by accredited trainers after April 22, 2009
- Estimated by EPA to add \$35 per job

Why Now?

- Final major rule from the Residential Lead-based Hazard Reduction Act of 1992
- Congress required rule to be finalized in 1996
- Still to come:
 - Public buildings built before 1978
 - Commercial buildings that create lead-based paint hazards

Lead-based Paint Rules

EPA/HUD Lead Disclosure Rule – 1996

Sale or lease of target housing

EPA Renovation, Repair, and Painting (RRP) Rule – 2010

Renovation of target housing or child-occupied facility

Hazard Standards – 2001

Lead in paint, dust, and soil

Lead-based Paint Activities Rule – 1996

Standards for:

- Abatement
- Risk assessment
- Lead inspection

EPA Pre-renovation Education Rule – 1999 and 2008

HUD Lead-safe Housing Rule – 1999

Federally-assisted Housing

OSHA Construction Standard - 1992

EPA Resources



- www.epa.gov/lead
- www.epa.gov/lead/pubs/renovation.htm

Also www.hud.gov/lead

So What Will Change?

- “Certified Renovation Firm” Disturbs Paint
 - EPA or State Certification (after 10/22/09)
 - Fees and five-year renewal
- “Certified Renovators” Supervise Work
 - One-day training (after 4/22/09)
 - Five-year renewal
- Mandatory Work Practices
 - Isolate work area
 - Contain dust
 - Thoroughly clean-up work area for debris and dust
- Post-renovation Cleaning Verification
- Documentation!

A New Booklet

Only for Leases and Sales of Target Housing

For Renovations in Target Housing and Child-occupied Facilities



**Protect
Your
Family
From
Lead In
Your
Home**



EPA United States Environmental Protection Agency

United States Consumer Product Safety Commission

United States Department of Housing and Urban Development



Role of Real Estate Professionals

As real estate agent:

- Arranging for renovation contractor
- Providing names of renovation contractor
- Providing guidance to clients
- Manage a few homes

As owner or property manager:

- Contracting for renovation contractor
- Conducting renovation

Questions

Is there a way out of the rule?

Scope of RRP Rule

“Applies to all renovations performed for compensation in target housing and child-occupied facilities.” 40 CFR 745.80



Major Exclusions

- House built in 1978 or later
- Not target housing or child-occupied facility
- Risk assessor or lead inspector has determined where lead-based paint is present and you avoid it
- Perform only minor repair and maintenance work
 - Minor is based on amount of paint disturbed.
- Do-it-yourself – no compensation
 - Realistically only applies if tenant does work on tenant's unit.
- Owner-occupied and no children and no pregnant women live there

Minor Repair and Maintenance

- Disrupt six square feet or less of painted surface per room for interior activities, or
- Twenty square feet or less of painted surface for exterior activities where:
- **Always covered by rule:**
 - Using prohibited/restricted work practices
 - Conducting:
 - Window replacement, or
 - Demolition of painted surface areas
- **Count:**
 - Entire surface area removed
 - Work in same room within 30 days

Do You Have Lead-Based Paint?

	Percent of Housing Units ¹ Without Lead-based Paint ²		
Age	Interior	Exterior	Anywhere
Before 1940	21%	28%	13%
1940 to 1959	54%	41%	31%
1960 to 1977	84%	87%	76%
1978 to 1998 ³	96%	97%	93%

1. Housing units includes rental and owner-occupied housing
2. Lead-based paint is paint with more than 1 mg of lead per square centimeter
3. Housing built after January 1, 1978 not covered by rule

What is a Lead Inspection?

- “Surface-by-surface investigation to determine the presence of lead-based paint.”
- Must be performed by a EPA or state certified “lead inspector” or “lead risk assessor”
- Lead inspector will typically use an x-ray fluorescence (XRF) device to quickly measure lead in paint and document results.
- Report must be disclosed to tenants when lease is signed or renewed unless the inspection finds no lead-based paint is present.
- Cost: \$500 to \$5000 are common

Questions

Should You Become a “Certified Renovation Firm”?

Merits of Becoming Certified

Advantages:

- More flexibility to respond quickly to non-emergencies
- Less dependent on contractors
- Better able to supervise contractors
- More flexibility with specialty contractors

Disadvantages:

- EPA / state certification
- Supervisors as “certified renovators”
- Renovators must:
 - Train workers
 - Be on-site for key steps
 - Conduct post-cleaning verification
- Documentation & paperwork

Emergency Renovation Exclusion

- Emergency Renovation:
 - Sudden, unexpected event
 - If not immediately attended to:
 - Presents a safety or public health hazard; or
 - Threatens equipment and/or property with significant damage
- However, you **MUST** still follow:
 - Cleaning requirements,
 - Cleaning verification
 - Recordkeeping
- Exempt from:
 - Information distribution
 - Warning signs
 - Containment
 - Waste handling
 - Training
 - Certification
- *But only to extent necessary to respond to emergency*

Other Considerations

- Lead-based paint inspection to narrow when situation when certified renovation firm is required
- Availability of certified renovation firms after April 22, 2010 when rule goes into effect
- Confidence that supervisors and/or contractors will get it right – right away
- Option to centralize work initially
- Managing paperwork in existing work order system
- Handling specialized contractors

Liability Concerns

- EPA penalty of up to \$32,500 per day per violation
- However...

How does the rule change your liability?

Questions

Next Steps

Next Steps to Consider

- Consider lead inspection especially for property built between 1960 and 1978
- Send maintenance supervisor to Certified Renovator Training after April 22, 2009
- Review pre-renovation notification compliance
- Shift to new work practices
- Prepare key contractors
- Update work order system



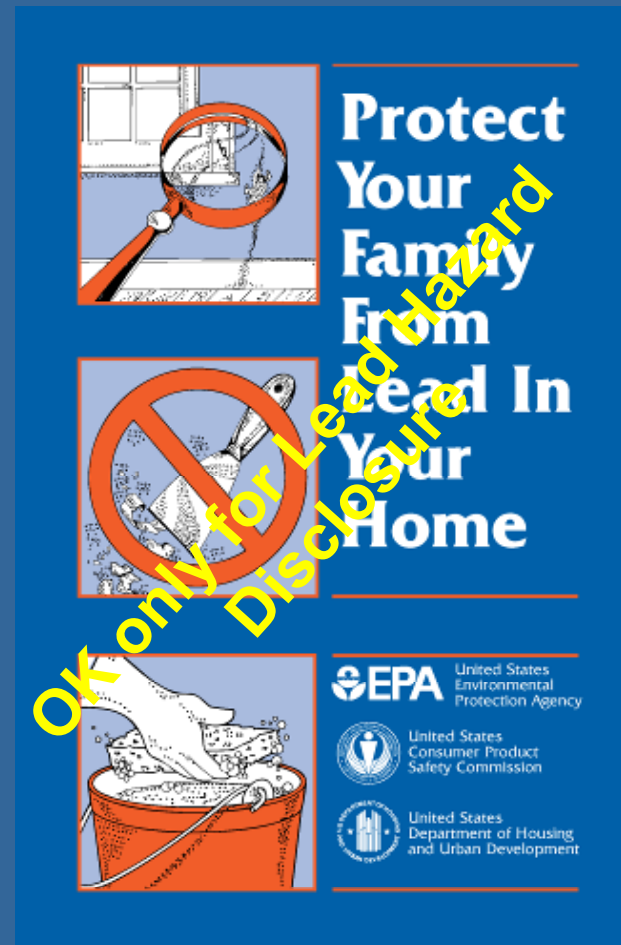
Pre-renovation Notification

- Contractor pre-renovation notification rules changed
 - New *Renovate Right* pamphlet must be used after 12/22/08
 - Created simplified procedure for common areas
 - Child-occupied facilities must also comply
- Signed form for owner and occupants



Pre-renovation Notification

- *Protect Your Family from Lead in Your Home* pamphlet
 - MUST NOT be used for pre-renovation notification after December 22, 2008
 - Still MUST be used for Lead Hazard Disclosure in sales and leases.



Phase-in Work Practices

Certified Renovator must:

- Use plastic to cover
 - o Floor
 - o Windows and doors
 - o Ducts
 - o Extend 6' beyond inside and 10' outside
- Seal plastic at edges
- Use HEPA vacuum for cleanup



Phase-out Work Practices

Contractor must NOT:

- Use prohibited/restricted work practices:
 - Open-flame burning or torching
 - Machines to remove paint through high-speed operation without HEPA exhaust control
 - Operating a heat gun at temperatures at or above 1100° F
- Let residents into work area
- Let dust or debris leave work area



Check Post-renovation Condition

- No visible dust, debris, or residue in or below the work area
- Must conduct Post-renovation Cleaning Verification
 - Also known as the “White Glove Test”
 - Comparison to Cleaning Verification Card
 - Two wet wipes and one dry wipe if not clean
- Option to use Dust Wipe Test as an alternative

Questions

Test Your Knowledge

1. What do you have to disclose to future buyers and sellers:
 - Lead Risk Assessment
 - Lead Inspection
 - Lead Dust Wipe Results
 - Spot Test Kit Results
 - “White Glove” Results

2. You run out of the *Renovate Right* booklets. Can you:
 - Make a black and white copy of it?
 - Use *Protect Your Family from Lead* pamphlet instead?

3. Can you give annual notice to tenants of renovations for remainder of year?

4. If you are simply painting over intact paint, are you covered by the rule?

5. Can a tenant do the work on their own residence without a certified renovator?

6 Do you have to follow the rule if you are disturbing more than six square feet of interior paint in an extension you added in 1990?

7. Do you have to comply with the EPA RRP rule if you are already covered by the HUD Lead-safe Housing Rule?

For more information, contact

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