

EPA Lead-Based Paint Renovation, Repair, and Painting Program

By

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The EPA Lead-Based Paint Renovation, Repair, and Painting Program (RRP) takes effect nationally April 22, 2010. The program is a federal regulatory program affecting contractors, property managers, workers, and others whose work involves disturbing painted surfaces. The program applies to residential houses, apartments, and child-occupied facilities such as schools and day-care centers. The program applies solely to buildings built prior to 1978. All paint prior to 1978 is assumed to be lead-based paint. The program includes pre-renovation education requirements as well as training, certification, and work practice requirements. Training, certification, and work practice requirements become effective April 22, 2010. As of that date “firms are required to be certified, their employees must be trained in the use of lead-safe work practices, and lead-safe work practices that minimize occupants’ exposure to lead hazards must be followed. Renovation is broadly defined as any activity that disturbs painted surfaces and includes most repair, remodeling, and maintenance activities, including window replacement. In general, any activity that disturbs paint in pre-1978 housing and child-occupied facilities, including:

- Remodeling and repair/maintenance
- Electrical work
- Plumbing
- Painting
- Carpentry
- Window replacement ” ¹

Pre-renovation education requirements refer to items to be completed before the renovation begins including:

“Pre-renovation education requirements - Effective now.

- In housing, you must:
 - Distribute EPA’s lead pamphlet to the owner and occupants before renovation starts.

- In a child-occupied facility, you must:
 - Distribute the lead pamphlet to the owner of the building or an adult representative of the child-occupied facility before the renovation starts.
- For work in common areas of multi-family housing or child-occupied facilities, you must:
 - Distribute renovation notices to tenants or parents/guardians of the children attending the child-occupied facility. Or you must post informational signs about the renovation or repair job.
- Informational signs must:
 - Be posted where they will be seen;
 - Describe the nature, locations, and dates of the renovation; and
 - Be accompanied by the lead pamphlet or by information on how parents and guardians can get a free copy (see page 31 for information on obtaining copies).
- Obtain confirmation of receipt of the lead pamphlet (see page 23) from the owner, adult representative, or occupants (as applicable), or a certificate of mailing from the post office.
- Retain records for three years.
- *Note:* Pre-renovation education requirements do not apply to emergency renovations. Emergency renovations include interim controls performed in response to a resident child with an elevated blood-lead level. ^{“2}

The impact on companies and contractors installing impact resistant windows is apparent; firms and renovators (i.e. contractors and workers) will require the EPA certification. The certification consists of attending an eight hour course conducted by an EPA certified provider.

For the installation of exterior devices such as shutters or panels, or for other work on existing buildings, the application is not clearly stated. The contractor will need to consider whether or not her or his work is disturbing more than 20 square feet of the exterior of the building. It would appear in most cases the installation of hurricane protection would exceed 20 square feet and the requirements would apply.

The rule contains exclusions including minor repair and maintenance activities that disturb 6 square feet or less of paint per room inside, or 20 square feet or less on the exterior of a home or building. Regarding windows, the rule contains a note specifically stating window replacement and projects involving demolition or prohibited practices are not considered minor repair and maintenance activities.

Effective April 22, 2010, the following training, certification, and work practice requirements must be met:

- “Firms must be certified.
- Renovators must be trained.
- Lead-safe work practices must be followed. Examples of these practices include:
 - Work-area containment to prevent dust and debris from leaving the work area.
 - Prohibition of certain work practices like open-flame burning and the use of power tools without HEPA exhaust control.
 - Thorough clean up followed by a verification procedure to minimize exposure to lead-based paint hazards.”³

The responsibilities of the certified firm include:

“Firms performing renovations must ensure that:

1. All individuals performing activities that disturb painted surfaces on behalf of the firm are either certified renovators or have been trained by a certified renovator.
2. A certified renovator is assigned to each renovation and performs all of the certified renovator responsibilities.
3. All renovations performed by the firm are performed in accordance with the work practice standards of the Lead-Based Paint Renovation, Repair, and Painting Program (see the flowchart on page 9 for details about the work practice standards).
4. Pre-renovation education requirements of the Lead-Based Paint Renovation, Repair, and Painting Program are performed.
5. The program’s recordkeeping requirements are met. “⁴

The responsibilities of the certified renovator include:

“Certified renovators are responsible for ensuring overall compliance with the Lead-Based Paint Renovation, Repair, and Painting Program’s requirements for lead-safe work practices at renovations they are assigned. A certified renovator (see the flowchart on page 9 for details about the work practice standards):

1. Must use a test kit acceptable to EPA, when requested by the party contracting for renovation services, to determine whether components to be affected by the renovation contain lead-based paint (EPA will announce which test kits are acceptable prior to April 2010. Please check our Web site at www.epa.gov/lead).
2. Must provide on-the-job training to workers on the work practices they will be using in performing their assigned tasks.
3. Must be physically present at the work site when warning signs are posted, while the work-area containment is being established, and while the work-area cleaning is performed.
4. Must regularly direct work being performed by other individuals to ensure that the work practices are being followed, including maintaining the integrity of the containment barriers and ensuring that dust or debris does not spread beyond the work area.
5. Must be available, either on-site or by telephone, at all times renovations are being conducted.
6. Must perform project cleaning verification.
7. Must have with them at the work site copies of their initial course completion certificate and their most recent refresher course completion certificate.
8. Must prepare required records.”⁵

The rule also states the training, certification, and work practice requirements do not apply where the firm obtains a signed statement from the building owner attesting to the following:

- “The renovation will occur in the owner’s residence;
- No child under age 6 resides there;
- No woman who is pregnant resides there;
- The housing is not a child-occupied facility; and
- The owner acknowledges that the renovation firm will not be required to use the work practices contained in the rule.”⁶

One final issue of interest is the EPA definition of child-occupied facility:

” ... Under this rule, a child-occupied facility is a building, or a portion of a building, constructed prior to 1978, visited regularly by the same child, under 6 years of age, on

at least two different days within any week (Sunday through Saturday period), provided that each day's visit lasts at least 3 hours and the combined weekly visits last at least 6 hours, and the combined annual visits last at least 60 hours. Child-occupied facilities may be located in public or commercial buildings or in target housing. ..."⁷

The penalty for violation of the rule may be a fine up to \$32,000.00 per day per violation. While the EPA has policies to make certain penalties are calculated fairly, there is considerable authority granted the agency to ensue enforcement. There is no known plan for enforcement inspections; however, the EPA is committed to saving children from lead-based paint. The contractor or firm involved in the work will have to decide if they are willing to risk the penalty for doing such work in violation of the rule as opposed to spending the time to become certified and do the work in accordance with the rules.

¹ Small Entity Compliance Guide to Renovate Right — EPA's Lead-Based Paint Renovation, Repair, and Painting Program, United States Environmental Protection Agency Office of Pollution Prevention and Toxics, EPA- 740-F-08-003, December 2008, p.2.

² Ibid, p.3.

³ Ibid.

⁴ Ibid, p.5.

⁵ Ibid.

⁶ Ibid, p.3.

⁷ 40 CFR Part 745 [EPA-HQ-OPPT-2005-0049; FRL-8355-7] RIN 2070-AC83 Lead; Renovation, Repair, and Painting Program AGENCY: Environmental Protection Agency (EPA). ACTION: Final rule.