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## Federal Lead-Based Paint Renovation Rule

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The following questions and answers about the Federal Lead-Based Paint Renovation Rule (Lead Renovation Rule) are derived from a number of United States Environmental Protection Agency (EPA) documents. They are not intended to cover all aspects of this rule. For a thorough well-organized discussion of the relevant EPA regulations, please refer to the EPA's Web site at <http://www.epa.gov/lead/>. The EPA amended prior regulations at 40 CFR part 745, subpart E, to add training and certification requirements as well as work practice standards which will be effective April 22, 2010.

### **Q 1. What is the Lead-Based Paint Renovation Rule (Lead Renovation Rule)?**

**A** The Lead-Based Paint Renovation Rule (Lead Renovation Rule), which implements section 406 (b) of the Toxic Substances Control Act (TSCA found at 15 U.S.C. 2601 *et seq.*), is a rule affecting construction contractors, residential landlords, property managers and others who perform renovation for compensation in housing that may contain lead-based paint--housing built before 1978. Renovation includes most repair, remodeling and maintenance activities that disturb painted surfaces.

No more than 60 days prior to commencing the renovation, renovators must give to the owner or occupant of the dwelling the EPA pamphlet, "Renovate Right: Important Lead Hazard Information for Families, Child Care Providers and Schools," found at <http://www.epa.gov/lead/pubs/renovaterightbrochure.pdf>. The renovator must obtain written acknowledgment that the owner or occupant has received the pamphlet

The rule also establishes requirements for training renovators, other renovation workers, and dust sampling technicians; for certifying renovators (and others); for accrediting providers of renovation training; for renovation work practices; and for recordkeeping.

(See 15 USC § 2686 (b). For the final rule, see 40 CFR Part 745.)

### **Q 2. What buildings are covered by the Lead Renovation Rule?**

**A** The Lead Renovation Rule applies to "target housing" which is defined in Section 401 of the TSCA as any housing constructed before 1978, except housing for the elderly or persons with disabilities (unless any child under age 6 resides or is expected to reside in the housing) or any zero-bedroom dwelling. The requirements of the rule apply to renovations performed for compensation within and on the exteriors of target housing units, including renovations in the common areas that are routinely used by children under age 6. A child-occupied facility is a building, or a portion of a

building, visited regularly by the same child, under 6 years of age, on at least 2 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.

The Lead Renovation Rule also applies to child care facilities and schools.

(40 CFR Part 745.)

**Q 3. Who may need to comply with the Lead Renovation Rule?**

**A** Building contractors, including specialty trade contractors, residential real estate landlords and property managers, among others (40 CFR Part 745).

**Q 4. What does the term "renovation" include?**

**A** The term renovation includes (but is not limited to): the removal, modification or repair of painted surfaces or painted components--such as sanding or scraping doors, window frames, walls, ceilings, etc.

The term "renovation: does not include minor repair and maintenance activities. Minor repair and maintenance activities include minor heating, ventilation or air conditioning work, electrical work, and plumbing, that disrupt 6 square feet or less of painted surface per room for interior activities or 20 square feet or less of painted surface for exterior activities where none of the work practices prohibited or restricted by Section 745.85(a)(3) are used and where the work does not involve window replacement or demolition of painted surface areas. When removing painted components, or portions of painted components, the entire surface area removed is the amount of painted surface disturbed. Jobs, other than emergency renovations, performed in the same room within the same 30 days must be considered the same job for the purpose of determining whether the job is a minor repair and maintenance activity. (40 CFR § 745.83.)

See Question 7 for exemptions.

The Lead Renovation Rule applies if renovating more than 6 square feet of painted surfaces in a room for interior projects or more than 20 square feet of painted surfaces for exteriors. (See the EPA publication, "Renovate Right: Important Lead Hazard Information for Families, Child Care Providers and Schools," found at <http://www.epa.gov/lead/pubs/renovaterightbrochure.pdf>.)

(40 CFR Part 745.)

**Q 5. What if the owner or occupant won't accept or isn't home to accept the "Renovate Right" pamphlet from the renovator mentioned in Question 1?**

**A** If the owner or occupant refuses or is unavailable to accept the pamphlet, the Lead Renovation Rule allows for the renovator to certify the attempt. The Lead Renovation Rule also allows the renovator to mail the pamphlet at least 7 days prior to the renovation if he/she purchases a certificate of mailing from the Post Office when mailing the pamphlet. (40 CFR § 745.84.)

**Q 6. Does Lead Renovation Rule apply to me?**

**A** If your job is for compensation and will require you to disturb more than 6 square feet of paint per room in the interior or more than 20 square feet of paint in the exterior in pre-1978 housing, then you are a renovator for the purposes of the Lead Renovation Rule. This is not dependent upon whether what you do is typically considered a renovation. (40 CFR Part 745.)

The term compensation extends beyond money. Providing services in exchange for other services (e.g., bartering) is included within the term. The Lead Renovation Rule also applies to owners renovating their own apartment buildings using maintenance staff as well as neighborhood handymen providing services to those in the neighborhood for services or goods other than money. (40 CFR Part 745.)

See the Question 7 for exemptions.

### **Q 7. What are the exemptions to the Lead Renovation Rule?**

#### **A Exemptions:**

- Home or child-occupied facility built 1978 or later.
- Work that is performed for free (e.g., no exchange of money, goods, or services);
- Work performed by do-it-yourselfers in their own homes;
- Work that is performed during an emergency (i.e., a hazardous, non-routine situation that could either threaten public health or cause substantial property damage);
- Housing that has been already been determined by a Certified Risk Assessor, Lead Inspector, or Certified Renovator to be lead free;
- Zero bedroom dwellings;
- Minor repairs that disturb 6 square feet or less of paint per room in the interior or 20 square feet or less of paint in the exterior. (See Question 4 for more details.)
- Housing for the elderly (unless children reside there--see Question 2 for more details).
- Homeowners may opt out by signing a waiver if there are no children under age 6 frequently visiting the property, no one in the home is pregnant, or the property is not a child-occupied facility. This opt-out provision may be eliminated by the EPA.

(40 CFR Part 745.)

### **Q 8. What is required under the Lead Renovation Rule?**

#### **A**

**Certification and Training:** Beginning April 22, 2010, firms working in pre-1978 homes will need to be certified. Employees of the firm will also need to be certified as a Certified Renovator. This employee will be responsible for training other employees and overseeing work practices and cleaning. The training curriculum is an 8-hour class with 2 hours of hands-on training. The certifications are valid for 5 years. A 4-hour refresher course is required to be recertified. (See 40 CFR § 745.89, 745.90, 745.92.)

**Work Practices:** Once the renovation work begins, warning signs must be posted by the Certified Renovator. There are certain dust containment procedures. Certain work practices are forbidden unless the tools are equipped with a HEPA exhaust control. There are specific cleaning and waste

disposal procedures. (See 40 CFR § 745.85.)

**Record Keeping:** After completion of the clean up, the Certified Renovator must match a cleaning cloth with an EPA verification card. If the cloth appears dirtier or darker than the card, the cleaning must be repeated. A complete file of records on the project must be kept by the Certified Renovator for 3 years. (See 40 CFR § 745.86.)

(40 CFR Part 745.)

### **Q 9. *Where can I obtain more information?***

**A** For additional information, go to EPA Web page on Renovation, Repair and Painting (RRP) at <http://www.epa.gov/lead/pubs/renovation.htm>.

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The information contained herein is believed accurate as of March 15, 2010. It is intended to provide general answers to general questions and is not intended as a substitute for individual legal advice. Advice in specific situations may differ depending upon a wide variety of factors. Therefore, readers with specific legal questions should seek the advice of an attorney. Revised by Sonia M. Younglove, Esq.

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