

Proposed Legislative Actions to Address Shortcomings in EPA's Renovation, Repair, and Painting Regulation

The Alliance for Healthy Homes and the National Center for Healthy Housing applaud EPA's final regulation to protect families from unsafe renovation, repair, and painting work. However, there are several problems in the final regulation that deserve serious attention.

The key shortcomings that can be addressed by legislative changes:

- **Insufficient appropriations for start-up and compliance assistance.** The administration has not requested resources to begin preparing for implementation. Renovators must be trained, state programs must be developed, and local agencies must be prepared to enforce the regulation.
- **Outdated standards for lead in dust.** The dust standards in EPA's 2001 lead hazard regulation are outdated. New data show that elevated blood lead levels are correlated with much lower levels of dust on floors than earlier thought.
- **Clearance dust testing not required.** Lead dust is the primary source of exposure for young children. A clearance examination, which involves collecting samples for laboratory analysis, is the standard method for determining that no lead has been left behind following work that disturbs lead-based paint. EPA's regulation includes only visual examinations for visible dust. Since lead dust can be invisible, this is insufficiently protective and may even give families a false sense of security. Importantly, renovators are not required to disclose to the owner/occupant if a home did not pass the visual inspection requirement.
- **Inadequate training requirements.** The renovation regulation permits untrained workers to work without supervision after receiving job-specific on-the-job training delivered by the certified renovator. Either a certified renovator should be on-site at all times, or workers who will be on site should be provided day-long training.
- **Target housing stock exemptions too broad.** Longstanding statutory language improperly exempts zero-bedroom dwellings.
- **Reporting requirements too narrow.** Mandatory reporting of all lead test results to occupants and property owners must be added

Other concerns include excessive work practice exemptions. The regulation exempts work that disturbs less than six square feet of paint per room. This exemption is three times as large as the de minimis requirement set by HUD's lead-safe housing rule, which is already being used for millions of properties nationwide. Also, the EPA regulation did not ban the use of volatile paint strippers and dry scraping, activities that can generate lead paint fumes and dust. These activities have been prohibited by numerous jurisdictions and HUD.

Legislative Agenda for Improving EPA's Renovation and Remodeling Regulation

Suggested Amendments:

1. Amend 15 USC 2692 to **require appropriations for compliance assistance.**

“There are authorized to be appropriated to carry out the purposes of this subchapter such sums as may be necessary. For FY09, FY10, and FY 11, an additional \$120 million is authorized in support of renovation rule-related training, state program development, and local government enforcement efforts.”

2. Amend 15 USC 2683 (b) ~ TSCA 403 (b) to **revise the Federal dust lead hazard standard.**

“Within 18 months after October 28, 1992, the Administrator shall promulgate regulations which shall identify, for purposes of this subchapter and the Residential Lead-Based Paint Hazard Reduction Act of 1992 [42 U.S.C. 4851 et seq.], lead-based paint hazards, lead-contaminated dust, and lead-contaminated soil. Within 9 months and biennially thereafter [effective date] the Administrator shall review current scientific data and promulgate dust lead standards that adequately protect public health.”

3. Amend 15 USC 2682 (c) (3) ~ TSCA 402 (c) (3) to **add protections to the RRP rule**

“Within 4 years after October 28, 1992, the Administrator shall revise the regulations under subsection (a) of this section to apply the regulations to renovation or remodeling activities in target housing, public buildings constructed before 1978, and commercial buildings that create lead-based paint hazards. The regulation shall require work area clearance in buildings by a certified individual other than the individual who performed the work and presence of a certified renovator on site at all times.”

4. Amend 15 USC 2681 (17) to **expand target housing to include zero-bedroom units**

“The term “target housing” means any housing constructed prior to 1978, except housing for the elderly or persons with disabilities, (unless any child who is less than 6 years of age resides or is expected to reside in such housing for the elderly or persons with disabilities) ~~or any 0-bedroom dwelling~~. In the case of jurisdictions which banned the sale or use of lead-based paint prior to 1978, the Secretary of Housing and Urban Development, at the Secretary's discretion, may designate an earlier date.”

5. Amend 15 USC 2687 to **mandate reporting to occupants**

“The regulations of the Administrator under this subchapter shall include such recordkeeping and reporting requirements as may be necessary to insure the effective implementation of this subchapter. Certified individuals and firms shall report results of all lead tests performed on the property to the owner and occupant. The regulations may be amended from time to time as necessary.”

Background on New EPA Requirements for Safe Renovation, Remodeling, and Painting in pre-1978 Housing and Child-Occupied Facilities

Overview

Common renovation activities that disturb lead-based paint, like sanding, cutting, and demolition, can create hazardous lead dust and chips that can be harmful to adults and children. To protect against exposure risk, EPA has issued its “Renovate Right” rule, requiring the use of lead-safe work practices during renovations in pre-1978 housing and child-occupied facilities. As of April 22, 2010, renovators must be certified and follow specific work practices to prevent lead contamination. The rule will affect:

- Renovation and remodeling contractors
- Maintenance workers
- Painters and other specialty trades.

Frequently Asked Questions and Answers

What types of structures are covered by the rule?

- **Target Housing:** Housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless a child under age 6 years resides in or is expected to reside in such housing) and 0-bedroom dwellings.
- **Child-Occupied Facility:** Day care, pre-school, kindergarten classroom, or other facility in a building constructed prior to 1978 that is visited regularly by the same child under age 6, on at least two different days within any week, 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.

What types of renovation are affected?

Any work performed for pay, including painting and remodeling, that results in the disturbance of painted surfaces in pre-1978 homes and child-occupied facilities. Examples: removal or modification of painted components such as doors; repairing a painted surface or preparing it for repainting by sanding, scraping, burning, or other action that may generate paint dust; removal of walls, ceilings, and other structures; re-plastering; re-plumbing; weatherization work that disturbs painted surfaces; and window replacement.

What must a renovation professional do to prepare to comply?

An individual renovator must complete a renovator training course accredited by EPA or a state program and obtain a renovator certification from EPA or a state program.

What must a renovation firm do to prepare to comply?

A renovation firm must be certified and employ at least one trained, certified renovator, who must provide uncertified workers with on-the-job training on job-specific work practices.. Renovation firms may begin applying for certification in October 2009.

When does the rule go into effect?

As of April 22, 2010, all renovation work in target housing must be conducted by certified firms, certified renovators, and workers who have had on the job training regarding job-specific work practices. States may adopt the rules with different timeframes.

What actions must renovators take for each project in a home or child-occupied facility?

1. Deliver information pamphlet to occupants before beginning work (already required).
2. Place a visible sign defining the work area and warning occupants not to enter it.
3. Isolate/contain the work area so that no visible dust or debris leaves the work area.

4. Contain, store, and transport renovation waste material safely to prevent release of and access to dust and debris.
5. Avoid banned practices such as using high-temperature heat gun, torch, and uncontrolled use of machines such as power sander and plane.
6. After completing work, clean the work area until no visible dust, debris or residue remains.
7. After cleaning, conduct post-cleaning verification.
8. After all interior work area passes cleaning verification or dust clearance sampling and all exterior work area passes the visual inspection, remove the warning sign.

Are there exceptions to the requirements?

The following exemptions to the rule apply:

- **Abatement:** Activities conducted under abatement rules by certified abatement contractor.
- **Minor Repair or Maintenance Activities:** Activities that will, within a 30-day period, disturb less than 6 square feet per room for interior activities; or 20 square feet for exterior activities. Exemption does NOT apply to window replacement; demolition; or use of banned practices.
- **No Lead-Based Paint Will be Disturbed:** as determined by:
 - Testing of paint by certified lead inspector or risk assessor; or
 - Proper use of EPA-recognized test kit by certified renovator.
- **Do-It-Yourself:** Work performed by an owner an owner-occupied residence.

Are there any other limits to the scope of the rule?

- **Owner-Occupied Target Housing:** Exempt from requirements if owner certifies that the property is not occupied by a child under age 6 or a pregnant woman, and it is not a child-occupied facility.
- **Emergency Renovations Not Due to an Elevated Blood Level:** May be exempt from information distribution, warning signs, containment, waste handling, training and certification requirements; cleaning requirements, cleaning verification, and recordkeeping still required.
- **Emergency Renovations in Response to Elevated Blood Lead in Resident Child:** Interim controls are exempt only from advance information distribution requirements.

Who will certify renovators and accredit training courses?

EPA will delegate the renovation program to any state or tribe that seeks authorization to administer it and demonstrates that its program will be at least as protective as EPA's. States have the option to make the rule more protective than the EPA. 39 states have accepted delegation of EPA's rules for lead abatement.

Deadlines in EPA's Renovation, Repair and Painting Rule

Deadlines	6/21/08	12/22/08	4/22/09	10/22/09	4/22/10
Training Firms	Training in renovator and dust sampling technician no longer grandfathered.		May apply for EPA accreditation		Full Compliance Required
Renovation Firms				May apply for EPA certification	
Renovators (Individuals)					
New <i>Renovate Right</i> pamphlet		New pamphlet must be used			
EPA-Approved Test Kits	EPA recognizes some tests				