



The RRP Rule: One Year Later

By John Banta

The Environmental Protection Agency's Renovation, Repair, and Painting (RRP) rule has been in force for almost a year now. The rules and requirements have changed several times already since the April 22, 2010 effective date. Additional changes have been proposed; many misconceptions remain.

The requirement to use lead-safe work practices (LSWP) has been a long time coming, and I consider it an extremely important piece of consumer legislation. One reason is because I poisoned my entire family with lead in 1982.

We moved into an old Victorian and as my family breathed, ate, slept, and played,

I was remodeling the house, scraping and sanding away decades of old paint, making it look like new, never realizing I was filling the air and coating the floors with an extremely dangerous substance. I didn't know anything about LSWP, so I never followed any. My 2-year-old daughter became very ill; luckily, her pediatrician recognized the symptoms and diagnosed the problem quickly: lead poisoning.

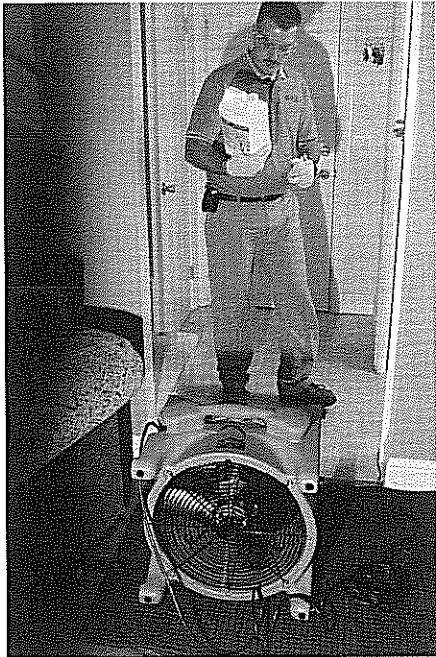
Tests revealed that our blood-lead levels were greatly elevated; my daughter's were 55 micrograms of lead per deciliter of blood, which is over five times what is currently considered the maximum "safe level." Everyone began chelation treat-

ment immediately. Children are especially susceptible to lead poisoning, and it was nearly 10 years before my daughter was able to read a sentence as simple as "See Spot run." Had we not caught it early, she might have been permanently brain-damaged or even killed.

The longer one is exposed to lead, the greater the chance that adverse health effects will become permanent. That experience wasn't fun—and it was a major factor leading me to change my career and become an indoor environmental consultant. After experiencing firsthand just how dangerous lead could be, I had to learn to use LSWP so that I could finish

About the Author

John Banta is certified by the American Board of Industrial Hygiene as a Certified Associate Industrial Hygienist. He is also a California Certified Lead Inspector/Assessor. He is the author of the book *Extreme Weather Hits Home: Protecting Your Buildings from Climate Change* and Co-Author of *Prescriptions for a Healthy House: A Practical Guide for Architects, Builders and Homeowners*. John is an approved instructor for the EPA's RRP Certified Renovator Program through an EPA-approved provider, the National Center for Healthy Housing (www.nchh.org). He teaches and consults throughout the United States and is based at Restoration Consultants in Sacramento, CA. 916-736-1100. jbanta@restcon.com.



the remodeling job I had started without further endangering myself and my family. The safeguards that are now mandatory for firms disturbing lead-based paint are many of the same procedures I used to complete our home's remodel.

The general principles for following LSWP are:

- Contain the work area
- Don't make dust
- Work wet to control any dust that is produced
- If you do make dust, don't let it escape from the work area
- Clean up all lead dust – completely

LSWP aren't that difficult or expensive to implement, but they do require attention to detail and a commitment to safety. The requirement for firms that disturb lead-based paint and coatings to use LSWP hasn't changed since it went into effect last April. What has changed are some of the RRP program's certification, education, recordkeeping, and notification requirements.

The roll-out period for firms to become certified by filing their paperwork and paying their fees to the EPA, as well as for the Certified Renovators supervising these jobs to be trained, was extended to the end of 2010, but the effective date for using LSWP remained April 22, 2010. What this means is that any firm performing

work for hire in target housing or child-occupied facilities built prior to 1978 is required to follow the regulations, even if their paperwork hasn't been processed or even filed. The grace period that was granted is over, with no further extensions.

The EPA may audit the records of any firm in violation of the regulation for up to three years after the job is complete and be fined up to \$37,500 per occurrence per day. If the violation of the law is willful, the fine can be doubled and jail time may be assigned by the courts.



The law continues to apply in all federal jurisdictions; however, the EPA can authorize states, tribes, and territories to administer their own RRP programs. At the time of publication, Wisconsin, Iowa, North Carolina, Mississippi, Kansas, Rhode Island, Utah, Oregon, Massachusetts, and Alabama have had their programs approved in lieu of the Federal program. Georgia is working on getting their approval and other states are bound to follow. Approved State programs must be at least as strict as the EPA regulations.

The regulation originally permitted homeowners to opt out from having firms they hired use LSWP by certifying that the property was owner-occupied and had no children under six or pregnant women as occupants; however, as of July 6, 2010, homeowners are no longer permitted to exempt themselves from the regulation. The rule now applies to all "target housing" whether it is owner-occupied or not. The rule applies to landlords performing applicable work on their rental properties.

Interestingly, the rule still doesn't prevent an owner from exposing their family to lead when performing work that disturbs lead in their own home. Homeowners remain exempt from the requirements.

The regulation had some exclusions that have also changed. Originally, emergency work was exempt from requiring notification of owners and occupants by providing them the EPA-approved educational booklet "Renovate Right." Now the notification must be provided as soon as practical and in accordance with the rule before non-emergency work may begin. Emergency work remains exempt from using lead-safe work practices, but only when it is not practical to implement these safety measures. It's now required to document *in writing* the reason LSWP weren't practical and used during the emergency. All aspects of the regulation apply and must be implemented before non-emergency work can begin.

The pre-renovation education requirements have become stricter. The Renovate Right pamphlet must always be provided to homeowners and landlords and made available to all adult occupants, parents or guardians of occupants for rental units, or child-occupied facilities. The owner is not allowed to waive signing that they received the document. Occupants and others may refuse or be unavailable to sign that they were provided the document, but warning signs must be posted in conspicuous areas to alert them prior to entering the work area. The postings must include the information on how to receive a copy of Renovate Right at no charge. It's required that the postings be documented. Depending on the situation, the pre-renovation education requirements may differ based on the type of dwelling or occupancy.

EPA's Renovate Right pamphlet was updated in April 2010. Make sure you're using the most current version, which you may download in English or Spanish from the EPA website: www.epa.gov/lead/pubs/renovaterightbrochure.pdf

The Small Entity Compliance Guide to the EPA's Renovate Right contains helpful forms, checklists, and flow charts to help you comply with the requirements. Download the latest version (July 2010) at <http://www.epa.gov/lead/pubs/renovation.htm>



At the end of the job, the renovation firm must compile a written report to show owners and occupants how the firm complied with the rule. This report can be in the form of the signed checklist that is printed in the back of the Small Entity Compliance Guide. Another change is that this report must be issued when the job is final invoiced or within 30 days of the completion of the job, whichever comes first. Additionally, the report must now also be made available to occupants, parents, and guardians, as well as providing a copy to the owner. As with the pre-renovation education requirements, the post-renovation report requirements may differ, based on the type of dwelling or occupancy.



Even if your state isn't authorized to administer the RRP program, you may find there are a number of other states laws that must also be followed. For example, in California, EPA administers the RRP program with respect to LSWP, but the California Department of Public Health oversees lead abatement (projects designed to remove or control lead for a period greater than 20 years). There may also be different requirements regarding waste disposal, waste transport, and testing.

Finally, the EPA has now approved a second test kit for certified renovators to determine if lead-based paint is present; however, some states don't allow this type of determinations to be made by anyone without additional training, certification,

and in some cases licensing.

The EPA has answered over 250 common questions about the RRP rule and its application to different situations at www.epa.gov/lead/pubs/rrp-faq.pdf. If this doesn't answer your question, you may also post questions for the EPA to consider.

The EPA is currently considering several

additional changes to the RRP rule that could go into effect this summer and beyond. Most significantly, the EPA is proposing to require that quantitative lead dust testing be performed after certain types of renovation jobs. You can learn more about the proposed requirements at <http://edocket.access.gpo.gov/2010/pdf/2010-10102.pdf>. **R•R**

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