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RRP: Coming Soon to a Project Near You!

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The new Renovation, Repair and Painting Program ("RRP"), which places strict requirements for those working on homes where lead may be found, went into effect on April 22, 2010. Contractors and others who work on covered properties are, rightfully, scrambling to get necessary training and certifications, as the sanctions for non-compliance can be severe. The RRP falls under the purview of the Environmental Protection Agency ("EPA"), though individual states can elect to take over the administration of the RRP program from the EPA. New Hampshire has no immediate plans to take over the program. Therefore, those working in New Hampshire must comply with the applicable federal regulations promulgated by the EPA. Massachusetts (under the Division of Occupational Safety) and Rhode Island (under the Department of Health), have taken over RRP administration. Therefore, in those states, compliance with the state specific rules is mandated. This article presents an overview of the EPA regulations as the state rules closely mirror the federal rules, although they are not identical and must be studied carefully to identify the differences. In some areas, the state rules are even stricter than the federal rules.

The RRP applies to work on a pre-1978 "Child-Occupied Facility" or "Target Housing" which disturbs more than six (6) square feet of interior painted surfaces or more than twenty (20) square feet of exterior surfaces. Practically speaking, this means that just about any renovation project on older homes will implicate the RRP. The RRP rules do not just cover work by construction contractors. Landlords, developers, property managers - all who work on covered properties - must comply. Generally, the only workers exempt are those who do not do the repairs for compensation, *i.e.* the homeowners themselves. Everybody else should worry.

Although the RRP does not apply to properties which were built after 1978, the burden is on you to confirm whether the property, in fact, pre-dates 1978. You cannot rely on the property owner's word. Additionally, although when the RRP was first enacted there was a provision to allow homeowners to opt-out where no pregnant women or children under 6 years resided, that opt-out provision expired July 6, 2010. Now, there is no opt-out provision.

The RRP requires that the homeowners (or tenants) be provided with written notification regarding the RRP, including providing a copy of a pamphlet issued by the EPA at least seven (7) days prior to the commencement of the work. The pamphlet, as well as several other informative publications, can be downloaded from the EPA's website at www.epa.gov. Simply navigate over to the area dealing with lead. Massachusetts and Rhode Island too have websites which are extremely informative. A simple internet search for "RRP MA" or "RRP RI" will bring



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Work in affected areas can only be done under the direction of a Certified Renovator. This is a new certification which should not be confused with the required certification for those engaged in the business of lead removal or lead remediation. Lead remediation contractors fall under a different regulatory scheme. There are several companies who are authorized to provide the necessary training for certification. (The EPA has agreed to allow contractors more time, through October 1, 2010, to obtain their certification). The Certified Renovator or "CR" is responsible for ensuring that safe lead containment practices are followed, and documented. Anyone who works in the affected area must also receive on the job training which complies with the RRP requirements. Documentation of this training is required.

The rules list specific requirements for the handling and storage of debris and disposal thereof. They forbid certain practices, such as the use of a heat gun which exceeds 1100^o, and high speed sanding and grinding equipment which is not equipped with HEPA exhaust controls. Clean-up procedures must be supervised by a CR, and there are strict tests and documentation required to verify compliance with the cleaning requirements.

Failure to comply with the new RRP rules can result in fines of up to \$37,500 per day, imprisonment, and revocation or suspension of a firm's certification. Although the EPA has limited inspectors, it is actively investigating complaints of non-compliance. States which have not taken over administration have no enforcement powers under the RRP *per se*, but most states are making referrals to the EPA if they become aware that the RRP is not being observed. States such as Rhode Island and Massachusetts have their own enforcement personnel.

Though compliance with the RRP is document intensive and requires greater expense to ensure compliance, remember that lead poisoning is a serious and often irreversible condition. The regulations are there to protect the health of our children. Even if not mandated by law, safe practices for dealing with lead paint and dust should be part of everyone's toolbag.

This article is intended to serve as a summary of the issues outlined herein. While it may include some general guidance, it is not intended as, nor is it a substitute for, legal advice. Your receipt of Good Company or any of its individual articles does not create an attorney-client relationship between you and Sheehan Phinney Bass + Green or the Sheehan Phinney Capitol Group. The opinions expressed in Good Company are those of the authors of the specific articles.