



Thomas Newton, MPP, REHS
Director

Chester J. Culver
Governor

Patty Judge
Lt. Governor

DATE: June 2010
TO: Landlords, Property Owners, and Contractors
FROM: Joelle M. Stolte, Bureau of Lead Poisoning Prevention
RE: **Rules for Pre 1978 Residential Housing:**

Iowa's Pre-renovation Notification Rule (PRE),
Iowa's Lead-Safe Renovation Rule (RRP), and
The Federal Real Estate Disclosure Rule

New Requirements

House File 314 was passed by the 2009 Iowa legislature. It requires the following:

- Pre-renovation Notification now includes child-occupied facilities such as daycare centers (PRE).
- Contractors, landlords, and maintenance crews working in target housing or child-occupied facilities must be trained in and use lead-safe work practices (RRP).
- Training includes an 8-hour Lead Safe Renovator Course and 4-hour refresher every 3 years (RRP).
- "Firms" that do this work must be certified, and at least one person from each firm must be certified as a lead-safe renovator (RRP).
- Work that disturbs less than 1.0 square feet of painted surface is not required for these activities (PRE and RRP).

As of January 13th, 2010 IDPH has adopted amendments to Iowa Administrative Code 641--Chapter 69 (Renovation, Remodeling, and Repainting-Lead Hazard Notification Process) and Iowa Administrative Code 641--Chapter 70 (Lead-Based Paint Activities). The documents containing the changes direct the department to establish a program for training and certification for those who perform renovations as lead safe renovators in the state of Iowa.

The documents can be viewed on the internet at:

http://www.idph.state.ia.us/eh/lead_poisoning_prevention.asp#regulations.

Comments on these regulations should be sent to Rita Gergely, Lead Poisoning Prevention Program, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319 (fax : 515-281-4529), or emailed to rgergely@idph.state.ia.us.

Iowa's Pre-Renovation Notification Rule (PRE)

Since 1999, Iowa law has required contractors to give notification by giving an approved lead hazard information pamphlet to homeowners and tenants before beginning renovation, remodeling, or repainting. The rule requires notification when more than 1.0 sq. ft. (cumulative) of paint is disturbed, both interior and exterior, in any residential property built before 1978. Contractors must distribute an approved lead hazard pamphlet and get a signature from owners and occupants of residence, to verify they have been informed. The intent of the rule is to ensure that families have the information they need to protect themselves.

In rental property, if the landlord hires an independent contractor to perform renovation, remodeling, or repainting, the independent contractor must perform the notification. If a landlord or the landlord's employees perform renovation, remodeling, or repainting, then the landlord must perform the notification.

The current PRE rule can be found on the internet at <http://www.legis.state.ia.us/Rules/Current/iac/641iac/64169/64169.pdf>.

Enforcement

The Iowa Code authorizes IDPH to impose a penalty of up to \$5,000 for each violation of the notification requirement. Since 2002, the Iowa Department of Public Health (IDPH) has conducted random spot checks of contractors to monitor compliance with the rule. In July 2005, IDPH started to impose civil penalties for violations of this regulation.

Housing Covered by the Rule

This rule applies to target housing. Target housing is any housing built before 1978. The exceptions are housing for the elderly or persons with disabilities (unless a child under age 6 resides or is expected to reside in the housing) and any 0-bedroom dwelling (living area not separated from sleeping area--includes efficiencies, studio apartments, dormitory housing, etc.).

Work Covered by the Rule

This regulation applies whenever renovation, remodeling, or repainting is done in target housing and or child occupied facilities. Renovation, remodeling, or repainting means any change to an existing structure or part of a structure where painted surfaces are disturbed. This includes, but is not limited to: removing walls, ceilings, and other painted components; window replacement; floor refinishing; and sanding, scraping, stripping, water-blasting, or otherwise disturbing painted surfaces.

Work Not Covered by the Rule

This rule does not cover work that is defined as lead abatement when it is conducted by a lead abatement contractor certified by the state of Iowa. Also, if a state-certified inspector has determined the components affected by the renovation, remodeling, or repainting are free of lead-based paint, the notification does not need to be done. The regulation does not cover work that disturbs less than 1.0 square foot (approximately 12 inches by 12 inches) of paint.

Notification Requirements

- **Work done In a Single Dwelling Unit (Form 1)**: You must provide written notification and the pamphlet to the homeowner and an adult occupant (If owner does not live at the property) no more than 60 days before starting works. The written notification **must** contain specific language. The homeowner and adult occupant are required to sign and date the notification. If you cannot obtain a signature, you must certify in writing that the pamphlet was delivered and describe why you could not get the signature (ex., tenant refused to answer door). If you cannot contact the homeowner or tenant, you may mail the notification and pamphlet by certified mail at least seven days before starting the work. You need to keep the receipt of the mailing with the completed notification form. If the nature, scope, or date of the work changes after the original notification, you must issue a revised notification.
- **Emergency Renovation, Remodeling, or Repainting (Form 2)**: “Emergency” work is performed when an unexpected event causes a safety or public health hazard or threatens equipment or property with significant damage (i.e.: broken window, broken door, flooding, other water damage, fire, etc). You are not required to do the notification before the work is started, but you **must** provide the notification and pamphlet to the owner and occupants as soon as possible after beginning the work.
- **Common Areas of Multi-Family Housing (Forms 3 and 4)**: If work is done in common areas (exterior, hallways, laundry room, etc.) of multi family housing, the homeowner must be notified and a signature and date must be obtained, before the work is started (form 3). You must also notify each occupant in writing of the work and make the pamphlet available upon request (Form 4). You must prepare, sign, and date a statement describing the steps taken to notify all occupants (Record of Tenant notification **form 5**). If the nature, scope, or date of the work changes after the original notification, you must issue a revised notification.
- **Vacant Property**: You are required to give notification to the homeowner even if the property is vacant.

Recordkeeping

You must keep all records for at least three years. This may include:

- Address and location where the work was done.
- Copies of signed, dated acknowledgments from tenants.
- Copies of signed, dated statements of notification for multi-family housing.
- Certifications of attempted delivery or mailing.
- Report from certified inspector for components free of lead-based paint.

A Guide to the Forms for the Pre-Renovation Notification Memo

Form	Use	Details
#1	Notice to owner and adult occupant for work done in a single dwelling unit	Owner and occupant signature required. Can mail pamphlet to the owner and occupant 7 days in advance via certified mail.
#2	Notice to owner and adult occupant for emergency work done in a dwelling unit	No occupant or owner signature required. Give notification as soon as possible while doing emergency renovation. Option to send via certified mail as soon as possible.
#3	Notice to owner for work done in common areas of multi-family housing	Can mail or deliver pamphlet to the owner 7 days in advance via certified mail. Owner signature required.
#4	Notice to occupant for work done in common areas of multi-family housing	No signature required. Deliver form and make pamphlet available.
#5	Record for work done in common areas of multi-family housing	Must be filled out and kept on record in conjunction with form #3 and/or #4. This is for the contractor's records.

Additional Information to be aware of:

The Federal Real Estate Disclosure Rule

In the fall of 1996, regulations from the Environmental Protection Agency (EPA) and the Department of Housing and Urban Development (HUD) have required that most home buyers and renters receive known information on lead-based paint and lead-based paint hazards during sales and rentals of housing built before 1978. Buyers and renters must receive specific information on lead-based paint in the housing, as well as a copy of the pamphlet, *Lead Poisoning: How to Protect Iowa Families*. Sellers, landlords, and their agents are responsible for providing this information to the buyer or renter before the sale or lease. A sample disclosure form is located in the middle of the pamphlet.

Completion of the Form

It is extremely important that you fill out the form correctly as the EPA and HUD may consider any missing check marks, initials, signatures, and dates to be violations of the regulations.

Please be aware that the pre renovation notification rule is different than the disclosure rule.

The Pre Renovation Notification Rule, Iowa law, Administrative Code 641 — Chapter 69, requires that any contractor or landlord working on residential properties built prior to 1978 must notify residents that lead-based paint disturbed by remodeling, renovation or repainting is a potential hazard.

The Disclosure Rule is a federal law that requires you to disclose any known information (providing inspection and or clearance reports) about lead-based paint when you sell or rent properties built before 1978. The U.S. Environmental Protection Agency (EPA) and the Department of Housing and Urban Development (HUD) jointly enforces the disclosure rule.

For each rule you need to give out copies of the Iowa pamphlet ***Lead Poisoning: How to Protect Iowa Families***. However, each rule requires a different form.

Copies of Forms and Pamphlets

Forms are available in the ***Lead Poisoning: How to Protect Iowa Families Brochure***. Both pre-renovation notification forms and the real estate disclosure forms are included in the middle of the brochure. Copies of the brochure, ***Lead Poisoning: How to Protect Iowa Families***, are free of charge and can be obtained by calling 1-800-972-2026. These forms meet all of the requirements of Iowa Administrative code 641-Chapter 69 and 70 of the administrative rules.



Iowa Department of Public Health
Promoting and Protecting the Health of Iowans

Thomas Newton, MPP, REHS
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DATE: March 8, 2010

TO: Licensed Real Estate Agents
Landlords
Property Managers
State and Local Housing Officials

FROM: Rita Gergely, Director
Lead Poisoning Prevention Programs

RE: **THE FINAL EPA/HUD RULE ON REAL ESTATE DISCLOSURE
REGARDING LEAD-BASED PAINT
(24 CFR PART 35 AND 40 CFR PART 745)**

I am writing to provide information about the final EPA/HUD rule on real estate disclosure regarding lead-based paint and Iowa's role in the implementation of this rule. If you have any questions about the enclosed information, please contact our Lead Poisoning Prevention Program at 1-800-972-2026. We will do our best to answer your questions. If we cannot answer your questions, we will get the answer or refer you to the federal agency that can best answer your questions.

SUMMARY

Since the fall of 1996, regulations from the Environmental Protection Agency (EPA) and the Department of Housing and Urban Development (HUD) have required that most home buyers and renters receive known information on lead-based paint and lead-based paint hazards during sales and rentals of housing built before 1978. Buyers and renters must receive specific information on lead-based paint in the housing as well as a Federal pamphlet or Federally-approved state pamphlet with practical, low-cost tips on identifying and controlling lead-based paint hazards. Sellers, landlords, and their agents are responsible for providing this information to the buyer or renter before sale and lease.

WHAT IS REQUIRED

Housing Covered by the Rule

This rule applies to target housing. Target housing is any housing built prior to 1978, except housing for the elderly or persons with disabilities (unless a child under age 6 resides or is expected to reside in the housing) or any 0-bedroom dwelling (living area not separated from sleeping area--includes efficiencies, studio apartments, dormitory housing, military barracks, rentals of individual rooms in residential dwellings).

This rule applies to all transactions to sell or lease target housing, including subleases, verbal leases, and month-to-month leases, with the following exceptions:

- A. Sales of target housing at foreclosure.
- B. Leases of target housing where the housing has been found to be lead-based paint free. An inspection to determine that housing is "lead-based paint free" must be conducted by an inspector certified by the state of Iowa according to procedures specified in Iowa regulations.

Sales of target housing cannot be exempted through this "lead-based paint free" inspection.

- C. Short-term leases of 100 days or less where no lease renewal or extension can occur.
- D. Renewals of existing leases in target housing where the required disclosure has already been completed and the lessor has no additional information regarding the existence of lead-based paint or lead-based paint hazards in the dwelling. Renewal of existing leases where this disclosure has not taken place are subject to this rule.

Effective Dates of the Rule

This rule became effective on September 6, 1996, for owners of more than four residential dwellings. This rule became effective on December 6, 1996, for owners of one to four residential dwellings.

Requirements for Sale of Target Housing

The only sales of target housing that are exempt are sales at foreclosure and sales of rental housing for the elderly or disabled or rental housing consisting entirely of 0-bedroom units.

For sales of target housing, the following must be completed before the purchaser is obligated under any contract to purchase target housing:

1. The seller must provide the purchaser with an EPA-approved lead hazard information pamphlet. This can be the standard EPA pamphlet, *Protect Your Family from Lead in Your Home*, or a state pamphlet approved by EPA. (Iowa is trying to get a state pamphlet approved for this purpose.)
2. The seller must disclose the presence of any known lead-based paint and/or lead-based paint hazards in the housing to the agent and to the purchaser. They must also disclose any specific knowledge that they have, such as how they know that lead-based paint is on any surfaces, the location of the lead-based paint, and the conditions of the surfaces on which it is located. The seller must disclose the existence of any available records or reports regarding lead-based paint or lead-based paint hazards to the agent. The seller must provide the purchaser with any

records or reports regarding lead-based paint or lead-based paint in the housing. This includes records and reports regarding lead-based paint or lead-based paint hazards in common areas and in other residential dwellings in multi-family housing if such information is part of a report on the overall building.

If any of the required disclosure does not occur until after the purchaser has placed an offer to buy, the seller must complete the required disclosure prior to accepting the offer and must allow the purchaser an opportunity to review the information and possibly amend the offer.

Before a purchaser is obligated under a sales contract, the seller must permit the purchaser a 10-day period to conduct a risk assessment or inspection for lead-based paint or lead-based paint hazards. The seller and purchaser can mutually agree in writing to a different time period. The purchaser may waive the opportunity to conduct a risk assessment or inspection in writing.

Each contract to sell target housing must include an attachment with each of the following items:

- A. A Lead Warning Statement that is specified in the rule and shown on the enclosed sample forms.
- B. A statement disclosing the Items #1 and #2 listed above.
- C. A list of any records or reports regarding lead-based paint or lead-based paint in the housing that have been provided to the purchaser. If no such records or reports are available, the seller must indicate this.
- D. A statement by the purchaser that they have received the lead hazard information pamphlet and the information in items B and C above.
- E. A statement by the purchaser that they have had the opportunity to conduct a risk assessment or inspection or waived the opportunity.
- F. When an agent is involved on behalf of the seller, a statement that the agent has informed the seller of the seller's obligations under 42 U.S.C. 4852d (Title 10 and this rule) and that the agent is aware of his/her duty to ensure compliance with the requirements of this rule.
- G. The signatures of the sellers, agents, and purchasers certifying the accuracy of their statements and the dates of signature.

The agent must inform the seller of his/her obligations under this rule and either ensure that the seller complies with these rules or personally ensure compliance with these rules. If the agent has informed the seller of his/her obligations, but the seller does not disclose known lead-based paint or hazards as required to the agent, then the agent shall not be liable for the failure of the seller to disclose known lead-based paint or hazards to the purchaser.

Requirements for Leasing Target Housing

For leasing target housing, the requirements are the same as for purchasing target housing except that the lessee does not have the opportunity to conduct an inspection or risk assessment. Similarly, the contract for leasing does not need to contain the statement regarding the inspection or risk assessment.

Filling Out the Form

If you choose to use the attached sample forms that were developed by the U.S. EPA, here are some tips on filling them out correctly.

1. The seller or the lessor **MUST** check either (i) or (ii) under (a). If an inspection has ever been done that shows the presence of lead-based paint and/or lead-based paint hazards, you check (i) and explain briefly what was found. If an inspection has not been done, you should check (ii) to indicate that you have no knowledge of lead-based paint or lead-based paint hazards in the property.
2. Next, the seller or lessor **MUST** check either (i) or (ii) under (b). If you have a copy of the inspection report and provided it to the purchaser or lessee, check (i). If you do not have a copy of an inspection report (this includes the situation where an inspection has never been done), you should check (ii).
3. The purchaser or lessee must now initial both (c) and (d) to indicate that they received copies of any information listed under (a) and that they received a copy of the federal pamphlet.
4. In the case of a purchase only, the purchaser must check either (i) or (ii) under (e) to indicate that they have received the opportunity to conduct a risk assessment or inspection or that they have waived this opportunity.
5. If an agent is involved, the agent must initial under the Agent's Acknowledgment. This is item (e) on the rental form and item (f) on the purchase form.
6. At the bottom of the form, the lessor or seller, the purchaser or lessee, and all agents involved in the transaction must sign and date the form.

It is extremely important that you fill out the form correctly as the U.S. EPA may consider any missing check marks, initials, signatures, and dates to be violations of the regulations.

Record Retention

The seller, the lessor, and the agent must retain all records for at least three years from the completion date of the sale or the commencement of the leasing period, whichever is applicable.

ENFORCEMENT

This rule is being enforced in Iowa by EPA Region VII, Kansas City.

DISCLOSURE FORMS

Sample disclosure forms developed by the U.S. EPA are included in this mailing.

COPIES OF THE FINAL RULE

A copy of the final rule can be obtained by calling the National Lead Information Clearinghouse (NLIC) at (800) 424-LEAD, or TDD (800) 526-5456 for the hearing impaired.

COPIES OF THE PAMPHLET

EPA has approved the Iowa Department of Public Health (IDPH) brochure for use in complying with this rule. Call the Iowa Department of Public Health at 1-800-972-2026 to get free copies of this brochure.

You can obtain a single copy of the Federal pamphlet, Protect Your Family from Lead in Your Home, from the National Lead Information Center as shown above. Bulk copies of the pamphlet are available from the Government Printing Office (GPO) at (202) 512-1800. Refer to the complete title or GPO stock number 055-000-00507-9. The price is \$26.00 for a pack of 50 copies. Alternatively, persons may reproduce the pamphlet, for use or distribution, if the text and graphics are reproduced in full. Camera-ready copies of the pamphlet are available from the National Lead Information Clearinghouse as described above.

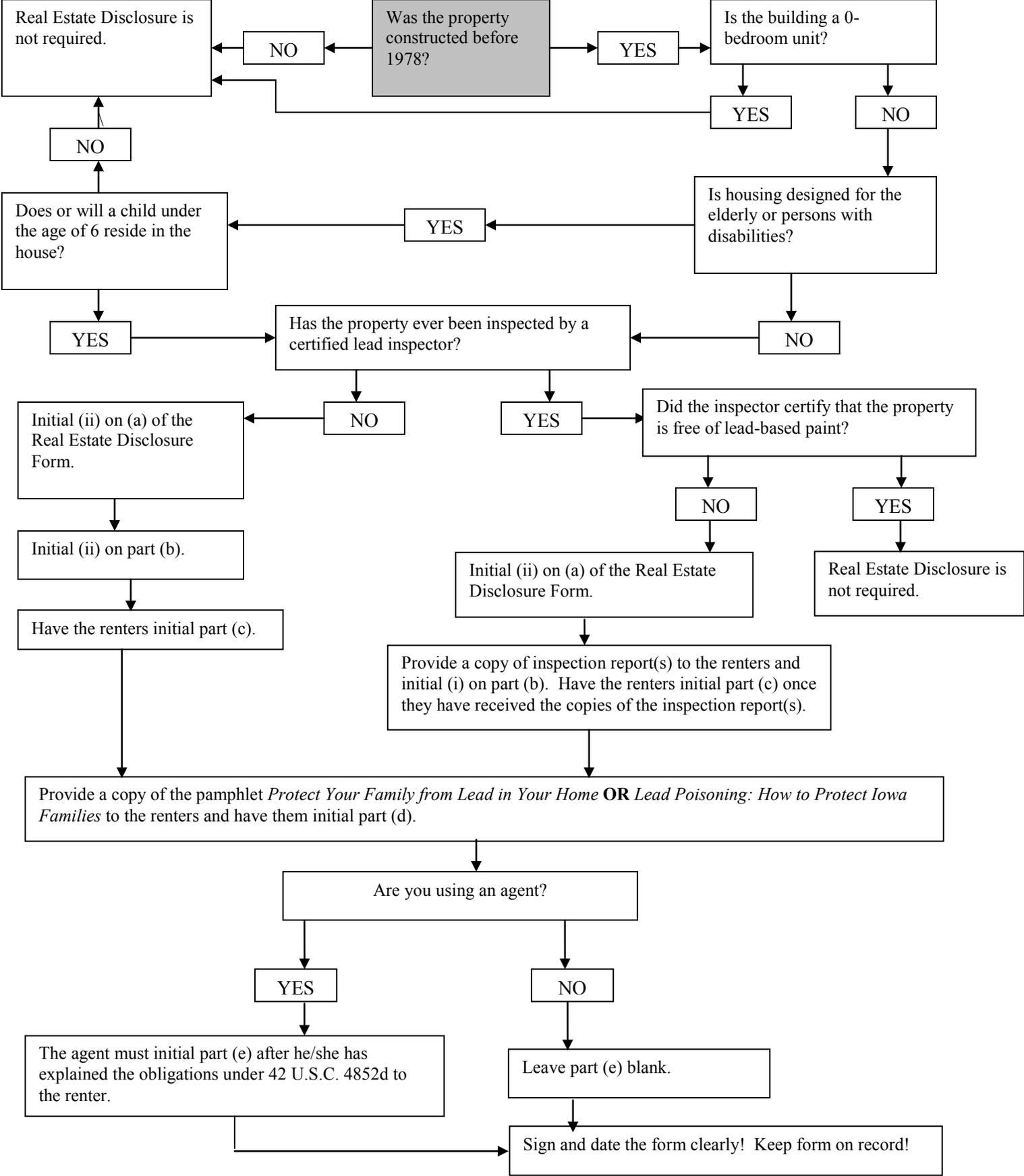
ELECTRONIC INFORMATION

The EPA pamphlet and rule are available electronically and may be accessed through the Internet at either of the following sites:

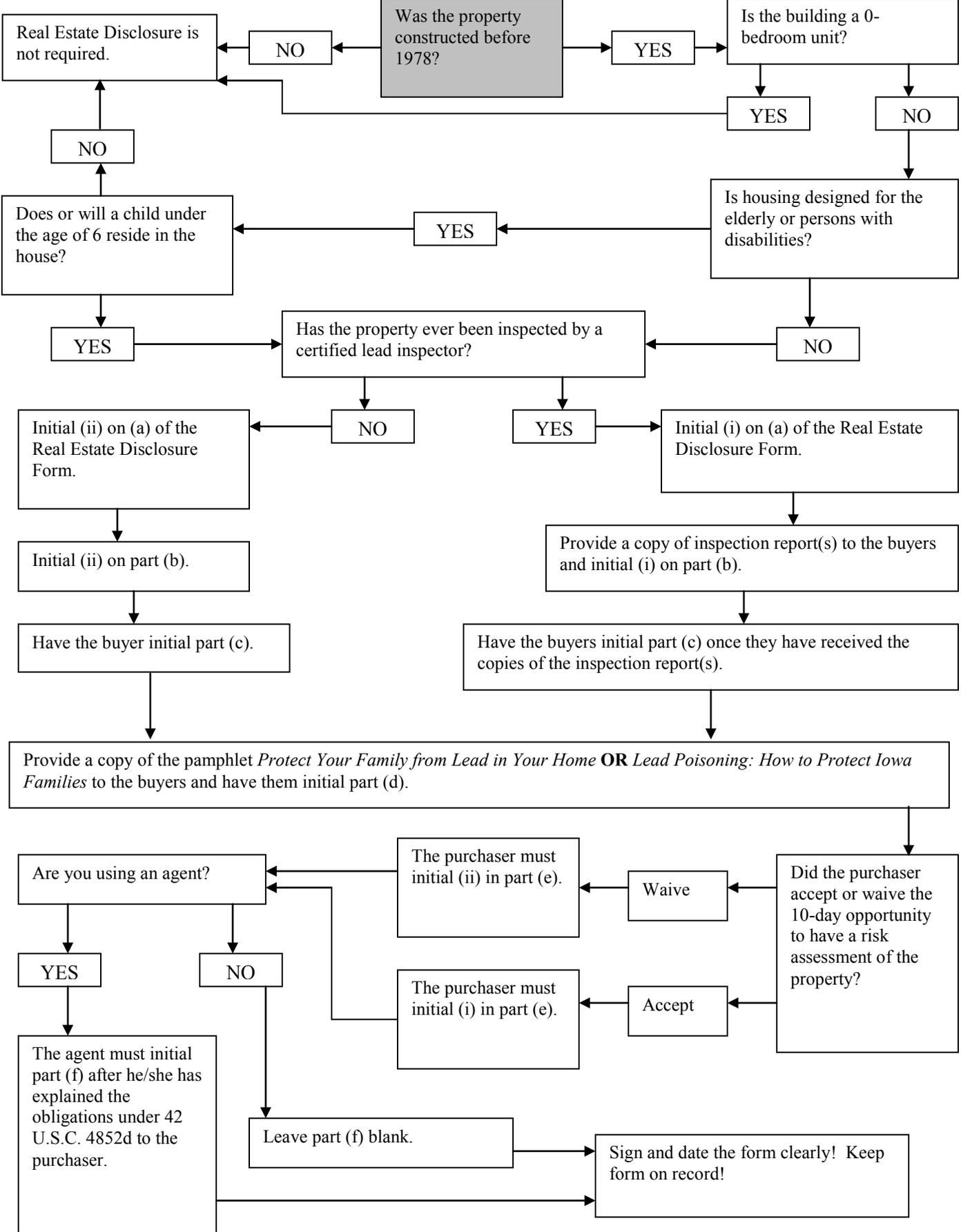
www.epa.gov/lead/leadbase.htm

www.hud.gov/lea/leadhelp.html

Real Estate Disclosure Flow Chart for Property Rental



Real Estate Disclosure Flow Chart for Home Purchase



Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards

Lead Warning Statement

Housing built before 1978 may contain lead-based paint. Lead from paint, paint chips, and dust can pose health hazards if not managed properly. Lead exposure is especially harmful to young children and pregnant women. Before renting pre-1978 housing, lessors must disclose the presence of known lead-based paint and/or lead-based paint hazards in the dwelling. Lessees must also receive a federally approved pamphlet on lead poisoning prevention.

Lessor's Disclosure

(a) Presence of lead-based paint and/or lead-based paint hazards (check (i) or (ii) below):

(i) _____ Known lead-based paint and/or lead-based paint hazards are present in the housing (explain).

(ii) _____ Lessor has no knowledge of lead-based paint and/or lead-based paint hazards in the housing.

(b) Records and reports available to the lessor (check (i) or (ii) below):

(i) _____ Lessor has provided the lessee with all available records and reports pertaining to lead-based paint and/or lead-based paint hazards in the housing (list documents below).

(ii) _____ Lessor has no reports or records pertaining to lead-based paint and/or lead-based paint hazards in the housing.

Lessee's Acknowledgment (initial)

(c) _____ Lessee has received copies of all information listed above.

(d) _____ Lessee has received the pamphlet *Protect Your Family from Lead in Your Home*.

Agent's Acknowledgment (initial)

(e) _____ Agent has informed the lessor of the lessor's obligations under 42 U.S.C. 4852d and is aware of his/her responsibility to ensure compliance.

Certification of Accuracy

The following parties have reviewed the information above and certify, to the best of their knowledge, that the information they have provided is true and accurate.

_____	Date	_____	Date
Lessor		Lessor	
_____	Date	_____	Date
Lessee		Lessee	
_____	Date	_____	Date
Agent		Agent	

Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards

Lead Warning Statement

Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase.

Seller's Disclosure

(a) Presence of lead-based paint and/or lead-based paint hazards (check (i) or (ii) below):

(i) _____ Known lead-based paint and/or lead-based paint hazards are present in the housing (explain).

(ii) _____ Seller has no knowledge of lead-based paint and/or lead-based paint hazards in the housing.

(b) Records and reports available to the seller (check (i) or (ii) below):

(i) _____ Seller has provided the purchaser with all available records and reports pertaining to lead-based paint and/or lead-based paint hazards in the housing (list documents below).

(ii) _____ Seller has no reports or records pertaining to lead-based paint and/or lead-based paint hazards in the housing.

Purchaser's Acknowledgment (initial)

(c) _____ Purchaser has received copies of all information listed above.

(d) _____ Purchaser has received the pamphlet *Protect Your Family from Lead in Your Home*.

(e) Purchaser has (check (i) or (ii) below):

(i) _____ received a 10-day opportunity (or mutually agreed upon period) to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards; or

(ii) _____ waived the opportunity to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards.

Agent's Acknowledgment (initial)

(f) _____ Agent has informed the seller of the seller's obligations under 42 U.S.C. 4852d and is aware of his/her responsibility to ensure compliance.

Certification of Accuracy

The following parties have reviewed the information above and certify, to the best of their knowledge, that the information they have provided is true and accurate.

_____ Seller	_____ Date	_____ Seller	_____ Date
_____ Purchaser	_____ Date	_____ Purchaser	_____ Date
_____ Agent	_____ Date	_____ Agent	_____ Date