

Lead Renovation, Repair and Painting Rule: U.S. Environmental Protection Agency and Texas Flip N Move (EQ Media, Inc.) Enter into Consent Agreement



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The United States Environmental Protection Agency (“EPA”) and Flip N Move Productions and EQ Media, Inc. (collectively “Flip N Move”) entered into a February 3rd Consent Agreement and Final Order (“CAFO”) addressing alleged violations of the Toxic Substances Control Act (“TSCA”). See Docket No. TSCA-06-2020-6137.

The alleged violations involve the TSCA Lead Renovation, Repair and Painting Rule (“RRP”).

The referenced companies are stated to be affiliated with the television program Texas “Flip N Move.” Note that EPA in 2018 had undertaken a similar type of enforcement action against another home improvement show – the HGTV series “Fixer Upper” (Magnolia Waco Properties, LLC). (See previous post [here](#).)

The RRP rules were promulgated pursuant to 15 U.S.C. §§ 2682, 2686, and 2687. The relevant lead-based paint regulations generally require that certain facilities:

- Provide information on lead-based paint hazards before renovations begin
- Establish work practice standards for renovations that disturb paint and surfaces in target houses and child-occupied facilities
- Require that firms and individuals performing, offering, or claiming to perform such renovations are properly trained and obtain EPA certification

The rules are found at 40 C.F.R. Part 745, Subpart E.

The CAFO provides that EPA conducted an inspection to evaluate Flip N Move’s compliance with TSCA and the RRP rule on or about July 19, 2018. The inspection is stated to have taken place at a renovation worksite located in Boyd, Texas.

The CAFO further provides that at the time of the inspection Flip N Move was engaged in renovations as defined by 40 C.F.R. § 745.83. It provides that:

At the time of the EPA inspection, and at all times relevant to this Consent Agreement and Final Order, Respondents were engaged in “renovations. . . for compensation” per 40 C.F.R. § 745.82(a), of at least thirty-one (31) structures (Structures), all located at 2145 County Road 4680, Boyd, Texas 76023.

The referenced Structures are stated to be “target housing” as defined by Section 401(17) of TSCA, 15 U.S.C. § 2681(17).

The violations alleged in the CAFO include:

- Flip N Move failed to obtain certification under 40 C.F.R. § 745.89 prior to performing, offering, or claiming to perform renovations in target housing.
- Flip N Move’s failure to obtain certification under 40 C.F.R. § 745.89 prior to performing, offering, or claiming to perform renovations in target housing is a violation of 40 C.F.R. § 745.81(a)(2)(ii) and Section 409 of TSCA, 15 U.S.C. § 2689.
- At the time of the inspection, Flip N Move did not have any certified renovators on their staff and failed to assign a certified renovator to each of the thirty-one (31) renovations performed on the Structures.
- Flip N Move’s failures to assign a certified renovator to each of the thirty-one (31) renovations on the Structures are violations of 40 C.F.R. § 745.89(d)(2) and Section 409 of TSCA, 15 U.S.C. § 2689.
- Flip N Move failed to ensure that each of the thirty-one (31) renovations on the Structures were performed in accordance with the work practice standards in 40 C.F.R. § 745.85, including but not limited to:
 - posting signs clearly defining the work area pursuant to 40 C.F.R. § 745.85(a)(1);
 - containing waste from renovation activities in the work area before the waste is removed pursuant to 40 C.F.R. § 745.85(a)(4)(i); and
 - storing waste collected from renovation activities under containment pursuant to 40 C.F.R. § 745.85(a)(4)(ii); (b)
- Flip N Move’s failures to ensure that each of the thirty-one (31) renovations on the Structures were performed in accordance with the work practice standards in 40 C.F.R. § 745.85 are violations of 40 C.F.R. § 745.89(d)(3) and Section 409 of TSCA, 15 U.S.C. § 2689.
- Flip N Move failed to retain records demonstrating compliance with the requirements of 40 C.F.R. § 745.85 for each of the thirty-one (31) renovations on the Structures as required by 40 C.F.R. §§ 745.86(a) and 745.86(b)(6).
- Flip N Move’s failures to retain records demonstrating compliance with the requirements of 40 C.F.R. § 745.85 for each of the thirty-one (31) renovations on the Structures are violations of 40 C.F.R. § 745.86(a) and 745.86(b)(6) and Section 409 of TSCA, 15 U.S.C. § 2689.

Flip N Move neither admits nor denies the specific factual allegations in the CAFO.

A civil penalty of \$30,000 is assessed. The original penalty of \$248,037 has been reduced conditioned upon Flip N Move’s completion of certain activities. These include:

- Providing banners (graphic overlay) to be placed on two episodes of Texas Flip N Move addressing lead-based paint hazards and requirements for use of a certified contractor
- Provide a link on certain shows to EPA’s lead website
- Construct a private webpage on the EQ Media website addressing lead-based paint
- Integrate certain specified elements related to the RRP Rule and to certain episodes of No Demo Reno (a television show being produced by EQ Media)
- Use a third-party entity licensed and/or certified by the State of Texas to perform lead abatement activities in six target housing units or child-occupied facilities

Certain substitute conditions are provided if the previous tasks cannot be undertaken in a commercially reasonable manner.

A copy of the CAFO can be downloaded [here](#) and the news release [here](#).