



ISSUE Insights



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Lead-Based Paint Renovation and Repair Disclosure, Training and Certification, and Safe Work Practice Requirements

While there are some exceptions, just about everyone who does work on pre-1978 rental housing where lead paint is presumed to be present must provide specific disclosure pamphlets to tenants and must be trained in lead-safe work practices. This Issue Insight provides an overview of those required disclosures and the necessary training required of individuals who perform work at the property.

I. Disclosure – Pre-Tenancy and Renovation Disclosure

There are two types of disclosures required in pre-1978 rental housing. One is required prior to the time a tenant takes possession of a rental unit and the second is required at the time specific property renovation is performed.

- A. Pre-Tenancy Disclosure** - Federal law requires that prior to executing a rental agreement for pre-1978 rental housing, a landlord must provide to incoming tenants a federal pamphlet entitled *Protect Your Family from Lead in Your Home*. At that time, the owner or agent is also required to disclose to the tenant any information about lead based paint or lead hazards that are specific to the property. The tenant and the owner or agent must all sign the disclosure form.
- B. Pre-Renovation Brochure & Disclosure** Due to the increased risk of lead exposure that can result from renovation activities, federal law requires “renovators” (as defined below) to provide a specific renovation pamphlet – *Renovate Right: Important Lead Hazard Information for Families, Child Care Providers, and Schools* - to tenants (and/or to landlords) when they undertake specific renovation and remodeling at rental property. The brochure must accompany a disclosure form that describes the location and type of work to be done (See CAA forms listed below). The disclosure requirement applies when a renovator renovates six square feet or more of painted surfaces in a room for interior projects. It also applies when renovating more than twenty square feet for exterior projects. And it also applies to window replacement, irrespective of the size of the window.

A “renovator” is defined as anyone who is compensated for his or her work. If the work is done by the owner, or the owner’s employees, the owner is responsible for complying with the notice provision. Similarly, if management company staff is performing the work, the company is responsible for the disclosure. If an independent contractor is hired by the owner, the contractor must provide the disclosure not only to the residents but also to the owner. If the work is done by an independent contractor, the owner is not responsible for providing the brochure/disclosure to the tenants.



When renovating tenant-occupied housing, a renovator is required to provide the brochure and disclosure to the owner (if applicable) and the tenant(s). This can be done in one of two ways:

1. **By Mailing** the pamphlet to the tenant and the property owner at least 7 days prior to the renovation and documenting it with a certificate of mailing.
2. **By Delivering** the pamphlet in person prior to renovation and obtaining confirmation of receipt. If the tenant or property owner is unwilling or unable to provide confirmation, “self certification” by the renovator is allowed.

When a renovator performs work in the **common areas of multi-family housing**, the renovator is required to notify the owner as described above (mail or deliver). The tenants may also be notified as outlined above, or the renovator may post signs describing the renovation and include information about how the tenants can receive a copy of the pamphlet.

All the necessary pamphlets and disclosure/acknowledgement forms are available from the California Apartment Association at www.caanet.org.

CAA/EPA Disclosure Forms

- CAA Form LEAD1 and Instruction Sheet – [Lead Based Paint Disclosure Addendum - LEAD1](#)
- CAA Product PM01 – [Protect Your Family from Lead in Your Home Brochure](#)
- CAA Form LEAD2 and Instruction Sheet – [Target Housing Disclosure of Renovation Activities](#)
- CAA Product PM04 – [Renovate Right: Important Lead Hazard Information for Families, Child Care Providers and Schools](#)
- EPA Website: <http://www.epa.gov/lead/pubs/renovation.htm>

II. California Lead Safe Work Practice Requirements

Any person, (including owners and managers) who performs work that disturbs lead-based paint in residential rental property in California is required to use lead safe work practices to protect occupants against exposure. California law (added by Senate Bill 460, stats 2001) added lead hazards to the conditions that make premises uninhabitable and substandard. The law also prohibits an individual from disturbing more than a “de minimis” amount of lead-based paint without “containment” (a system, process, or barrier used to contain lead hazards inside a work area). While this is not as detailed a requirement as the federal Environmental Protection Agency (EPA) rules, discussed below, the purpose of both laws is to ensure that the work that disturbs lead-based paint is done in a way that does not create a hazard and to ensure that no hazards are left behind.

- A. Containment** – California law requires containment of the work area when performing renovation work on pre-1978 housing, as described in the “Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing,” U.S. Department of Housing and Urban Development, Chapter 8, “Containment and Barrier Systems,” Table 8.1, Table 8.2, and Table 8.3.
<http://www.hud.gov/offices/lead/lbp/hudguidelines/Ch08.pdf>
- B. De Minimis Trigger for Safe Work Practices** - Specific work practice requirements are triggered if the amount of lead-based paint (or presumed lead-based paint) that is disturbed is equal to or exceeds (1) two square feet in any one interior room or space; (2) twenty square feet on exterior surfaces; or (3) ten percent of the surface area on an interior or exterior component with a small surface area such as window sills, baseboards, and trim.



III. Environmental Practices Agency (EPA) Renovation and Remodeling Rule: Training, Work Practices and Certification

ENFORCEMENT OF EPA RULE DELAYED

On Friday, June 18, 2010, the EPA announced that it will not take enforcement action against renovation and repair firms for violations of the EPA's certification requirements until October, 2010. For individual renovation workers, the agency will not take enforcement action so long as those workers have applied for, or enrolled in, training classes by September 30, 2010. Notwithstanding delayed federal enforcement, the lead safe work practice requirements imposed by California law as well as the pre-renovation disclosure requirement remain in effect and enforceable, as outlined above.

Beginning, April 22, 2010, owners, managers, contractors, and other individuals who perform repairs, renovation, or painting on pre-1978 buildings must comply with the Environmental Protection Agency (EPA) certification, training, and safe work practice requirements. Renovation is broadly defined as any activity that disturbs painted surfaces and includes most repair, remodeling, and maintenance activities, including window replacement. The work can only be performed by an individual who has been trained and is either certified or supervised by someone who is. In order to receive certification, an individual must successfully complete an 8-hour course.

A. What type of work does the renovation rule apply to? What is considered "renovation?"

Renovation is broadly defined as any activity that disturbs painted surfaces and includes most repair, remodeling, and maintenance activities, including window replacement. In general, any activity that disturbs paint in pre-1978 housing and child-occupied facilities, including remodeling and repair/maintenance, electrical work, plumbing, painting, carpentry, and window replacement.

B. Does this include surface preparation for repainting and other basic maintenance activities?

If the surface is disturbed by sanding, scraping, or other activities that may cause dust, the work is considered renovation. However, "minor repairs and maintenance" are exempt from the rule and may be performed by a person who is not trained or certified. This work is defined as "activities that disrupt 6 square feet or less of painted surface per room for interior activities or 20 square feet or less of a painted surface for exterior activities where none of the prohibited work practices is used and where the work does not involve window replacement or demolition of painted surfaces." Note: This definition differs from the "de minimis" exemption from California's safe work practices law. Some jobs that are exempt from the EPA rule must still be performed in compliance with California law (SB 460).

C. Who does the rule apply to?

In general, anyone who performs work for compensation and who disturbs paint in housing and child-occupied facilities built before 1978, including, but not limited to, residential rental property owners/managers, general contractor, and special trade contractors, including painters, plumbers, carpenters, and electricians.



D. Is the person doing the renovation required to provide notice prior to performing work on the property?

Yes. The renovator is required to provide a *Target Housing Disclosure of Renovation Activities* form and the Renovate Right brochure to affected tenants (and to the owner, if the renovator is not the owner) before beginning work. See page 1 above.

E. Does the rule apply to an owner doing work on his own rental property?

Yes. The owner is viewed by the EPA as doing the work “for compensation” because he or she is paid in the form of rent. By contrast, the rule does not apply to an owner doing work on his own residence.

F. What types of buildings does the renovation rule apply to – apartments; single family homes?

The rule applies to residential houses, apartments, and child occupied facilities such as schools and day care centers built before 1978.

G. What types of buildings or units are exempt from the EPA renovation rule?

- “Zero bedroom dwellings” are exempt. This means any residential dwelling where the living area is not separated from the sleeping area. This includes efficiency and studio apartments, dormitory housing, and military barracks.
- Housing built in 1978 or later.
- Housing for elderly or disabled persons, unless children under 6 reside or are expected to reside there.
- Housing or components declared lead-free by a certified inspector or risk assessor.

Note: The California law applies to all premises governed by California’s habitability and substandard housing laws, *i.e.*, all pre-1978 housing, except that which has been proven lead-free.

H. Who must be trained and certified?

The person doing the work must be trained and must be either be certified or supervised by someone who is certified. For example, if a landlord is doing work on a unit him or herself, the landlord must be certified. If the landlord’s employee is doing the work, either the employee must be certified or the owner must be certified and must have trained the employee in the use of lead safe work practices.

I. What are the responsibilities of the certified renovator?

Certified renovators are responsible for ensuring overall compliance with the EPA’s lead-safe work practice requirements, including training and supervising workers. They must also be present at the site when (1) warnings signs are posted; (2) containment measures are set up; and (3) when clean up is performed. They must be available on-site or by phone during the work and must verify cleanup and preparation of required records.



J. What are lead safe work practices?

Lead-safe work practices include: work-area containment to prevent dust and debris from leaving the work area; prohibition of certain work practices; thorough clean up followed by a verification procedure to minimize exposure to lead-based paint hazards; and proper waste removal and disposal. More details are available in the EPA Compliance Guide linked below.

K. What are “prohibited practices?”

The following work practices are prohibited during a renovation:

- Open flame burning or torching of lead-based paint
- Use of machines that remove lead-based paint through high speed operation such as sanding, grinding, power planing, needle gun, abrasive blasting, or sand blasting, unless such machines are used with HEPA exhaust control.
- Operating a heat gun on lead-based paint at temperatures above 1100 degrees Fahrenheit.

L. How does one obtain certification?

The California Apartment Association, in conjunction with Benchmark Environmental, is now offering the mandatory EPA-accredited training course. Contact your local association for classes in your area or go to CAA's Web site and enter your location and select “Education Courses” at the following link: <https://www.caanet.org/scriptcontent/events/index.cfm>

M. Where can I get more information and the necessary forms?

- **Certification and Training Requirements for Renovation, Repair and Repainting**

The EPA's “Small Entity Compliance Guide to Renovate Right: EPA's Lead-Based Paint Renovation, Repair and Painting Program” a handbook for contractors, property managers and maintenance personnel is available here:

<http://www.epa.gov/lead/pubs/sbcomplianceguide.pdf>

- **CAA/EPA Disclosure Forms**

- CAA Form LEAD1 and Instruction Sheet – [Lead Based Paint Disclosure Addendum - LEAD1](#)
- CAA Product PM01 – [Protect Your Family from Lead in Your Home Brochure](#)
- CAA Form LEAD2 and Instruction Sheet – [Target Housing Disclosure of Renovation Activities](#)
- CAA Product PM04 – [Renovate Right: Important Lead Hazard Information for Families, Child Care Providers and Schools](#)
- EPA Website: <http://www.epa.gov/lead/pubs/renovation.htm>

IV. Additional Workplace Safety and Training and Certification Requirements

Both federal and state laws are focused on protecting the health of occupants. Not covered in this paper are additional safety measures that may be required to protect the health of **workers** under Cal/OSHA's Lead in Construction Standard. Additional training and certification requirements also apply to work that is intended to remove lead-based paint or permanently control lead hazards. See the links below.



Additional Training and Certification Requirements

<http://www.cdph.ca.gov/programs/CLPPB/Pages/LRCNav.aspx>

Summary of Cal/OSHA's Lead in Construction Standard

<http://www.cdph.ca.gov/programs/CLPPB/Pages/LRCNav.aspx>

Cal/OSHA's Free Compliance Consultation Service for Employers

<http://www.dir.ca.gov/dosh/consultation.html>

