

Important New Lead Requirements
You Need to Know
by the Fair Housing Council

The below article is an update on mandatory disclosure requirements that impact the housing industry. As you no doubt already know, federal law requires housing providers to notify housing consumers of any known or possible lead-based paint hazards in pre-1978 housing.

Lead poisoning is especially serious for young children (including unborn infants). However, the fear of possible lead poisoning or liability does not give housing providers the right to deny or discourage families with children away from pre-1978 homes or apartments. Familial status is a protected class under federal fair housing law and doing anything to deny or discourage otherwise qualified families with children away from a home you're selling or renting is plainly illegal.

So, for many years now, you have been or should have been:

1. Handing out the booklet entitled "*Protect Your Family from Lead in Your Home*" put out by the Environmental Protection Agency (EPA), Department of Housing and Urban Development (HUD) and
2. Using the "Disclosure of Information on Lead-Based Paint and/or Lead Based paint Hazards" with any buyer or renter prior to they're becoming obligated under a sales or rental contract. [**This form is incorporated into the AOA Rental Agreement Form 101**].

These requirements have not changed; there are new and additional federal requirements you must comply with that involve repairs and renovations of homes built before 1978 (as well as child care facilities and schools, but it's housing that's of concern to us here). Common renovation activities such as sanding, cutting and demolition can create hazardous lead chips and (even microscopic) lead dust if lead-based paint is disturbed in the process. This lead can be ingested by residents, children and even pets with hand-to-mouth contact, inhalation through the mouth, even through the mucous membranes of the eyes and nose. Lead never breaks down in the body so poisoning is not curable and it can cause a long list of physical and mental conditions including damage to the nervous system or kidneys, learning disabilities, attention deficit disorder and decreased intelligence, decreased muscle and bone growth, fetal brain damage, fertility problems, high blood pressure and digestive problems to name a few. High levels of lead poisoning can result in seizures, unconsciousness and in some cases, death.

While one can be poisoned by lead from water sources, plumbing pipes, hobbies (think of lead sinkers fisherman use or the lead solder used to make stained glass), far and wide the most common source of lead poisoning in the US is from lead-based paint often found under several layers of newer paint in our pre-1978 homes.

Lead-based paint is generally considered safe if it is “contained” and not disturbed. When older properties with lead-based paint are not maintained and the paint is allowed to deteriorate or chip and crack, or repairs and renovations disturb that old paint, a serious hazard is created.

New Rule

To further protect against the risk of poisoning, the EPA issued a new rule in March of 2008. Under the new rule, those performing renovation, repair and painting projects that disturb lead-based paint must be certified and follow specific work practices (including notification, disclosure, distribution of a new booklet, etc.) to prevent lead-based paint contamination.

This rule does not apply to minor maintenance or repair activities where less than six (6) square feet of lead-based paint is disturbed in the interior or where less than twenty (20) square feet of lead-based paint is disturbed on the exterior.

New Requirements

As of June 23, 2008

Those performing renovation, repair and painting projects on pre-1978 housing must provide one of the following to the owners and/or occupants before beginning renovations: *either the pre-existing Protect Your Family brochure or a new EPA/HUD brochure entitled “Renovate Right: Important Lead Hazard Information for Families, Child Care Providers and Schools”.*

New Requirements

As of December 1, 2008

Those performing renovation, repair and painting projects on pre-1978 housing must provide the new Renovate Right brochure to owners and /or occupants.

That is, as of December, you must specifically give the new ***Renovate Right*** brochure; using the *Protect Your Family* brochure will not longer be allowed for repair/renovation purposes. (You must still give the Protect Your Family brochure and pre-contract disclosure to any buyer or renter prior to they’re becoming obligated under a sales or rental contract as it has been required for years.)

The booklet must be given prior to each distinct renovation or repair project. In other words, if you made one repair today, you’d need to go through the steps again to begin a new project, say, six months from now. The Renovate Right booklet provides a sample pre-renovation form that may be used through April 2010 to document compliance with this requirement. Currently, there are no supplies of the booklet and the forms found in it, in printed form; you must download them from the EPA site. (see footnote below).

New Requirements

As of April 1, 2010

Beginning April 1st, 2010, federal law will require that those doing work on pre-1978 housing be certified to do so and to follow specific work practices to prevent lead

contamination. ***You must, by law, hire a contractor who is lead-safe certified; or become certified yourself if doing work on a home you do not occupy.*** To be clear, if you are doing work on a home you own and occupy, you may do the work yourself without being certified; however, if you rent out the home or, arguably if you will be selling it, you must either be lead-safe certified or hire a contractor who is.

In general, certified contractors will have to provide the Renovate Right brochure and the renovation form, as well as:

1. Contain the work area (covering floor and furniture; sealing off doors and heating/cooling systems, etc.
2. Minimize dust (no open flame burning or torching; no sanding, grinding, etc. without a shroud and HEPA vacuum, etc.
3. Clean up thoroughly (use a HEPA vacuum; wet mop the area, etc.

Strict specifications are required but the points above give you a general idea of what will be expected. The certification process (and who will manage it) is not yet determined. Stay tuned for further news as 2010 draws nearer. You can visit www.epa.gov/lead/pubs/effectivedates.htm to view the implementation deadlines associated with the Lead Renovation, Repair and Painting program rule.

If you own, manage or sell pre-1978 property, visit www.epa.gov/lead for more information about how to handle at-risk residential properties. If you have specific lead questions, contact the National Lead Information Clearinghouse at 800.424.LEAD.

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