

An **Around the House** White Paper



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Lead Paint and Your Home

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Scope

On April 22, 2010, the EPA rules regarding how lead paint is handled in residential properties went into effect. It is not the intent of this paper to explain the details of the law.

This paper will attempt to give you an idea of what this law means to you. Note that we are not lawyers (and don't play them on TV). What follows is a result of:

- Reading the EPA ruling (including the preamble)
- The training we completed to become EPA Certified Renovators
- On-line and trade group discussions and information passed down from federal and Massachusetts state officials

For more information, see the Resources section of this document.

State Specific

Since the original law went into effect, many states have opted to take over enforcement of the rules as they are allowed to do so long as they get EPA approval to do so.

As of July 9, 2010, the state of Massachusetts took over administration and enforcement of the lead paint issue. For a pointer to the Massachusetts statute, see the Resources section of this document.

Information has been poorly disseminated, but the state regulations are very similar to the federal regulations. Any contractor who is already registered and trained for the federal program does not have to get further training. They do have to fill out a form to get an official waiver, though.

As a homeowner in Massachusetts, you should be concerned with whether your contractor has received his waiver from the state, allowing him/her to work on painted surfaces in homes built prior to 1978.

For more information, see the Resources section of this document.

What problem is this law trying to address?

This law attempts to eliminate lead dust in homes due to renovations. In particular, it is trying to protect small children from the effects of an elevated blood lead level. Depending on the project, containment, clean up, and verification may have to be done inside the home, outside the home, or in both places.

Note that it is NOT an attempt to address all the lead used in construction. It does not pertain to lead pipes, lead in solder, lead flashing, or any other building material other than paint. Note that lead in the coating on ceramic tiles IS considered "paint" for the purposes of this law.

We won't go into all the details about why ingesting lead is bad. There are many resources on the WWW that can do a more thorough job of describing the effects of ingesting lead than we can.

What specific homeowners need to be concerned?

The law applies to any residential building built before January 1, 1978 (lead paint was outlawed as of this date, so the assumption is that any home built on or after this date should not have any lead paint). There are a few exceptions, but, in general, if your home was built before 1978, the law applies to it.

The law also applies to non-residential buildings that are "child-occupied." This means buildings that contain child care facilities, etc.

Most projects that include painted components are included. So, removing a kitchen sink and countertop does not require following the lead-safe rules (unless, of course, any part was painted), but removing the painted cabinets along with the sink and counter would require following the rules. Demolition and window replacement, among other projects are specifically mentioned in the law as being included.

How does this affect home improvement projects that I perform myself?

Any work done by the homeowner is not covered under the law. That is, you can handle these projects exactly as you like. Note that the state of Massachusetts may have other laws that would apply to projects performed by the homeowner.

Though the law may not be looking over your shoulder in a DIY project, following proper dust containment procedures is just as prudent when working with potential lead paint dust as it is when dealing with asbestos, mold, or any other material with potential long-term health effects.

If you are a landlord doing work on a rental property or have a tenant doing work in exchange for a reduction in rent, this new law applies (both cases are considered "for compensation"). That is, you must be registered and certain parts of the project must be done by or supervised by a Certified Lead-Safe Renovator. Note that just because the landlord occupies the property does not mean that they are considered a homeowner and, therefore, can ignore the rules.

How does this affect home improvement projects that I hire someone to perform?

In a nut shell, anyone performing work on a pre-1978 home must be registered with some government agency. If your state **has not** taken over administration of the rules, your contractor must register with the Environmental Protection Agency (Around the House has certification #NAT-20648-0). If your state **has** taken over administration of the rules (Massachusetts has), your contractor must be registered with the state agency who will be

administering the rules (Around the House has Massachusetts waiver #LW000002 ... the second company in the state to get our waiver).

In addition, certain parts of the job must be done by of supervised by a Certified Renovator (both Wayne and Maryann are Certified Renovators). If your contractor has not registered with the EPA and does not have staff that have completed the training to become a Certified Renovator, they are in violation of the law.

If your contractor is certified, he/she will be able to show you a certificate from the EPA or, in Massachusetts, a certificate from the Department of Occupational Services. Although many contractors claim to be waiting for the government to return their certificate (the check's in the mail excuse), in Massachusetts, they are not allowed to do any work without having actually received the certificate (or waiver).

For information on finding certified contractors, see the Resources section of this document.

This only applies to general contractors, right? My plumber or electrician doesn't need to follow this rule, do they?

No. All specialty trades also need to be registered and trained exactly as the general contractor. This includes plumbers, electricians, painters, flooring trades, drywall installers, even roofers. Anyone who touches painted surfaces in the identified buildings needs to be registered and trained. Just the determination that your project falls under the "maintenance" clause of the ruling must be done by a Certified Renovator.

Is there anything new before work gets started?

The short answer is "no."

The more accurate answer is that you will have to be given a written by the EPA that will help teach you about the hazards of lead paint. This has been the law since December of 2008, though few contractors have been doing it. Around the House has been distributing these booklets.

For a pointer to an on-line copy of the *Renovate Right* booklet, see the Resources section of this document.

Can I enter the area being worked on?

No. Your contractor will seal off the area and put up signs warning you not to enter the area. Since everything leaving the area must be cleaned according to the lead safe work practices, you are not authorized to enter the area until the contractor cleans the area and removes the plastic sealing the entrance to the room.

What if I hire someone who is not certified?

Why would you want to do this? You may be exposing your family to a greater lead hazard. More importantly, you are hiring someone who has specifically decided to ignore current law with respect to lead paint. Isn't it likely that they will also ignore laws regarding building codes, the installation guidelines from materials manufacturers, and the contract you signed with them, among other things? Don't you want a contractor who wants to do the job properly and legally and will be in a position to stand behind his/her work, if necessary?

The shorter answer is to consult your lawyer.

How will it change the work being done?

There isn't enough space to go into the specifics of the law. The rules require specific actions that address these areas:

- Education
- Containment
- Cleaning
- Verification - to make sure there is no dust left behind

You will need to be aware that these rules will add some cost to work done on your home. It will also likely make these projects take more time. You will no longer be permitted to enter the work area until cleaning and verification has been completed.

But my home doesn't have any lead paint!

If you can prove it with a certificate that shows that your home has been tested by a Licensed Lead Paint Inspector, the law would not apply to your home. Otherwise, in Massachusetts, we are required to assume that any painted surface could, possibly, contain lead paint.

See below for a more complete discussion about testing for lead paint.

Does my pre-1978 home have to be tested for lead paint?

If you own a home built before 1978, you have a few choices:

- Do nothing.

Any contractor who works on your home must be a Certified Renovator and must assume there is lead paint present and follow all the lead safe work practices.

- Test the surfaces.

A Certified Renovator can use a lead test kit to test the components that he/she will work on to determine if there is lead paint on them. If the test is positive (i.e., there is lead paint), he/she should give you a copy of the testing report and they must follow the lead safe work practices when doing the work. You will be legally required to disclose the knowledge of lead paint in your home to any future home buyer. Note that there are lead test kits available in home centers that you can pre-test your components, but a Certified Renovator cannot base his/her decision on whether there is lead paint present upon your test results.

- De-lead.

You can get a Licensed Lead Paint Inspector to test your whole house. We have been told that this would cost several hundred dollars for your whole house. If you believe that your home contains no lead paint, this might be the simplest and most cost effective solution for the future. If there is an inspection report from a Licensed Lead Paint Inspector on file with the state that says you have no lead paint, your home can be treated like a post-1978 home by all contractors for all future work.

Be aware, if the Licensed Lead Paint Inspector finds evidence of lead paint, that will be reported and you may or may not have to de-lead the home. You will be legally required to disclose the knowledge of lead paint in your home to any future home buyer.

How can I reduce the costs/time?

There are a number of things that you can do:

- Make it easier to set up containment and cleanup.

If you can remove all objects in a room, it will take us less time to set up dust containment and less time to perform the cleaning and verification at the end of the project.

- Find out if there is lead paint present.

If you are convinced that there is no lead paint present in your home, it may make sense to get a Licensed Lead Paint Inspector to test your whole home to give it a clean report on file. Be warned that if you are wrong, the fact that your home contains lead paint will be reported to the state and you may or may not be required to take further steps. You will be legally required to disclose the knowledge of lead paint in your home to any future home buyer.

You can get test kits from home centers and do a pre-test. While this may help you make up your mind about what to do next, the results from your personal tests cannot be used by a Certified Renovator to decide whether he/she needs to follow

the lead safe practices.

A Certified Renovator can test for lead paint. He/She should give you a testing report and you will be legally required to disclose the knowledge of lead paint in your home to any future home buyer if that test shows that there is lead paint present.

- Do your own demolition.

If we will not be dealing with any painted surfaces to do our work, the law does not apply. Note: if your project requires a building permit, you will need to get the permit yourself prior to starting demolition.

I've heard about an opt-out clause. Can I sign something that says it's OK not to follow the lead-safe rules?

The opt-out provision was removed. All work performed after July 6, 2010 must follow lead safe work practices unless the Certified Renovator knows there is no lead paint being disturbed.

I'm a tenant, how does this affect me?

If you pay a landlord rent in a building built prior to 1978, he/she must either be a certified firm and have appropriate work on the property you rent supervised by a trained Certified Renovator or he/she must hire contractors who are.

A landlord cannot plead ignorance of the law nor can he/she claim to be exempt if he/she occupies the property, too.

Does this mean that I am doing lead abatement on every project done to my home?

No. This law is not considered lead abatement at all. We are not a Licensed De-leader. If you want to make sure your home is free of lead, you will need to hire a Licensed Lead Paint Inspector to create a hazard report and then hire a Licensed De-leader to handle the removal of all the hazards.

It's an inside job and I won't tell anyone. Can't you cut me a break?

We're sorry, but we treat this issue the same as when people ask us to do a job that requires a building permit without getting the permit. We cannot take the risk of violating any laws that pertain to our industry in order to save you a few dollars.

How can I report a violation of the rules?

See the Resources section of this document.

Can I get paid for turning in a violation?

No. There is no bounty program of which we are aware.

Why don't television shows follow these rules?

The short answer is that they should if the work is being done in the United States. However, you must realize that the law applies to when the work was done, not when the show was broadcast. Many shows have a very long lead time.

Resources

Federal

- Federal Government (EPA) RRP information
<http://www.epa.gov/lead/pubs/renovation.htm>
- Finding a certified contractor in a state administered by the EPA
http://cfpub.epa.gov/flpp/searchrrp_firm.htm
- *Renovate Right* pamphlet
<http://www.epa.gov/opptintr/lead/pubs/renovaterightbrochure.pdf>
- Reporting a violation of the rules
(800) 424-5323

Massachusetts

- Massachusetts lead paint rules information
<http://www.mass.gov/dos>
- Massachusetts statute (454 CMR 22)
http://www.mass.gov/Elwd/docs/dos/lead_asbestos/RRP%20Rule/Lead_454CMR_22%20000.pdf
- Finding a certified contractor in Massachusetts
http://www.mass.gov/Elwd/docs/dos/lead_asbestos/lead/la-rpt_list_lr.pdf
- Reporting a violation of the rules
<http://www.mass.gov/dos>