

Pre-Renovation Education for Lead Paint

FREQUENTLY ASKED QUESTIONS

R 325.99409 Pre-Renovation Education.

(1) Not more than 60 days before commencing a renovation activity for compensation in target housing or child-occupied facility, the renovator shall do both of the following:

(a) Provide the owner of the dwelling or facility with US EPA pamphlet entitled "*Protect Your Family From Lead in Your Home*," or a true reproduction, or **an equivalent pamphlet approved by the department**. If the owner does not occupy the dwelling unit, then the person performing renovation shall also provide an adult occupant of the housing unit with the pamphlet.

(b) Obtain a written acknowledgment of receipt of the pamphlet from the owner and, if applicable, the adult occupant of the unit or facility... (continued).

Q. What is the pre-renovation education rule (PRE)?

A. The pre-renovation education rule is a United States Environmental Protection Agency (EPA) regulation and a State of Michigan regulation affecting contractors, property managers, landlords, and others who perform renovations for compensation. Renovation includes most maintenance, repair and remodeling activities that disturb painted surfaces. Compensation includes rent, contract payments, and other forms of compensation. Prior to December 22, 2008, PRE required distribution of the pamphlet *Protect Your Family From Lead In Your Home*. On December 22, 2008, EPA's rule changed and now requires the pamphlet *Renovate Right* to be handed out to the owners and occupants before starting renovation work. At the same time, Michigan also approved the *Renovate Right* pamphlet as an equivalent pamphlet. To be compliant with both regulations, the *Renovate Right* pamphlet must be provided before starting renovation activities in Michigan.

Q. Where does the pre-renovation education rule apply?

A. The pre-renovation education rule applies to target housing and child occupied facilities. Target housing means housing units that were constructed before 1978. A child occupied facility is a facility (daycare, preschool, kindergarten class room, etc.) where a child under the age of 6 visits regularly, that is in a building that was built before 1978.

Q. Why was this regulation created?

A. This regulation was created because there is a need to educate families about the dangers of lead based paint (LBP) and LBP hazards. Approximately 41% of children under the age of 6, who have elevated blood lead levels, live in homes that were renovated within the previous year. When renovation is done on a LBP painted surface, lead dust is created. Lead based paint dust is a serious health hazard. Unless each painted surface has been tested by a state approved method and verified not to contain LBP, you must treat each surface as if LBP is present.

Q. What does the pre-renovation education rule require me to do?

A. PRE requires:

1. Distribution of *Renovate Right*, or a true complete reproduction, to the property owner and an adult occupant, if different, not more than 60 days before renovation starts.
2. Obtain a written acknowledgement, confirming that the owner and occupants have received the pamphlet. Or obtain a certificate of mailing from the post office not less than 7 days prior to the start of a renovation. Sample forms are in the back pages of *Renovate Right*.
3. For renovation in common areas of multifamily target housing, notify in writing, each affected unit of the multifamily target housing and make the pamphlet available to the occupants upon request prior to the start of renovation.
4. Retain a copy of the written acknowledgement with your records for 3 years after completion of the renovation activities.
5. Make available to the department all records necessary to demonstrate compliance with this rule if requested.

Q. Who needs to follow these requirements?

A. Landlords, property managers, maintenance personnel, handymen, contractors, and subcontractors including specialty trades such as: carpenters, drywall installers, electricians, painters, plumbers, siding installers, window installers, etc. need to follow these requirements. In general, anyone who is compensated for doing work that disturbs a painted surface in target housing or child occupied facilities. Compensation includes rent, contractual payments and other forms of compensation.

Q. What are the exceptions to the pre-renovation education rule?

A. The exceptions are:

1. Lead abatement.
2. The portion of a renovation that is designated as lead abatement, but not the entire renovation.
3. All properties built in 1978 or later.
4. Emergency renovations immediately necessary to safeguard against imminent danger to human life, health and safety, or to protect property from further structural damage caused by a natural disaster, fire, structural collapse, etc. However, once the portion of the repair that addresses the source of the

emergency is completed the exemption no longer applies. Any additional renovation activity needed to return the renovation work area to its pre-emergency condition would be subject to PRE requirements.

5. Dedicated housing for the elderly (62 years of age or older) or disabled, unless children under 6 years old reside there.
6. Zero-bedroom dwellings like studio apartments, dormitories, etc. unless children under 6 years old reside there.
7. Housing or components that are found to be free of lead based paint by a certified inspector or risk assessor.
8. Commercial properties except those which have child occupied facilities.
9. An unoccupied property that is scheduled for demolition provided the property will remain unoccupied until demolition is complete.
10. If the renovation disturbs:
 - a. Less than 10% of the total surface area of painted surface on any type of interior component with a small surface area.
 - b. Less than 2 square feet of interior painted surface per room, stairwell, hallway, porch, or room equivalent.
 - c. Less than 20 square feet of painted surface on a building exterior.

Q. What is a common area?

A. A common area is a portion of a building that generally accessible to all occupants of the building. Common area includes, but is not limited to, a hallway, a stairway, a laundry room, a recreational room, a buildings exterior, a playground, a community center, a garage, and a boundary fence.

Q. What is considered a painted surface?

A. Painted surfaces include any surface coated with paint, shellac, varnish, stain, paint covered by wallpaper, or any other coating. Wallpaper should be assumed to cover paint unless building records of physical evidence indicates no paint is present.

Q. What actions disturb painted surfaces?

A. Any action that affects the painted surface including cutting, boring holes, sanding, scraping, and component removal. With activities like window and door replacement, cutting out areas of walls or components, or component removal, the entire area that is removed (the whole window or door, the drywall that is cut out for access to the wall cavity, the entire component) is considered to be disturbed, not just the perimeter that is cut.

Q. Are the Michigan PRE requirements the same as the information distribution requirements for the EPA Renovate, Repair, and Painting Rule (RRP)?

A. PRE requirements are both more restrictive and less restrictive than the information distribution requirements of RRP. PRE does not apply if less than 10% of painted surface on an interior component is

disturbed or if less than 2 square feet of painted surface is disturbed per room. Both of these levels are more restrictive than the 6 square feet requirement of RRP.

PRE requires providing the *Renovate Right* pamphlet to the owner of the building and child-occupied facility if the owners are different. PRE does not include the expanded requirements of RRP requiring the renovator to notify the parent or guardian of the children in the child-occupied facility as to the upcoming renovation activities.

Q. When installing a roof, my firm does not create dust by directly sanding or cutting painted surfaces, but we do hammer the unpainted side of the lumber from above. Does PRE apply to this work?

A. PRE applies to work that disturbs painted surfaces. If hammering painted components, even on the unpainted side, disturbs paint, creating dust or chips, PRE applies.

Q. I am repainting relatively new siding on a pre-1978 home. The siding was installed after 1978, but was nailed over top of the old exterior lead-based paint. Must I comply with PRE?

A. PRE only applies when a painted surface is disturbed. If the repainting activity disturbs a painted surface, such as by sanding, scraping or power washing in preparation of painting, then PRE applies. The same is true even if you do not believe the old lead-based paint is disturbed when the new siding is prepared and repainted.

Q. How does a firm or renovator document or confirm the age of the structure?

A. Renovation firms are responsible for determining the age of the property. The property owner is likely to be a good source of information on the age of a home or other building, but the firm may not rely on the statement of the property owner as to the construction date of the building if there is evidence to the contrary. If in doubt, renovation firms can use tax assessments, property records, and similar information to determine the date of construction. Finally, the renovation firm may always assume that a home of child-occupied facility was constructed before 1978.

Q. If a renovation is taking place in a home built in 1950, but in an addition that was built in 1980 does PRE apply to the renovation?

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Q. If all or a portion of a pre-1978 housing unit has been gut-rehabbed after January 1, 1978, as evidenced by the property owner and/or other verifiable documentation, does PRE apply to work in that unit?

A. Yes to both, unless a determination has been made that the components affected by the renovation are free of paint or other surface coatings that contain lead equal to or in excess of 1.0 milligrams per square centimeter (mg/cm²) or 0.5% by weight. This determination must be made either by a certified inspector or

risk assessor (Michigan does not currently allow for the use of an EPA recognized test kit for the purposes of PRE). You must keep records of any lead-based paint free determination for a period of 3 years and make the records available to the Michigan Department of Community Health if requested.

Q. Are renovations performed on detached garages, sheds and other detached outbuildings on the property subject to PRE?

A. Yes. Target housing includes pre-1978 buildings or structures that are (1) located on the residential portion of the property, and (2) associated with the residential use of the property. As a practical matter, the entire property of most urban and suburban residential lots is normally considered to be associated with residential use.

In the case of real property that is used for nonresidential as well as residential purposes, a judgment should be made as to which part of the property is associated with residential use. For example, if the structure is in such close proximity that the renovation would pose a risk to those using the property for residential purposes, the structure would be considered associated with the residential use of the property and PRE would apply.

Q. Does PRE apply to contractors conducting emergency renovation work?

A. Emergency renovations (other than interim controls performed in response to a child with an elevated blood lead level), are exempt from PRE only to the extent necessary to respond to the emergency. Once the portion of the repair that addresses the source of the emergency is completed the exemption no longer applies. Any additional renovation activity needed to return the renovation work area to its pre-emergency condition would be subject to PRE requirements.

Q. What are the pre-renovation education requirements for a vacant apartment?

A. Firms performing renovations must provide the *Renovate Right* pamphlet to the owner of the unit and to an adult occupant. If the unit is not occupied, providing *Renovate Right* to the owner of the unit is sufficient.

Q. When renovating a common area in an apartment building, must my firm provide pre-renovation education to all tenants?

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Q. My firm is replacing windows in a condominium. We understand that we need to provide the “Renovate Right” pamphlet to the owner of the condominium in which we are working. Is this type of exterior work considered work in a common area, and if so, what type of information must be provided to other owners and occupants?

A. Exterior renovations of multi-unit target housing are considered renovations of a common area. A common area is a portion of a building that is generally accessible to all residents or users of the building. Firms performing renovations in common areas of multi-unit housing must comply with PRE requirements

before beginning renovation activities. The firm must provide the owner of the common area being renovated (generally the building owner or the condominium association) with the “Renovate Right” pamphlet and obtain a written acknowledgement of receipt. The firm must also provide the owner/occupant of each individual unit, affected by the renovation, in the complex with information describing the general nature and locations of the renovation, the expected start and end dates, and a statement of how the owner/occupant can obtain the *Renovate Right* pamphlet from the renovator at no charge. The firm may comply with this requirement either by mailing or hand-delivering the required information to each unit.

Q. Where can I obtain the *Renovate Right* pamphlet or more information?

A. *Renovate Right* is available by calling the Environmental Protection Agency (EPA) at 1-800-424-5323, or the State of Michigan at 1-866-691-5323 or 1-517-335-9390. *Renovation Right* is also available on line from EPA at www.epa.gov/lead or the State of Michigan at www.michigan.gov/leadsafe.

Tips for Easy Compliance

1. Plan ahead and obtain enough copies of the lead pamphlet.
2. Copy and use the sample forms in the pamphlet *Renovate Right*.
3. Incorporate the forms as part of your contract documents.
4. Hand out the pamphlet.
5. Obtain a written receipt, confirming that the owner and occupants have received the pamphlet.
6. Keep a copy for your records for 3 years.