

Frequently Asked Questions: Lead-Based Paint Renovation

Rules and Regulations for Target Housing and Child-Occupied Facilities

Acronyms Used

CCB = Construction Contractors Board
DHS = Department of Human Services
EPA = Environmental Protection Agency

LBP = Lead-Based Paint
LBPR = Lead-Based Paint Renovation
RRP = Renovation, Repair and Painting

Buildings Covered by the Law

1. What buildings are covered under this law?

- Child-occupied facilities
- Target housing

2. What are child-occupied facilities?

Buildings, or portions of buildings, constructed before 1978 and visited regularly by the same child, under age six, on at least two different days within any week provided that each day's visit lasts at least 3 hours and the combined weekly visit lasts at least 6 hours, and the combined annual visits last at least 60 hours. Child-occupied facilities include:

- Day-care centers
- Preschools
- Kindergarten classrooms

3. What is target housing?

Most housing built before 1978. Target housing does not include:

- Housing for the elderly or persons with disabilities
- Any dwelling with no bedrooms

4. Target housing” does not include “housing for the elderly.” Does the term “housing for the elderly” refer to specific housing or does it refer to the housing in which an elderly person lives?

Housing for the elderly” means retirement communities, retirement homes, or similar types of housing reserved for households composed of one or more persons 62 years of age or more at the time of initial occupancy. Housing for the elderly is not subject to the requirements for lead-based paint renovation unless a child who is under age six resides, or is expected to reside, in the housing.

Commercial Contractors

5. Do commercial contractors need to be licensed as certified LBPR contractors?

Commercial contractors that perform renovation on “target housing” or “child-occupied facilities” must be licensed as certified LBPR contractors. Target housing may include, for example, apartment buildings.

Date of Construction

6. If a home was built in 1978 or after, does it matter if the home owner could have used a can of old LBP?

No, the law does not apply.

7. As contractors, how do we know or verify when a structure was built?

Contractors may contact the County Assessor’s Office in the county where the structure is located to determine in which year the structure was built.

8. Who is responsible for obtaining this information, the homeowner or the contractor?

The contractor is responsible.

Demolition

9. Do the LBP rules apply to complete demolition of a structure (for example, an entire house built before 1978)?

No. Renovation does not include demolition even if the structure is “target housing”.

Detached Structures

10. For a detached structure not used as a dwelling (for example, a garage, shed, barn, boathouse) do the LBP rules apply?

No. The building is not housing. Therefore, it is not “target housing” even if built before 1978.

11. What if the structure is on the same lot as a house built before 1978?

The answer is the same as above.

12. What if the structure is being converted into an apartment or guest home?

The LBP rules apply. Renovation includes converting a building, or part of a building, into target housing. OAR 333-070-0085(60).

13. What if the structure is “semi-detached,” like a garage connected by a breezeway to a house?

If built before 1978, the entire structure is target housing. The LBP rules apply to the garage the same as to the house since the structure is, in total, “target housing.”

Law & Compliance

14. When did the LBPR contractor license law take effect?

May 3, 2010.

15. Who came up with this idea?

Oregon’s law is based on federal law. The federal EPA adopts regulations and enforces the federal law. The EPA authorized Oregon to administer LBP laws in place of the federal law.

Lead Based Paint Testing

16. Does a certified LBPR contractor planning to renovate target housing or a child-occupied facility built before 1978 need to perform a test to determine if there is LBP?

No. The certified LBPR contractor does not need to test for LBP. If target housing or a child-occupied facility was built before 1978, it is presumed that the structure may contain LBP. Unless a test determines the renovated components contain no LBP, a certified LBPR contractor must perform the renovation following appropriate notice requirements, work practices and record-keeping.

17. If a LBP test was performed and there is no lead, may a contractor other than a certified LBPR contractor perform renovation?

Yes, but only if a certified individual performed the LBP test.

Certified individuals include lead inspectors and lead risk assessors. These individuals must provide a written determination 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 .5 percent by weight.

Certified individuals also include certified renovators. These individuals must use an EPA-recognized test kit. The renovator must follow the manufacturer’s instructions. (Check the RRP manual for information on how to perform the test). The renovator must determine 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 .05 percent by weight. The renovator must prepare and maintain records of the test.

18. I am a certified LBPR contractor. Can I perform a LBP test?

Yes, your certified renovator may perform a LBP test on components for which you plan to perform renovation. However, the renovator must use an approved EPA test kit.

19. Which test kits are approved by the EPA?

Currently there are only two approved test kits that can be used in Oregon – LeadCheck by Hybrivet Systems and the D-Lead Paint Test Kit from ESCA Tech, Inc. Note: The LeadCheck Kit from Hybrivet Systems can only be used on wood or ferrous materials – not drywall or plaster. The D-Lead Paint Test Kit from ESCA Tech, Inc, can be used on wood, ferrous (iron containing) materials, drywall and plaster. Check the RRP manual for information on how to perform the test. www.youtube.com/watch?v=bZzWXfz6Poo

20. What must the certified renovator do to document that he or she performed the LBP test?

The certified renovator must document compliance. The documentation must include:

- A copy of the certified renovator's training certificate;
- Certification by the certified renovator as to the specified brand of test kit used;
- The location where the test kit was used; and
- The results of the test.
- The record must be kept for three years.

21. I am a licensed contractor. I am not a certified LBPR contractor (I have no certified renovator), a lead inspector or a lead assessor. Can I perform a LBP test using the EPA approved test kit?

No. Only a certified renovator may perform an LBP test with the approved test kit).

22. I live in a house built before 1978. How do I have it tested for lead?

Contact a certified lead inspector, lead risk assessor or certified LBPR contractor that employs a certified renovator.

23. How many parts of a house exterior does a LBPR contractor need to test to determine if there is LBP?

A contractor needs to test each building component. For example, siding is a building component. It should be tested in at least one place before renovation. Corner boards are a separate building component. They should also be tested. Gables and eaves are often made up of several additional building components: soffits, fascia, gutters and downspouts. Tests should be performed on each of these building components in at least one place.

24. I am not a certified LBPR contractor. I have not yet made an offer to perform renovation work, but may do so if there is no LBP. Can I hire a certified LBPR contractor to test a potential customer's pre-1978 house or child occupied facility for LBP?

Yes. If you have not offered to perform the work, you do not need to be a certified LBPR contractor. Another certified LBPR contractor (through its certified renovator) may perform a swab test on all components that might be subject to renovation. If the components do not contain LBP, you may offer for or bid the job. If, however, one or more components contain LBP, you cannot perform the renovation.

25. I am not a certified LBPR contractor. I have offered to perform renovation work, but will only perform the work if there is no LBP. Can I hire a certified LBPR as a subcontractor to test a potential customer's pre-1978 house or child occupied facility for LBP?

No. If you offer to perform the work on target housing, you need to be a certified LBPR contractor. You cannot first offer to do the work then determine (by a certified renovator or otherwise) whether there is LBP.

Licensing

26. Is there a test to obtain a certified LBPR contractor license?

CCB does not have a test for this license. However, to become a certified LBPR contractor, the applicant must have a certified renovator who has completed a course offered by an EPA or DHS accredited provider.

27. Is a bond or insurance required?

A certified LBPR contractor's license does not require separate bonds or insurance. However, to become a certified LBPR contractor, a business must first be a contractor licensed by the CCB. That license requires a bond and insurance.

28. Where do I obtain a certified LBPR contractor license application?

License applications are available on the CCB's website. The CCB will also mail an application upon request.

29. How do I qualify for a certified LBPR contractor license?

To qualify for a certified LBPR contractor license, a business must:

- Be a construction contractor licensed by the CCB;

- Submit an application form;
- Pay a \$50 application fee; and

Have at least one owner or employee who holds a course completion certificate from a provider accredited by DHS or the EPA. Providers that offer qualifying training are commonly referred to as RRP training providers. Their certificates are good for five years. The person holding the certificate is referred to as a certified renovator.

30. How often does the business have to renew the certified LBPR contractor license?

The license is good for one year from the date of issue. It may be renewed annually.

31. What will be the requirements to renew?

You will need to have an active CCB license and provide the name of at least one owner or employee of your business who holds a course completion certificate from an accredited RRP training provider.

32. What if the person who holds the RRP course completion certificate (certified renovator) leaves my business during the licensing period?

The contractor will have to demonstrate at its next renewal that it has a certified renovator. If, during the license period, the contractor performs work without a certified renovator, it will violate certain work practice standards. Such a violation is a basis for license sanctions and civil penalties.

33. Will the certified LBPR contractor license be displayed on the contractor's screen on CCB's website?

Yes.

34. Do I have to post the LBPR number on advertising?

No.

35. My business has a certified LBPR contractor license and at least one certified renovator. Does every employee need to be a certified renovation contractor?

No. Certified renovators must perform certain activities. They also must train and direct employees that are not certified renovators. However, not every employee must be a certified renovator.

36. If a contractor is already certified by the EPA to perform renovation, must the contractor also obtain a certified LBPR contractor license from CCB in order to work in Oregon?

Yes.

37. If a contractor's certified renovator completes a refresher course to qualify, does the contractor need to provide any documentation to the CCB to obtain a certified LBPR contractor license?

Yes. The contractor must provide a copy of the renovator's course completion certificate issued by the accredited training provider.

Licensing Fees

38. What is the \$50/year CCB LBPR fee used for?

The \$50/year contractor CCB LBPR fee was set by administrative rule. It is equivalent to, but slightly less than, the National EPA renovator firm license of \$300/5 years firm license.

The revenue from the CCB LBPR fee is used to administer the State of Oregon, CCB LBPR program, including the staff and information technology needs of the CCB Licensing and Enforcement program. Between July 1 and December 30, 2010, the CCB had licensed approximately 2,500 LBPR contractors, responded to 82 LBPR complaints in the field and issued 43 enforcement actions. *(CCB FIS, ENS Quarterly Reports)*

39. What is the cost for a certified LBPR contractor license?

The cost is \$50.

40. What is the cost of renewal?

\$50.

Opt out Statement

41. What is an "opt out" statement? (The Opt Statement is no longer available. See #40)

An "opt out" statement is a statement signed by the owner of target housing stating that:

1. The renovation will occur in the owner's residence;
2. No child under the age of six lives in the residence;
3. No pregnant woman lives in the residence;
4. The housing is not a child-occupied facility; and
5. The owner acknowledges that the renovation firm is not required to follow work practice standards.

42. What is the effect of an "opt out" statement?

The certified LBPR contractor does not need to follow the work practice standards for LPB renovation. The contractor also does not need to have a trained renovator perform certain tasks or direct the work of others on the job. The "opt out" statement does not permit a contractor other than a certified LBPR contractor to perform the work.

43. May a certified LBPR contractor obtain an "opt out" statement from a customer so that the contractor need not comply with the work practice standards?

No. The federal EPA removed the ability of a homeowner to “opt out” beginning July 1, 2010. Oregon followed suit in a rule adopted on September 24, 2010.

- 44. If a certified LBPR contractor is in the middle of a job involving an “opt out” statement when DHS repeals its rule (or when the EPA rule expired), does the “opt out” apply until the end of the project?**

Yes.

Painting

- 45. If I am a contractor painting over existing paint in a pre-1978 home, not priming or disturbing, do I need to be licensed as a certified LBPR contractor?**

No, providing that your work does not involve renovation. Renovation includes any modification that results in disturbance of the painted surface, including surface preparation activities like sanding, scraping or other activities that may generate paint dust.

- 46. My next door neighbor hired a contractor to repaint their old house. Residue from the project (paint dust, debris, paint chips) has drifted onto my property. I am worried about possible lead poisoning of my children and contamination of my property. Should I be concerned?**

If your neighbor’s house was built before 1978, it may contain LBP. Lead poisoning is a legitimate concern. For more information on lead poisoning, including medical screening and management refer to the Oregon health Division’s website at <http://www.oregon.gov/DHS/ph/leadpaint/>.

- 47. My next door neighbors hired a contractor to repaint their old house. Residue from the project (paint dust, debris, paint chips) has drifted onto my property. Is this against the law? If so what law?**

The law requires that contractors renovating housing built before 1978 must have training about LBP and be licensed by CCB to perform the work. CCB licenses these contractors as certified LBPR contractors.

If the contractor is properly licensed, it must comply with certain work practice standards. For exterior work, this is usually done by covering the ground with plastic sheeting beyond the perimeter of the work surface. In adverse weather, the contractor must take extra precautions to ensure that dust and debris from the renovation does not contaminate other buildings or migrate to other properties. Upon completing the work the contractor must collect all paint chips and debris and seal them in a heavy-duty bag, remove and fold up the sheeting, and dispose of the chips, debris and sheeting.

Penalties

48. What will the CCB do if a contractor violates the work practice standards for LBP?

If a licensed LBPR contractor violates work practice standards, CCB can impose a civil penalty in an amount between \$1,000 and \$5,000, depending on whether this is a first, second or third offense. In addition, if this is a third offense, CCB can suspend the certified LBPR contractor license for up to one year.

Power Washing

49. Does washing a house built before 1978 – whether with a garden hose or a pressure washer – require a contractor’s license?

No. “Work as a contractor” does not include washing houses. (ORS 701.005(5); 701.021(1); DOJ Advice dated Dec. 13, 2004).

50. Does washing a house built before 1978 – whether with a garden hose or a pressure washer – involve work that is covered by the lead-based paint renovation (LBPR) program?

It depends. If the work involves “renovation,” then it falls within the LBPR program. If there is no “renovation,” then the LBPR rules do not apply.

“Renovation” means the modification of any existing structure that disturbs painted surface. As a practical matter, washing an entire house with pressure will likely cause the dislocation of even a few paint chips or pieces. This is renovation.

“Renovation” does not include minor repair and maintenance. (OAR 812-007-0020(25)). For exterior activities, “minor repair and maintenance” means activities that disrupt 20 square feet or less of painted surface. (OAR 812-007-0020(22)). Because pressure washing usually involves the entire house, the “minor repair and maintenance” exception would not ordinarily apply.

51. If a business engages in renovation by washing a house built before 1978, does it need a certified LBPR license (issued by CCB)? Does it need a firm certification (issued by DHS)?

If a business is a licensed contractor and it engages in renovation by washing a house, it must have a certified LBPR contractor’s license issued by the CCB. (ORS 701.510(2))

If a business is *not* a licensed contractor and it engages in renovation by washing a house, it must obtain a certified firm license issued by DHS. (ORS 431.922(2))

52. Is a certified LBPR contractor prohibited from power washing to prepare the exterior of target housing or child-occupied facilities for painting?

No. A certified LBPR contractor may power wash to prepare the exterior of a structure, provided that the contractor complies with applicable work practice standards.

53. If a certified LBPR contractor washes a house as part of its renovation, what are the specific work practices that apply?

- The contractor must cover the ground with plastic sheeting (or other similar material) generally extending 10 feet beyond the perimeter of the exterior surface.
- The contractor must collect all of the paint chips and debris and seal those in a heavy-duty bag.
- The contractor must remove the plastic sheeting.
- The contractor must mist or wet the plastic sheeting (which, presumably, is wet from the washing), fold the dirty side inward, and tape to seal or seal in a heavy-duty bag.
- The contractor must dispose of the sheeting or bag as waste.

(OAR 333-070-0090(5), (9))

54. Does the Construction Contractors Board (CCB) impose any requirements for collecting and disposing of the wastewater?

No.

55. Does the Department of Human Services (DHS) impose any requirements for collecting and disposing of the wastewater?

No.

56. Is there any state or federal agency that imposes requirements for collecting and disposing of the wastewater?

The federal Environmental Protection Agency (EPA) treats contractor-generated lead-based paint (LBP) waste as “household waste,” not “hazardous waste.” Originally adopted as a policy for LBP abatement work, this choice was intended to simplify the work and lower its costs. There are no specific requirements for wastewater disposal.

<http://www.epa.gov/lead/pubs/fslbp.htm>

There may be local water treatment guidelines for disposing of wastewater. You should contact your local water district for information.

57. As a certified LBPR contractor, am I responsible for any power washing performed by any person I did not contract with?

No.

58. Are there any EPA guidelines on these issues?

Although the Oregon LBPR program is governed by state laws and rules, the administering agencies sometimes consult EPA guidelines. EPA prepares and disseminates “frequent questions.” The following involves pressure washing.

- [EPA Question](#)

How do Renovation, Repair and Painting (RRP) requirements apply to pressure washing? What containment and other preparations are required?

- EPA Answer
Pressure washing is not a prohibited practice under the RRP rule. Pressure washing is subject to the same containment requirements as other permissible work practices. Before beginning the renovation, the firm must isolate the work area so that no dust or debris (including the waste water) leaves the work area while the renovation is being performed. In addition, the firm must maintain the integrity of the containment by ensuring that any plastic or other impermeable materials are not torn or displaced and taking any other steps necessary to ensure that no dust or debris leaves the work area while the renovation is being performed. The firm must also ensure that containment is installed in such a manner that it does not interfere with occupant and worker egress in an emergency.

In addition, it is important to properly dispose of waste water used during pressure washing. Check with your local water treatment authority for more information.

- CCB Comment
If a contractor follows the EPA guidelines, it will be fully compliant with the state laws. However, it may comply with the state laws without, for example, isolating the wastewater so that it does not leave the work area.

Renovation

59. What does “renovation” mean?

Renovation means modifying any existing surface that results in the destruction of painted surfaces. For example:

- Scraping or sanding
- Removing plumbing
- Replacing windows
- Weatherization projects that require cutting holes
- Renovation does not include minor repair and maintenance. Minor repair and maintenance disrupts:
 - 6 square feet or less of interior painted surface, or
 - 20 square feet or less of exterior painted surface
- Any window installation, regardless of size, is not minor repair and maintenance.

60. What can my uncertified employees do on a renovation job?

Your uncertified workers must be trained by the certified renovator as to any LBP-related task the uncertified worker will be doing.

Sub-contractors

61. We are the general contractor on the job. My business does not hold a certified LBPR contractor license. Can I subcontract out renovation work on target housing or child-occupied facilities to another business that holds a certified LBPR contractor license?

No. Even if you are not performing the renovation yourself you are **offering** to perform renovation. As such, you must hold a certified LBPR contractor license.

62. I am the general contractor. I hold a certified LBPR contractor license. Can I provide the certified renovator to oversee the subcontractor (also a certified LBPR contractor)?

No. Each certified LBPR contractor must have a certified renovator on the job.

63. I am a general contractor that subs out all renovation work. Do I have to hold a certified LBPR contractor license?

Yes.

64. Must a general contractor that uses only subcontractors to perform renovation work, and does not perform work, hold a license as a certified LBPR contractor?

Yes.