



SB 1073 (Monning) Lead Safe Work Practices

Lead-based Paint and Health

Lead is harmful to children and adults, though children under the age of six years old are most vulnerable to lead poisoning. Lead can affect children's developing brains and nervous systems, causing reduced IQ, learning disabilities, and behavioral problems with impacts lasting into adulthood. Lead poisoning in adults can cause high blood pressure and reproductive harm. Lead poisoning is the number one environmental cause of miscarriages and birth defects and is on the State of California's Prop 65 List of toxic chemicals.

There is not a blood-lead level (BLL) considered safe, yet lead poisoning has remained a persistent health problem in California. In 2012, the state had the fourth largest number of confirmed BLLs above 10 µg/dL in the US, accounting for more than 7% of the US total. Overall, California has nearly 33,000 children with blood lead levels ≥ 5 µg/dL.

An estimated 6.5 million homes in California are suspected to have lead hazards. Low-income communities of color are exposed to lead at higher rates due to lack of access to affordable housing in good repair. In Los Angeles County, for example, 85% of elevated blood-lead levels in children under six years of age are Latinos. Workers doing painting, remodeling and repair are also at high risk of exposure to lead in homes as well as their families because dust

contaminated with lead may be tracked in homes from work clothes and shoes.

The best way to reduce the risk of unwanted health impacts is to actively take precautions to avoid exposure to dust created during routine maintenance, renovations, repairs and painting of homes built before 1978, which, for example, account for 80% of the housing in Los Angeles.

Existing Laws

California has been a leader in its efforts to eliminate lead poisoning. SB 460 (Ortiz - 2002) defines damaged paint as a housing code violation in all pre-1978 housing units and child occupied facilities and requires lead safe work practices (LSWP) be used on any work that disturbs lead-paint. The legislature followed that with SB 2861 (Ridley-Thomas - 2006) which makes a second or subsequent violation of the state's lead laws a misdemeanor punishable by maximum fine of \$5000 and/or up to six months in jail or each subsequent violation.

The federal government established regulations for lead in homes in 2010 through the U.S. Environmental Protection Agency's (EPA's) Renovation, Repair, and Painting Program Rules (RRP). RRP defines LSWP and requires all renovators and contractors who work on pre-1978 buildings to be certified. To be certified, the renovator or contractor must take an eight-hour training

course on LSWP by an accredited training provider and register their firm with the EPA.

The Problem

While California's lead laws and the federal RRP complement each other in many ways, subtle differences and inconsistencies between the two make the regulatory framework on lead in buildings confusing. In some cases, there are practices that are allowed under the RRP that are not allowed in California. Renovators and contractors have to learn one set of rules to comply with federal law and another set of rules to comply with California law, but are left to figure how to deal with the inconsistencies on their own. As a result of this confusion, it is very easy for a renovator or contractor to unintentionally violate either California or federal lead laws.

In addition to regulatory confusion, there is very little enforcement of the federal RRP regulations. Currently, RRP is enforced only by the US EPA, which has 1.5 FTE for California's four-state region. As a result, firms that don't play by the rules get an unfair advantage over those that do because there is little risk of non-compliance.

The Solution

To eliminate regulatory confusion, California can do what fourteen other states have already done and align state and federal lead laws. The US EPA has been supportive of states taking ownership of RRP. Incorporating RRP into state law would not

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only remove current inconsistencies and confusion from the current regulatory landscape, but would create several additional benefits, including:

- Allowing state and local agencies to enforce RRP regulations. Since state and local enforcement agencies already enforce California's lead laws, the infrastructure, expertise, and capacity is in place to improve enforcement of RRP. Improved enforcement will help reduce exposure to lead in workers and prevent many more cases of childhood lead poisoning.
- Establishing funding streams to support increased state and local responsibilities. When states adopt RRP, they can then administer the certification program and collect associated fees currently being done and collected by the EPA. This would not create a new fee on industry. Instead, existing fee would be paid to California's Childhood Lead Poisoning Prevention Branch instead of the US Treasury and can be used to pay for the state's increased duties.

Overall, SB 1073 does not create any new regulations or fees. Instead, it conforms federal and state regulations to minimize regulatory confusion and leverages the state's robust enforcement system for improved enforcement of existing laws while using existing fees to cover costs associated with increased state responsibilities.

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