

Focus on: Real Estate Transactions in Former Orchard Lands



Understanding real estate disclosure law protects buyers from unknowingly purchasing—and becoming liable for—soil contamination.

More information

Dirt Alert Program:

<https://ecology.wa.gov/DirtAlert>

Seller Disclosure Form 17:

<http://apps.leg.wa.gov/rcw/default.aspx?cite=64.06.020>

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Special accommodations

To request Americans with Disabilities Act (ADA) accommodation, or printed materials in a format for the visually impaired, contact the Ecology ADA Coordinator at 360-407-6831 or ecyadacoordinator@ecy.wa.gov, or visit ecology.wa.gov/accessibility. People with impaired hearing may call Washington Relay Service at 711. People with speech disability may call TTY at 877-833-6341.

From about 1905 through the 1940s, lead-arsenate pesticide was commonly used in central Washington orchards. That pesticide settled into the soil, leading to large areas of contamination (known as “area-wide” contamination). Lead- and arsenic-based pesticides remain in soil for a long time without breaking down into less harmful compounds. This resulted in widespread lead and arsenic contamination in former orchard lands in certain counties—mostly Chelan, Douglas, Okanogan, Yakima and parts of Benton. Soil here may contain levels of metals above concentrations considered safe by health specialists and Washington cleanup standards.

The Washington State Department of Ecology’s goal is to protect communities and residents from the risks of exposure to lead and arsenic (see “Health Effects” sidebar, page 2) before homeowners move in, and to help local governments, property owners, and developers to understand and mitigate those risks.

How does this affect me if I am selling?

Sellers and realtors must comply with real estate disclosure law. [Chapter 64.06 Revised Code of Washington](#) (RCW) creates seller disclosure forms with questions about the property being sold. Real estate transactions include a seller disclosure statement, known as Form 17. You can get this form from your real estate agent, or copy the questions from [RCW 64.06.020](#).

Form 17 asks if the seller knows of any soil contamination. If you live on former orchard land and soil sampling has confirmed lead and arsenic contamination, you must disclose that on Form 17. Sellers also are required to disclose “adverse material defects,” which could include soil contamination. The disclosure requirements apply to both improved and unimproved properties, with some exceptions. If you have questions about Form 17, please seek legal advice.

Why it matters

Potential buyers have the right to know about possible hazards in their environment, and sellers are required to disclose information about their property.

Health effects

Lead and arsenic in soil does not pose an immediate health risk. High concentrations of lead or arsenic in soil pose a long-term health risk. People are exposed primarily through hand-to-mouth contact with contaminated soil. This includes eating food or mouthing toys with traces of soil or dust, and breathing in dust.

In children, who are more sensitive to toxins than adults are, lead can cause behavioral problems such as hyperactivity, permanent learning difficulties, and reduced physical growth. In adults, lead can increase blood pressure, affect memory, and contribute to other health problems.

Arsenic can cause a variety of health problems, including heart disease, diabetes, and cancer of the bladder, lung, skin, kidney, liver, and prostate.

Under [Washington law](#) (70.105D.040 RCW), developers are responsible for potential contamination on properties they purchase, develop, and resell. Redevelopment is contingent upon cleaning up a site to standards that protect human health and the environment. Ecology is requiring soil sampling before new development occurs, a service we provide at no cost.

What should prospective buyers do?

Check the seller disclosure form. Unless the buyer expressly waives the right to receive the disclosure statement, the seller must provide Form 17 ([RCW 64.06.020](#)). A buyer cannot waive the right to Form 17 if the answer to any of the questions in the Environment section are “yes.” The buyer can ask the seller and realtor if they are aware of any soil testing on or near the property.

If soil sampling hasn’t been done, ask the seller if you may test the soil. [Ecology’s Dirt Alert website](#) has [guidance about sampling soil](#), or you can contact us to request free soil sampling, based on staff availability. If you buy a contaminated property, you become liable for cleaning up that contamination. Sampling soil before purchasing property protects you from liability as well as health impacts.

Healthy actions reduce exposure

- Wash your hands with soap. After working or playing in dirt, always wash your hands, especially before eating. Use plenty of soap and hot water—not hand sanitizer. Hand sanitizers don’t remove dirt.
- Take your shoes off at the door. Use a “wipe-off” mat to reduce the amount of dirt and dust coming into your home. Provide a shoe rack or area for shoes at your door. Ask guests to remove their shoes.
- Mop and vacuum once a week. You should dust with a damp cloth to reduce inhaling dust. Don’t sweep with a broom—it can stir up dust. Use a vacuum with a HEPA filter or a damp mop. Keep young children out of rooms for an hour after vacuuming to let dust settle.
- Wash children’s toys, bedding, and pacifiers frequently. Cover bare patches of soil in your yard to keep toys out of the dirt. Provide a sand box for children to dig in and cover it when not in use to keep soil and cats out. Place rubber mats, pea gravel, or mulch under children’s play sets.
- Wear shoes and gloves when gardening and working outdoors. Grow your produce in raised beds or pots made with untreated materials. Use a scrub brush to clean dirt from under your fingernails. Dust yourself off outside and wash dirt-covered clothes separately.
- Wash fruits and vegetables with a scrub brush before eating them. Peel root vegetables. Eat a diet rich in iron, calcium, and vitamin C to decrease the amount of lead your body absorbs.
- Wipe your pets’ paws before they come inside, and brush and bathe them regularly. Give pets their own beds.