

I. Introduction

The purpose of this document is to provide information and guidance on the Federal lead-based paint (LBP) regulations. HUD lead rules apply to housing constructed before January 1, 1978. (The manufacture of lead-based paint was banned in 1978).

This document has selected portions of the HUD Lead Safe Housing Rule, and other general parts of the rule.

Recipient Responsibilities

All NSP Recipients are required to follow the HUD Lead Safe Housing Rule as listed in [24 CFR Part 35](#) in implementing their activities. NSP Recipients are responsible to inform residents of the potentials of LBP hazards in their home, evaluate the degree of LBP hazards, mitigate these hazards, provide clearance on the rehabilitated areas affected by the LBP work, and provide all appropriate notices.

Sanctions – Recipients and sub-recipients of NSP funds that fail to comply with HUD’s lead requirements are subject to available sanctions under the NSP program, and may be subject to other penalties authorized by law. Giving notice of a possible LBP hazard does not relieve a property owner of the responsibility for evaluating and reducing lead hazards

Importance of Addressing Lead-Based Paint

Deteriorated LBP, as well as lead-contaminated dust and soil, are the most common sources of exposure to lead. LBP requirements have become more stringent over the years due to increased understanding of the harmful effects of lead exposure on children and adults. Young children are particularly vulnerable to lead poisoning. A large percentage of children with lead poisoning are in low-income families living in older homes with heavy concentrations of LBP.

Lead poisoning can cause permanent brain damage, reduced intelligence, and behavior problems in children, as well as other health problems in both children and adults.

II. General Requirements

Major Exemptions ([24 CFR 35.115](#))

HUD’s LBP requirements do not apply to:

- Dwellings completed on or after 1/1/78,
- Housing exclusively for the elderly or person with disabilities, unless a child under age six resides or is expected to reside there (100 days or longer).
- Zero-bedroom dwellings, including efficiency apartments, single-room occupancy housing, dormitories, or military barracks.
- Housing found by certified inspection to be free of LBP,

- Housing in which all LBP has been properly identified, removed, and cleared (This does not apply where enclosure or encapsulation has been used as a method of abatement),
- Unoccupied reconstruction housing that will remain vacant until it is demolished to the foundation,
- Non-residential property: Property or part of a property that will not be used for human residential habitation. Not exempt are common use areas, such as entryways, hallways, corridors, passageways, stairways or building exterior in a mixed-use building.
- Rehabilitation that does not disturb a painted surface,
- Emergency repair action, which are those needed to safeguard against imminent danger to human life, health or safety, or to protect property from further structural damage, and
- Historical sites/dwellings may use interim controls instead of abatement, under certain conditions

III. WORKING SAFELY WITH LEAD (see [24 CFR 35.1350](#))

IV. LEAD HAZARD EVALUATION (see [24 CFR 35.110](#) and [35.1320](#))

V. LEAD HAZARD REDUCTION METHODS (see [24 CFR 35.1330](#), [35.1325](#), [35.1335](#))

VI. REHABILITATION (see [24 CFR Part 35, Subpart J](#))

VII. DISCLOSURES AND NOTICES (see [24 CFR 35.92](#) AND [24 CFR 35.125](#))

Summary of HUD's Lead Safe Housing Rule

Lead-Based Paint Regulations Changes

On September 15, 1999, HUD issued a new Federal lead-based paint regulation implementing Title X of the Housing and Community Development Act of 1992. This regulation makes many important changes in the lead-based paint requirements applicable to housing funded through HUD's Community Planning and Development (CPD) programs. State and local jurisdictions that receive funding from the Community Development Block Grant (CDBG) Program, HOME Program, McKinney Act homeless programs and other CPD programs.

Review the attached summary tables and documents that briefly explain the lead-based paint regulation requirements.

1. Summary of lead-based paint requirements by activity.
2. Four approaches to implementing lead hazard evaluation and reduction.
3. "Lead Speak"—A short glossary of commonly referred to lead-based paint terms.

SUMMARY OF LEAD-BASED PAINT REQUIREMENTS BY ACTIVITY

	Homeowner and Rental Rehabilitation (Subpart J)			Tenant Based Rental Assistance (TBRA) (Subpart M)	Acquisition only and Homebuyer (Subpart K)
	<\$5,000	\$5,000 - \$25,000	>\$25,000		
Approach to Lead Hazard Evaluation and Reduction	1. Do no harm	3. Identify and control lead hazards	4. Identify and abate lead hazards	2. Identify and stabilize deteriorated paint	2. Identify and stabilize deteriorated paint
Notification	Yes	Yes	Yes	Yes	Yes
Lead Hazard Evaluation	Paint Testing	Paint Testing and Risk Assessment	Paint Testing and Risk Assessment	Visual Assessment	Visual Assessment
Lead Hazard Reduction	Repair surfaces disturbed during rehabilitation	Interim Controls	Abatement (Interim Controls on exterior surfaces not disturbed by rehabilitation)	Paint Stabilization	Paint Stabilization
	Safe work practices Clearance	Safe work practices Clearance	Safe work practices Clearance	Safe work practices Clearance	Safe work practices Clearance
Ongoing Maintenance	For HOME rental only	For HOME rental only	For HOME rental only	Yes	Yes (if ongoing relationship)
Response to poisoned children	No	No	No	Yes	No
Options	Presume lead-based paint Use safe work practices on all surfaces	Presume lead-based paint and/or hazards Use standard treatments	Presume lead-based paint and/or hazards Abate all applicable surfaces	Test deteriorated paint. Use safe work practices only on lead-based paint surfaces.	Test deteriorated paint. Use safe work practices only on lead-based paint surfaces.

FOUR APPROACHES TO IMPLEMENTING LEAD HAZARD EVALUATION AND REDUCTION

APPROACH 1. DO NO HARM		
Lead Hazard Evaluation Paint testing performed on surfaces to be disturbed.	Lead Hazard Reduction Repair surfaces disturbed during work. Safe work practices used when working on areas identified as lead-based paint. Clearance performed	Options Presume lead-based paint is present and use safe work practices on all surfaces being disturbed.
APPROACH 2. IDENTIFY AND STABILIZE DETERIORATED PAINT		
Lead Hazard Evaluation Visual assessment performed to identify deteriorated paint.	Lead Hazard Reduction Paint stabilization of identified deteriorated paint. Safe work practices used. Clearance performed.	Options Perform paint testing on deteriorated paint. Safe work practice requirements only apply to lead-based paint.
APPROACH 3. IDENTIFY AND CONTROL LEAD HAZARDS		
Lead Hazard Evaluation Paint testing performed on surfaces to be disturbed. Risk assessment performed on entire dwelling.	Lead Hazard Reduction Interim controls performed on identified hazards. Safe work practices used. Clearance performed.	Options Presume lead-based paint and/or lead based paint hazards are present and perform standard treatments .
APPROACH 4. IDENTIFY AND ABATE LEAD HAZARDS		
Lead Hazard Evaluation Paint testing performed on surfaces to be disturbed. Risk assessment performed on entire dwelling.	Lead Hazard Reduction Abatement performed on identified hazards. Interim controls performed on identified hazards on the exterior that are not disturbed by rehabilitation. Safe work practices used. Clearance performed.	Options Presume lead-based paint and/or lead-based paint hazards are present and perform abatement on all applicable surfaces – deteriorated, impact, friction, chewable surfaces, and surfaces to be disturbed.

“LEAD SPEAK” – A BRIEF GLOSSARY

COMMON LEAD-BASED PAINT TERMS

Lead-Based Paint: Paint or other surface coatings that contain lead equal to or exceeding 1.0 milligram per square centimeter or 0.5 percent by weight or 5,000 parts per million (ppm) by weight.

Lead-Based Paint Hazards: Any condition that causes exposure to lead from dust-lead hazards, soil-lead hazards, or lead-based paint that is deteriorated or present in chewable surfaces, friction surfaces, or impact surfaces, and that would result in adverse human health effects.

Visual Assessment: A visual inspection of interior and exterior surfaces to identify specific conditions that may be lead-based paint hazards. A visual inspection does not identify lead-based paint. The assessment may be performed by a person trained in visual assessment. Training for visual assessment is available on HUD’s website at www.hud.gov/lead.

LEAD HAZARD EVALUATION

Paint Testing: Testing of specific surfaces, by XRF (x-ray fluorescence) or lab analysis, to determine the lead content of these surfaces, performed by a certified lead-based paint inspector or certified risk assessor.

Lead-Based Paint Inspection: A surface-by-surface investigation to determine the presence of lead-based paint and the provision of a report explaining the results of the investigation. It is performed by a certified paint inspector or risk assessor.

Risk Assessment: A comprehensive evaluation for lead-based paint hazards that includes paint testing, dust and soil sampling, and a visual evaluation. The risk assessment report identifies lead hazards and appropriate lead hazard reduction methods. A certified risk assessor must conduct the assessment.

Lead Hazard Screen: A limited risk assessment activity that can be performed instead of a risk assessment in units that meet certain criteria (e.g. good condition). The screen must be performed by a certified risk assessor. If the unit fails the lead hazard screen, a full risk assessment must be performed.

Clearance Examination: Clearance is performed after hazard reduction, rehabilitation or maintenance activities to determine if a unit is safe for occupancy. It involves a visual assessment, analysis of dust samples, and preparation of report. The certified risk assessor, paint inspector, or lead sampling technician (called a clearance technician in the HUD regulation) performing clearance must be independent from the entity/individual conducting paint stabilization or hazard reduction.

LEAD HAZARD REDUCTION

Paint Stabilization: An interim control method that stabilizes painted surfaces and addressed the underlying cause of deterioration. Steps include repairing defective surfaces, removing loose paint and applying new paint.

Interim Controls: Set of measures to temporarily control lead-based paint hazards. Interim control methods must be completed by qualified workers using safe work practices. Follow-up monitoring is needed.

Safe Work Practices: Safe work practices are defined in HUD regulations at [24 CFR 35.1350](#).

Standard Treatments: A complete set of interim control methods that when used together temporarily control all potential lead hazards in a unit. Because they address all conditions, a risk assessment or other evaluation is not needed. Standard treatments must be completed by qualified workers using safe work practices. As with interim controls, follow-up monitoring is needed.

Abatement: Measures to permanently control (i.e., 20 years or more) lead-based paint or lead-based paint hazards. EPA regulations exclude from the definition of abatement “renovation, remodeling, landscaping or other activities, when such activities are not designed to permanently eliminate lead-based paint hazards, but instead are designed to repair, restore, or remodel a given structure or dwelling, even though these activities may incidentally result in a reduction or elimination of lead-based paint hazards.” [\[40 CFR 745.223\]](#)

LEAD POISONING

Environmental Intervention Blood Lead Level: The level of lead in blood that requires intervention in a child under age six. This is defined as a blood lead level of 20 µg/dL (micrograms per deciliter) of whole blood or above for a single test, or blood lead levels of 15-19 µg/dL in two tests taken at least three months apart.

KEY UNITS OF MEASUREMENT

µg (Microgram): A microgram is 1/1000th of a milligram (or one millionth of a gram). To put this unit into perspective, a penny weighs 2 grams. To get a microgram, you would need to divide the penny into 2 million pieces. A microgram is one of those two million pieces.

ft² (Square foot): One square foot is equal to an area that has a length of one foot (12 inches) and a width of one foot (12 inches).

µg/dL: Micrograms per deciliter used to measure the level of lead in children’s blood to establish whether intervention is needed. A deciliter (1/10th of liter) is a little less than half a cup. As noted above, a microgram is the same weight as one penny divided into two million parts.

µg /gram: Micrograms per gram of sample, equivalent to parts per million (ppm) by weight. Used to measure lead in soil.

µg/ft²: Micrograms per square feet is the measurement used to measure levels of lead in dust samples. The clearance report should have the dust sampling results listed in µg/ft² (micrograms per square foot).

mg/cm²: Milligrams per square centimeter. Used to measure lead in paint.

percent: Percent by weight, used usually for lead-based paint (1 percent = 10,000 µg/gram)

ppm: Parts per million by weight, equivalent to µg/gram (10,000 ppm = 1 percent). Used to measure lead in paint and soil.

LEAD-BASED PAINT STANDARDS

Paint – Definition of Lead-Based Paint

Paint or other surface coatings that contain at least:

- 1 milligram per centimeters square (mg/cm²) of lead;
- 0.5 percent lead; or 5,000 parts per million lead by dry weight.

*In 1978 the Consumer Product Safety Commission banned the residential use of lead-based paint that contained greater than or equal to 0.06 percent or 600 ppm of lead.

Dust – Federal Thresholds for Lead-Contamination (Risk Assessment/Clearance)

- Floors 40 µg/ft²
- Interior windowsills 250 µg/ft²
- Window troughs (Clearance only) 400 µg/ft²*

Soil – Federal Thresholds for Bare Soil Contamination

- Play areas used by children under the age of 6 400 µg/g
- Other areas, if more than 9ft² in total area of bare soil per property 1,200 µg/g

HOUSING REHABILITATION

Program participants rehabilitating homes constructed prior to January 1, 1978, must be provided with the proper disclosure notification concerning lead-based paint (LBP) hazards. Whenever pre-1978 houses are rehabilitated under CDBG or NSP (or similar program), please refer to Title 24 Code of Federal Regulations ([24 CFR §570.608](#)), Lead-based paint, for guidance. The costs associated with meeting these requirements may be eligible to be paid for with CDBG or NSP (or similar program) funds, if available.

Owners that contribute sweat equity that involves painting will not participate in activities that include the abatement or mitigation of lead paint hazards without first being trained on Safe Work Practices as required by HUD and provide documentation of such in the project file.

Pre-1978 Properties and Lead Hazard Reduction

All units in a project assisted with CDBG or NSP (or similar program) funds must comply with [CFR Part 35](#), which implements Title X of the Housing and Community Development Act of 1992, also referred to as the: Lead Safe Housing Rule (LSHR). This regulation has been in effect since September 15, 2000, and Subpart J applies to Safe Housing Rule rehabilitation projects. A summary of HUD's Lead Safe Housing Rule is provided as Appendix E-7. Some rehabilitation work performed in pre-1978 units may be exempt from following the lead safe housing rule such as:

- Properties found not to have lead-based paint during current testing and earlier testing that meets the requirements of prior evaluations.

- Properties where all lead-based paint has been identified and removed using approved methods; and
- Rehabilitation that does not disturb paint.

Grantees should refer to the HUD Lead Safe Housing Lead Safe Housing Requirements Screening Worksheet Parts 1-4 and 24 CFR 35.115 and 35.165 for more information regarding exemptions. If a home was constructed prior to 1978, the LSHR applies. Therefore, the initial inspection report must specify all the work to be done to bring the building to standard and include all work necessary to comply with applicable lead hazard reduction requirements.

Evaluation Method

After the initial work write-up is complete, the rehabilitation specialist must determine which lead evaluation activity must be followed. The evaluation activity required depends on the level of assistance:

- < \$5,000. Paint testing of surfaces to be disturbed must be completed. Paint testing must be conducted by a certified paint inspector or risk assessor.
- \$5,000-\$25,000. A comprehensive lead inspection must be performed of the entire unit. A comprehensive lead inspection must be conducted by a DPH certified lead risk assessor who is employed by a DPH licensed lead consultant.
- > \$25,000. A comprehensive lead inspection must be performed of the entire unit. A comprehensive lead inspection must be conducted by a DPH certified lead risk assessor who is employed by a DPH licensed lead consultant.

Grantees should be aware that there are additional rules for the type of work that is performed depending on the intent of the Guidance work. See the [HUD/EPA](#) Guidance memo for more information.

Notification

Results of the paint test and risk assessment must be provided in a Notice of Lead Hazard Evaluation to the homeowner within 15 days of the grantee receiving them. The person performing the evaluation may be able to assist the grantee in completing the form.

It is important for the homeowner to know that, under the LSHR, they must disclose any knowledge of lead in the home to any future buyers of the property. A sample Notice of Lead Hazard Evaluation is provided on the HUD website.

Grantees also have the option to presume there is lead in the unit rather than paint testing or risk assessments. If the grantee utilizes the presumption of lead option, the scope of work must address all painted surfaces. Grantees should note that this approach may raise the cost of the work as non-lead surfaces will be required to be treated as if they contained lead. Also, if the presumption method is followed, a "Notice of Presumption" must be provided to the homeowner within 15 days of performing the initial inspection. A sample Notice of Lead Hazard Presumption is provided on the HUD website.

Finalizing the Bid Specs for Lead Work

If the paint testing or risk assessment shows there are no lead hazards, then traditional rehabilitation practices may be followed. If there are lead hazards found in the home, then the following lead hazard reduction activities must be followed based on the amount of assistance and incorporated into the work write-up.

- < \$5,000. Repair surfaces to be disturbed using safe work practices and trained workers.
- \$5,000-\$25,000. Perform interim controls using safe work practices and trained workers. If presumption occurred, perform standard treatments using safe work practices and trained workers.
- > \$25,000. Perform abatement using safe work practices and certified abatement supervisor and certified workers.

For more information about repair, interim controls, standard treatments, abatement and the types of training or certification required for personnel performing the work, as well as for definitions of some of the terms used above, please see the **Summary of HUD Lead Safe Housing Rule (Appendix E-7)**.

The work write-up must be revised to incorporate the appropriate lead hazard reduction work and methods required to perform the work. Once the work write-up has been finalized, the cost estimate tells whether or not the work can be done within the maximum grant amount or the owner's ability to repay.

The person preparing cost estimates should be familiar with the current rates for materials and labor and be able to estimate accurately the time required to complete each task. Good, reliable cost estimates are critical. Since costs change rapidly, it is important that cost estimates be used as soon as possible.

Lead Based Paint Mitigation Which Causes Temporary Relocation

On September 15, 2000, the Final Rule for Lead Based Paint Hazard Control (LBPHC) went into effect. Among other things, it requires that federally funded rehabilitation must use safe work practices so that occupants and workers can be protected from lead hazards. At no time should the occupant(s) be present in work areas or designated adjacent areas while LBPHC activities are taking place in any dwelling unit interior, common area, or exterior. As such, occupants will not be allowed to remain in their units during the time that lead-based paint hazards (LBPH) are being created or treated. Once LBPHC has been completed, and the unit passes clearance, the occupants can return. The occupants may not reoccupy a work area or adjacent area until post-lead hazard reduction clearance standards have been achieved and verified with laboratory results.

The final rule allows for certain exceptions:

- The work will not disturb lead-based paint, or create dust-lead or soil-lead hazard; or
- The work is on exterior only and openings are sealed to prevent dust from entering the home, the work area is cleaned after the work is completed, and the residents have alternative lead-free entry; or

- The interior work will be completed in one period of less than 8-daytime hours and the work site is contained to prevent the release of dust into other areas of the home; or
- The interior work will be completed within 5 calendar days. The work site is contained to prevent the release of dust, the worksite and areas within 10 feet of the worksite are cleaned at the end of each day to remove any visible dust and debris, and the residents have safe access to kitchen and bath and bedrooms.

Temporary Relocation of Owner Occupants

Owner occupants are not allowed to stay in units which are hazardous environments during lead-based paint mitigation. When their home is having lead-based paint mitigation work done which will not make it safe to live in, then they are eligible for temporary relocation benefits which will be provided as a grant. In the same way, a unit requiring substantial rehabilitation (with or without lead based paint mitigation) which will not allow the family to access a bath or kitchen facility, or if the unit is being demolished and reconstructed, then the family will be eligible for temporary relocation benefits which will be provided as a grant. The amount of the benefit to be paid should be cost appropriate to the conditions.

Owner occupants will be encouraged to move in with family or friends during rehabilitation, since they are voluntarily participating in the program. The housing rehabilitation loan specialist and/or the rehabilitation construction specialist will complete a temporary relocation benefits form. This documents that the owner occupant understands that they must relocate during construction and what benefits they wish to be reimbursed for as part of their relocation.

Temporary Relocation of Residential Tenants

If continued occupancy during rehabilitation is judged to constitute a substantial danger to health and safety of the tenant or the public or is otherwise undesirable because of the nature of the project, the tenant may be required to relocate temporarily. The program administrator or construction supervisor will make determination of the need for temporary relocation. The temporary relocation period will not exceed 180 days. All conditions of temporary relocation will be reasonable.

Any tenant required to relocate temporarily will be helped to find another place to live which is safe, sanitary and of comparable value and they have the first right to move back into the original unit being rehabilitated at the same rent or lower. They may move in with family and friends and still receive full or partial temporary assistance based on eligible cost incurred.

The housing rehabilitation loan specialist and/or the rehabilitation construction specialist will ensure that each tenant occupied unit under the program will receive a General Information Notice (GIN) (as soon as possible after a loan application is received).

Additionally, the tenant will receive a Notice of Non-displacement (after loan approval), and each tenant occupied unit will have a temporary relocation benefits form completed for them.

These notices will document that each tenant understands what their relocation rights are, and if they must relocate during construction, that they receive the proper counseling and temporary relocation benefits.

A tenant receiving temporary relocation shall receive the following:

1. Increased housing costs (e.g. difference in rent increase, security deposits) and
2. Payment for moving and related expenses, as follows:
 - a. Transportation of the displaced persons and personal property within 50 miles, unless the grantee determines that farther relocation is justified;
 - b. Packing, crating, unpacking, and uncrating of personal property;
 - c. Storage of personal property, not to exceed 12 months, unless the grantee determines that a longer period is necessary;
 - d. Disconnection, dismantling, removing, reassembling, and reinstalling relocated household appliances and other personal property;
 - e. Insurance for the replacement value of personal property in connection with the move and necessary storage;
 - f. The replacement value of property lost, stolen or damaged in the process of moving (not through the fault of the displaced person, their agent, or employee) where insurance covering such loss, theft or damage is not reasonably available;
 - g. Reasonable and necessary costs of security deposits required to rent the replacement dwelling;
 - h. Any costs of credit checks required to rent the replacement dwelling;
 - i. Other moving-related expenses as the grantee determines to be reasonable and necessary, except the following ineligible expenses:
 - i. Interest on a loan to cover moving expenses; or
 - ii. Personal injury; or
 - iii. Any legal fee or other cost for preparing a claim for a relocation payment or for representing the claimant before the Grantee; or
 - iv. Costs for storage of personal property on real property already owned or leased by the displaced person before the initiation of negotiations.

Notice of Non-Displacement

As soon as feasible when the rehabilitation application has been approved, the tenant will be informed that they will not be permanently displaced and that they are eligible for temporary relocation benefits because of lead-based paint mitigation or substantial rehabilitation, or reconstruction of their unit. The tenant will also again be cautioned not to move prior to determination of eligibility for relocation benefits, or risk losing relocation assistance.

Note: All Subrecipients/Grantees administering an NSP or similar program must provide program participants with Lead Based Paint information.

**Sample Verification of Receiving
Lead-Based Paint
Pamphlet**

I hereby certify that I have received and understand the EPA - "*Protect Your Family from Lead in Your Home*" pamphlet.

Applicant's Name

Address

Date

City/County Representative