

Appendix 6: HUB, LA'A JSHA, CPSC, and NPS Lead Paint Rulecl

EPA-HUD Lead Disclosure Rule

The **Lead Disclosure Rule** (the identical *24 CFR 35, subpart A* and *40 CFR 745, subpart F*) was jointly issued by HUD and the Environmental Protection Agency (EPA) in 1996 (*61 FR 9063-9088, March 6, 1996*) as part of implementing Section 1018 of the Residential Lead-Based Paint Poisoning Lead Hazard Reduction Act of 1992 (commonly referred to as Title X). As of 2011, HUD and EPA had issued three Interpretive Guidance documents about the Lead Disclosure Rule; these are available from both agencies' websites on the Rule. The links from HUD's Lead Disclosure rule web page, http://portal.hud.gov/hudportal/HUD?src=/program_offices/healthy_homes/enforcement/disclosure, are at:

- *Part I, August 21, 1996*
- *Part II, December 5, 1996*
- *Part III, August 2 2000*

Links to the Interpretive Guidance documents are also available at EPA's Residential Lead-Based Paint Disclosure Program web page, <http://www.epa.gov/lead/pubs/leadbase.htm>.

This section of the statute addresses lead hazard disclosure requirements for almost all target housing built before 1978 that is offered for sale or lease. Since Title X focuses on children and pregnant women, target housing is defined as "any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any child who is less than 6 years of age resides or is expected to reside in such housing) or any 0-bedroom dwelling." The rule identifies four exceptions for which it does not apply to certain real estate transactions of certain target housing:

1. sales of target housing at foreclosure;
2. leases of target housing that a certified lead-based paint inspector found to be lead-based paint free, with suitable documentation;
3. short-term leases of 100 days or less, where no lease renewal or extension can occur; and
4. renewals of existing leases in target housing in which the landlord has previously disclosed all required information and where no new information has come into the possession of the landlord.

1 Appendix 6 of the 1995 Guidelines, which was a list of other organizations providing the EPA lead-based paint abatement supervisor and inspector course curriculum, has been deleted. Training providers for these courses are now accredited by EPA-authorized State lead programs or by EPA-operated lead programs. See the website at www.epa.gov/lead/pubs/traincert.htm for a list of EPA-authorized State lead program offices and EPA regional offices. From these offices you can obtain lists of approved training providers in a particular State. [Accessed 7/27/2012; this site may be moved or deleted later.]

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The offeror (owners or their agents) and any real estate agents involved in the transaction have responsibilities under Title X. (Buyer's agents paid entirely by the purchaser are not considered "agents" under this rule.) A summary of Title X is provided at the end of this Appendix.

At a minimum, Title X requires the offeror to provide the potential buyer or tenant the following information before signing a written agreement or making an oral agreement:

1. an EPA (or EPA-approved State) brochure on lead hazards for residential properties built before 1978;
2. information regarding the presence of lead-based paint and/or lead-based paint hazards, as well as any other available information, including records and reports on the subject; and,
3. a certification that all the parties sign and date. The certification must indicate that seller or landlord provided:
 - a. the required Lead Warning Statement;
 - b. disclosure of the information in item 2, above; and
 - c. a list of available records or reports (or a statement that no such documents are available).

The brochure, or pamphlet, in item 1 is available in (as of 2011) six languages; the links to these versions are on the EPA website at <http://www.epa.gov/lead/pubs/leadprohtm>, and on the HUD website at http://portal.hud.gov/hudportal/HUD?src=/program_offices/healthy_homes/enforcement/disclosure. HUD recommends that the brochure be provided in the language of the sales or least contract, if that language is one of those for which the brochure is available. (If the language of the contract is not one of those listed, check the EPA or HUD websites to see if it has been translated into that language.) The titles, and the links to the individual adaptations on the EPA web page, are:

- [Protect Your Family From Lead in Your Home \(English\)](#)
- [Proteja a Su Familia Contra el Plomo en el Hogar \(Spanish\)](#)
- [Hay Bao Ve Gia Dinh Cua Ban Khoi Bi Nhiem Chi 0 Trong Nha \(Vietnamese\)](#)
- [B Bawem gome: 3alltielTelTe CBOIO cembio OT CB111-10 \(Russian\)](#)
- [\(Arabic\) Icp I_u.a.t.jai pu U_jo.ol_o 1439C9 tit5 yt5C.IJ](#)
- [Ka Badbaa di Qoyska Halista Leedhka \(Somali\)](#)

The certification in item 3 must also indicate that the buyer or tenant received the identified materials. In the case of a sales transaction, the certification must also indicate that the offeror provided the buyer the opportunity to conduct a lead-based paint risk assessment or inspection and whether or not that opportunity was taken. Finally the certificate must include a statement by any real estate agent involved with the seller or landlord that the agent: informed the clients of their obligations under 24 CFR 35, Subpart A, or the identical 40 CFR 745, subpart F, and the agent is aware of his/her duty to ensure compliance.

The agent and the client must retain the certification and acknowledgment for at least three years. Agents who fulfill the required duties are not liable where the client fails to comply with these requirements or for the failure of the buyer's or tenant's agent to transmit materials provided in good faith. The agents should educate potential buyers and sellers about lead hazards and should encourage lead risk assessments or lead-based paint inspections of pre-1978 dwellings.

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The Lead Disclosure Rule provides additional information on scope, definitions, recordkeeping requirements, and enforcement.

In the case of a **sale**, the Lead Disclosure Rule requires each contract to sell target housing shall include an attachment containing the following elements, in the language of the contract (e.g., English, Spanish):

1. a Lead Warning Statement that contains specific wording;
2. a statement by the seller disclosing the presence of known lead-based paint and/or lead-based paint hazards in the target housing being sold or indicating no knowledge of the presence of lead-based paint and/or lead-based paint hazards, including any additional known supporting information;
3. a list of any records or reports available to the seller pertaining to lead-based paint and/or lead-based paint hazards in the housing that have been provided to the purchaser, or the absence of any information;
4. a statement by the purchaser affirming receipt of the information in the previous two items;
5. a statement by the purchaser whether or not they availed themselves of the opportunity to conduct the risk assessment or inspection;
6. that any real estate agent involved in the transaction has informed the seller of the seller's obligations and agent is aware of his/her duty to ensure compliance with the requirements of the Lead Disclosure Rule; and
7. the signatures of the sellers, agents, and purchasers, certifying to the accuracy of their statements, to the best of their knowledge, along with the dates of signature.

In the case of a **lease**, the Lead Disclosure Rule requires that each contract to lease target housing shall include, as an attachment or within the contract, the following elements, in the language of the contract (e.g., English, Spanish):

1. a Lead Warning Statement that contains specific wording stated in the Rule;
2. a statement by the landlord disclosing the presence of known lead-based paint and/or lead-based paint hazards in the target housing being sold or indicating no knowledge of the presence of lead-based paint and/or lead-based paint hazards, including any additional known supporting information;
3. a list of any records or reports available to the landlord pertaining to lead-based paint and/or lead-based paint hazards in the housing that have been provided to the tenant, or the absence of any information;
4. a statement by the tenant affirming receipt of the information in the previous two items;
5. that any agent involved in the transaction has informed the tenant of the landlord's obligations and agent is aware of his/her duty to ensure compliance with the requirements of the Lead Disclosure Rule; and
6. the signatures of the landlords, agents, and tenants, certifying to the accuracy of their statements, to the best of their knowledge, along with the dates of signature.

The ***preamble to the Lead Disclosure Rule*** contains a sample (that is, non-mandatory) one-page disclosure form for sales and one for leases (61 FR 9066, at 9074 and 9075, March 6, 1996); both forms can be down-loaded in English or Spanish from the HUD website (http://portal.hud.gov/hudportal/HUD?src=/program_offices/healthy_homes/enforcement/disclosure) or EPA website (<http://www.epa.gov/lead/pubs/leadbase.htm>). The titles, and the links to the individual adaptations on the EPA web page, are:

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- [Sample Form: Lessor's Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards](#)
- [Sample Form: Dedaracion de Informacion por Arrendadores sobre Pintura a Base de Plomo y/o Peligros de la Pintura a Base de Plomo](#)
- [Sample Form: Seller's Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards](#)
- [Sample Form: Declaracion de Informacion por los Vendedores sobre Pintura a Base de Plomo y/o Peligros de la Pintura a Base de Plomo](#)

The Lead Disclosure Rule requires that the seller, and any agent, shall retain a copy of the required completed documents for at least three years after the agreements are effective. With respect to enforcement, any person who knowingly fails to comply with any provision of this subpart shall be subject to civil monetary penalties or who knowingly violates the provisions of the Lead Disclosure Rule shall be jointly and severally liable to the purchaser or tenant in an amount equal to 3 times the amount of damages incurred by such individual. Failure or refusal to comply with the Lead Disclosure Rule may result in civil and/or criminal sanctions.²

When evaluating hazards as part of a risk assessment, the risk assessor must use either the standards issued by the EPA, as described in Chapter 5, Risk Assessment and Reevaluation, or a state or local standard if it is more protective (e.g., lower). Similarly, when evaluating paint as part of a lead-based paint inspection, the lead-based paint inspector must use either the standards issued by the **EPA**, as described in Chapter 7, Lead-Based Paint Inspection, or a state or local standard if it is more protective (e.g., lower).

For more information about the Lead Disclosure Rule, other lead safety rules, or general information about lead hazards and lead poisoning prevention, contact the National Lead Information Center at 800-424-LEAD or <http://www.epa.gov/lead/pubs/nlic.htm>. If you are a hearing- or speech-impaired person, you may reach the above telephone number through TTY by calling the toll-free Federal Relay Service at 800-877-8339.

The **Lead Safe Housing Rule** (LSHR) (24 CFR Part 35, subparts B-R) was issued by HUD in 1999 as part of implementing Sections 1012 and 1013 of Title X. Title X holds the federal government to a higher standard of care than it does residential property owners in general by requiring most Federally assisted housing to have some specified type of evaluation for the presence of lead-based paint and/or lead-based paint hazards, and controls based on the findings of the evaluation. HUD published the LSHR in the Federal Register (64 FR 50140-50231, September 15, 1999), and later published technical amendments (69 FR 34262-34276, June 21, 2004). The [LSHR as amended June 21, 2004](#), and [highlighted changes to Lead Safe Housing Rule reflecting the technical amendments](#), are posted on HUD's [LSHR website](#), http://portal.hud.gov/hudportal/HUD?src=/program_offices/healthy_homes/enforcement/lshr. HUD has issued interpretive guidance on the LSHR, and updated it to reflect the 2004 technical amendments; the updated guidance is posted at [Information and Guidance for HUD's Lead Safe Housing Rule](#) on HUD's [LSHR website](#). HUD has also developed a Lead-Based Paint Compliance Advisor, posted at <http://portal.hud.gov/CorvidRpt/HUDBLP/welcome.html>. This Advisor presents the requirements of the LSHR, and, by analyzing user responses to a short number of questions, generates a report of project-specific requirements that can be downloaded or printed. Remaining questions about the LSHR may be sent to the HUD Lead Regulations hotline at [Lead.Regulations @ HUD.gov](#) or (202) 402-7698.

² As of November 2011, the civil money penalties for Lead Disclosure Rule violations were up to \$16,000 per violation; each of the 10 elements of a lease transaction, or the 11 elements of a sales transaction may, if violated, result in a penalty being levied up to that dollar amount. In the case of multi-family target housing and/or multiple properties with a single owner or owner's agent, the elements pertain to each real estate transaction on each dwelling unit separately, so the total maximum penalty is multiplied by the number of units and the number of turnovers for which a repeated violation occurred. For example, if a residential property with 9 housing units had each unit rented on two occasions, there were 18 rental transactions. If the property were covered by the rule but there was no compliance with it, there were 18 times 10, or 180 elements of the rule that were violated, and (as of November 2011), the penalty could be as much as 180 times \$16,000, or \$2.88 million.

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The LSHR has a specific subpart (a portion of Part 35) on requirements and definitions, several subparts for different types of housing assistance and activities, and a subpart on methods and standards for the evaluation and reduction of lead-based paint.

The LSHR is implemented in conjunction with other applicable Federal, State and local regulations. For example:

- Lead abatement activities in target housing are conducted using certified lead abatement firms and personnel in accordance with the EPA's lead training and certification rule, 40 CFR 745, subpart L, or with a State or Indian Tribal certification program authorized by the EPA under 40 CFR 745, subpart Q.
- Renovation, repair, remodeling, weatherization, and painting work in target housing that disturbs more than EPA-specified minimal amounts must be conducted in accordance with the EPA's Renovation, Repair and Painting (RRP) Rule; see the discussion of the RRP Rule below
- While the LSHR does not require that firms conducting interim controls be certified, the RRP rule does so (for work more extensive than the RRP rule's threshold for minor repair and maintenance activities). On the other hand, the RRP rule provides that its cleaning verification procedure need not be conducted when work is cleared by a clearance examination under the LSHR or contract requirement, although EPA encourages property owners who include clearance in their renovation contracts also to require renovation firms to perform cleaning verification.
- Lead evaluation and control regulations of States, tribes, or localities that are at least as protective as the LSHR are to be followed (24 CFR 35.150(a)). For instance, some localities use a definition of LBP of 0.7 mg/cm², and some States or localities require abatement of paint below a certain height in housing where a young child resides.
- The U.S. Department of Labor's Occupational Safety and Health Administration (OSHA) requirements, particularly, its Lead in Construction Rule (29 CFR 1926.1101) and its Lead in General Industry Standard (29 CFR 1910.1025), apply on all projects where employees have the potential for exposure to lead. See the discussion of these standards below.

A summary of the levels of protection under the LSHR, and the basic requirements by subpart follows.

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Lead Safe Housing Rule Levels Of Protection

Level of protection	Subpart, section, and type of assistance	Hazard reduction requirements
1	<p>Subpart G, § 35.630, Multi-family mortgage insurance for conversions and major rehabilitations.</p> <p>Subpart L, § 35.1120(a), Public housing being modernized. ^{a*}</p> <p>Subpart L, § 35.1125, Public housing acquisition and development. ^{a *}</p>	Abatement of all lead-based paint, and, for the public housing activities shown with *, all lead-based paint hazards. ^b
2	Subpart J, § 35.930(d), Properties receiving more than \$25,000 per unit per year in rehabilitation assistance. ^c	Abatement of lead-based paint hazards.
3	<p>Subpart G, § 35.620, Multi-family mortgage insurance for properties constructed before 1960, other than for conversions and major rehabilitations.</p> <p>Subpart H, § 35.715, Project-based assistance for multi-family properties receiving more than \$5,000 per unit per year. ^a</p> <p>Subpart I, HUD-owned multi-family property. ^{ac}</p> <p>Subpart J, § 35.930(c), Properties receiving more than \$5,000 and up to \$25,000 per unit per year in rehabilitation assistance.</p> <p>Subpart L, § 35.1120(b), Public housing not yet modernized. ^a</p>	Interim controls of lead-based paint hazards, and ongoing lead-based paint maintenance.
4	<p>Subpart F, HUD-owned single family properties. ^d</p> <p>Subpart H, § 35.720, Project-based assistance for multi-family properties receiving up to \$5,000 per unit per year and single family properties. ^a</p> <p>Subpart K, Acquisition, leasing, support services, or operation. Subpart M, Tenant-based rental assistance.</p>	Paint stabilization, and ongoing lead-based paint maintenance.
5	Subpart G, § 35.625, Multi-family mortgage insurance for properties constructed after 1959.	Ongoing lead-based paint maintenance.
6	Subpart J, § 35.930(b), Properties receiving up to and including \$5,000 in rehabilitation assistance. ^c	Safe work practices during rehabilitation of painted surfaces.

^a Response of risk assessment, interim controls or abatement of any lead-based paint hazards identified, and notification of building resi-dents required for Environmental Intervention Blood Lead Level (EIBLL) case (§ 35.1130).

^b Ongoing LBP maintenance required if the abatement uses encapsulation or enclosure.

^c Ongoing LBP maintenance required for rehabilitation assistance only if HOME funds used for rental unit; ongoing LBP maintenance and reevaluation required for HUD-owned or mortgagee-in-possession multi-family housing only if HUD owns it for over 12 months.

^d Ongoing LBP maintenance not required for a HUD-owned single family housing after disposition, although HUD recommends it unless the housing has been found to be lead-based paint free.

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SUMMARY OF LEAD SAFE HOUSING RULE REQUIREMENTS			
Subpart of Rule/ Type Program	Year Built	Owner/Landlord Requirements^{1, 2, 3}	Participant Monitoring Requirements
A Lead Disclosure Rule	Pre-1978	<ul style="list-style-type: none"> + Provide EPA (or State) lead hazard information pamphlet + Disclose knowledge about LBP and its hazards to potential buyers or tenants and seller's agents. + Complete lead disclosure form + Provide opportunity for buyer to conduct evaluation. 	Have system in place that documents they ensure Owner/Landlord complies with Lead Disclosure Rule
B General Requirements and Definitions	Pre-1978	<ul style="list-style-type: none"> + Definitions. ⁴ + Exemptions. <ul style="list-style-type: none"> + Notice of acceptable evaluation and hazard reduction activities. + Pamphlet. 	
C Disposition by Federal Agency Other Than HUD	Pre-1960	<ul style="list-style-type: none"> + LBP inspection and risk assessment. + Abatement of LBP hazards. + Passing clearance exam. <ul style="list-style-type: none"> + Notice to occupants of LBP inspection, risk assessment, and clearance results. 	Agency, or its agent, must document compliance with the Lead Safe Housing Rule unless waived due to insufficient resources.
	1960-1977	<ul style="list-style-type: none"> + LBP inspection and risk assessment. + Notice to occupants of results. 	
D Project-Based Assistance by Federal Agency Other Than HUD	Pre-1978	<ul style="list-style-type: none"> + Provision of pamphlet. + Risk assessment. + Interim controls. + Passing clearance exam. + Notice to occupants. + Response to EIBLL child. 5 	Have system in place that documents they ensure Owner/Landlord complies with Lead Safe Housing Rule and Lead Disclosure Rule
F HUD-Owned Single Family Sold With a HUD-Insured Mortgage	Pre-1978	<ul style="list-style-type: none"> + Visual assessment. + Paint stabilization. + Passing clearance exam. + Notice to occupants of clearance. 	

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SUMMARY OF LEAD SAFE HOUSING RULE REQUIREMENTS			
Subpart of Rule/ Type Program	Year Built	Owner/Landlord Requirements^{1, 23}	Participant Monitoring Requirements
G Multi-family Mortgage Insurance:			
1. For properties that are currently residential	Pre-1960	+ Provision of pamphlet. + Risk assessment. + Interim controls. + Passing clearance exam. + Notice to occupants. + Ongoing LBP maintenance.	Have system in place that documents they ensure Owner/Landlord complies with Lead Safe Housing Rule and Lead Disclosure Rule
	1960-1977	+ Provision of pamphlet. + Ongoing LBP maintenance.	
1. For conversions and major renovations.	Pre-1978	+ Provision of pamphlet. + LBP inspection. + Abatement of LBP. + Passing clearance exam. + Notice to occupants + Ongoing LBP maintenance if abate using encapsulation or enclosure.	
H HUD Project-Based Assistance:			
For all Multi-family properties	Pre-1978	+ Provision of pamphlet. + Notice to occupants. + Ongoing LBP maintenance. + Response to EIBLL child. 5	If no bilateral agreement with owner/Landlord, have system in place that documents they or subrecipients ensure Owner/Landlord complies with Lead Safe Housing Rule and Lead Disclosure Rule
1. Property receiving more than \$5,000 per unit per year	Pre-1978	+ Risk assessment. + Interim controls. + Passing clearance exam. + Reevaluation every two years	
1. Property receiving less than or equal to \$5,000 per unit per year, and single family properties	Pre-1978	+ Visual assessment. + Paint stabilization. + Passing clearance exam. + Reevaluation every two years	

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SUMMARY OF LEAD SAFE HOUSING RULE REQUIREMENTS			
Subpart of Rule/ Type Program	Year Built	Owner/Landlord Requirements^{1, 23}	Participant Monitoring Requirements
I	HUD-Owned Multi-family Property	Pre-1978 + Provision of pamphlet. + LBP inspection and risk assessment. + Interim controls. + Passing clearance exam. + Notice to occupants. + Ongoing LBP maintenance and reevaluation if HUD owns property for over 12 months. + Response to EIBLL child. ⁵	
J	Rehabilitation Assistance:		
	For all Properties	Pre-1978 + Provision of pamphlet. + Paint testing of surfaces to be disturbed, or presume LBP. + Notice to occupants. + Ongoing LBP maintenance if HOME.	Have system in place that documents they or the subrecipients ensure Owner/Landlord complies with Lead Safe Housing Rule and Lead Disclosure Rule
	1. Property receiving less than or equal to \$5,000 per unit	Pre-1978 + Safe work practices in rehab. + Repair disturbed paint. + Passing clearance exam of the worksite.	
	1. Property receiving more than \$5,000 and up to \$25,000	Pre-1978 + Risk assessment. + Interim controls. + Passing clearance exam.	
	1. Property receiving more than \$25,000 per unit	Pre-1978 + Risk assessment. + Abatement of LBP hazards. + Passing clearance exam.	
K	Acquisition, Leasing, Support Services, or Operation	Pre-1978 + Provision of pamphlet. + Visual assessment. + Paint stabilization. + Passing clearance exam. + Notice to occupants. + Ongoing LBP maintenance.	Have system in place that documents they ensure Owner/Landlord complies with Lead Safe Housing Rule and Lead Disclosure Rule

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Subpart of Rule/ Type Program	Year Built	Owner/Landlord Requirements^{1, 23}	Participant Monitoring Requirements
L Public Housing	Pre-1978	<ul style="list-style-type: none"> + Provision of pamphlet. + LBP inspection. + Risk assessment if LBP not yet abated. + Interim controls if LBP not yet abated. + Abatement of LBP and LBP hazards. + Passing clearance exam. + Notice to occupants. <ul style="list-style-type: none"> + Ongoing LBP maintenance and reevaluation until abatement. + Ongoing LBP maintenance if abate using encapsulation or enclosure + Response to EIBLL child. ⁵ 	Have system in place that documents they ensure Owner/Landlord complies with Lead Safe Housing Rule and Lead Disclosure Rule
M Tenant-Based Rental Assistance for units already occupied or to be occupied by children under 6 years of age	Pre-1978	<ul style="list-style-type: none"> + Provision of pamphlet. + Visual assessment. + Paint stabilization. + Passing clearance exam. + Notice to occupants. + Ongoing LBP maintenance. + Response to EIBLL child. ⁵ 	Have system in place that documents they ensure Owner/Landlord complies with Lead Safe Housing Rule and Lead Disclosure Rule

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¹ Perform and document clearance, lead-safe work practices and occupant protection, which are always required after abatement, interim controls, paint stabilization, or standard treatments, except when the amount of deteriorated paint is below the *de minimis* levels specified in Subpart R of the rule.

² Provide and document providing notice to occupants that includes results of evaluations (paint testing, inspection, and risk assessment) and clearance, where applicable.

³ *Training requirements.* See www.hud.gov/offices/lead for information. See www.epa.gov/lead for information and, in particular certification requirements; note that certification is issued by the EPA, or by the EPA-authorized State or Tribe with the authority to implement the certification for the jurisdiction in which the evaluation or hazard control work is to be conducted):

Evaluation and related activities:

Visual assessment: Online HUD visual assessment course, or risk assessment certification.

Inspection: LBP inspection certification.

Risk assessment, lead hazard screen, or re-evaluation: Risk assessment certification.

Clearance: LBP inspection, or risk assessment certification, or, for clearance after renovation, repair or painting work (but not abatement), sampling technician certification.

Hazard Control (other than small (de minimis) amounts of paint disturbance — see 24 CFR 35.1350(d)):

Repair of paint, paint stabilization, or interim control: Project supervisor being a certified renovator, and all additional workers being either certified renovators or having passed a HUD-approved lead-safe work practices course.

Abatement: Project supervisor being a certified abatement supervisor, and all additional workers being certified abatement workers.

⁴ See 24 CFR 35.115 for exemptions.

⁵ Environmental Intervention Blood Lead Level: A confirmed concentration of lead in whole blood of a child under age 6 of at least 20 micrograms of lead per deciliter (pg/dL) for a single test, or 15-19 pg/dL in two tests taken at least 3 months apart. (While the term and its definition were based on guidance from the Centers for Disease Control and Prevention, in 2012 CDC revised its guidance, and it is anticipated that the EIBLL provisions of Lead Safe Housing Rule may be reconsidered at some point. See Chapter 16.)

⁶ Field Office monitoring areas of interest: covered program responsibility, partnerships, information management (monitoring, data processing, tracking), reporting and responding, and resources.

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EPA's Lead-based Paint Activities Training and Certification Rule (40 CFR 745, subpart L)

On August 29, 1996, the EPA published a rule for the certification and training of lead-based paint professionals (61 FR 45778). Lead-based paint professionals include abatement personnel, project designers, lead-based paint inspectors and lead-based paint risk assessors. Lead-based paint activities include abatement, inspection and risk assessment. This rule contains the requirements for certification of lead-based paint abatement and evaluation firms and individuals, requirements for training providers, and work practice standards. As of July 2012, 39 States, the District of Columbia, Puerto Rico, and three Indian tribes have applied for and received authorization to run their own EPA-approved lead-based paint certification programs that are at least as protective of public health and the environment as the model program that EPA provided and uses for operating its certification program directly.

After the federal program became effective in non-authorized states and tribal areas on August 29, 1998, the rule also provided for an additional phase-in period there for the requirements for training program accreditation, individual and firm certification, and work practice standards. After March 1, 1999, training programs could no longer provide, offer, or claim to provide training or refresher training for lead-based paint activities defined at 40 CFR 745.223 there without being accredited by EPA according to the requirements of section (§) 745.225. In addition, after August 30, 1999, no individuals or firms could perform, offer, or claim to perform lead-based paint activities as defined at § 745.223 there without certification from EPA under § 745.226 to conduct those activities. (More information on training and the certification/accreditation process is available at: <http://www.epa.gov/lead/pubs/ftaincert.htm>.)

EPA's Lead Renovation, Repair and Painting Rule (40 CFR 745, primarily in Subpart E, Residential Property Renovation, with some provisions in Subparts L and Q)

The Renovation, Repair, and Painting (RRP) Rule was issued by the EPA under sections 402 and 406 of the Toxic Substances Control Act (15 U.S.C. §§ 2682 and 2686). It applies to most renovation, repair and painting projects (for brevity, EPA calls these projects "renovations") performed for compensation that disturb paint that is known or presumed to be lead-based paint in target housing and child-occupied facilities first constructed before 1978. In general, the RRP Rule requires that RRP work in these homes and facilities be conducted by certified renovation firms and supervised by a certified renovator assigned to the project, with occupants (or the families/guardians of children at the child-occupied facilities) being notified of the work, with the certified renovator on the job site at least when specified critical steps are taken, with the work being done using lead-safe work practices, and with the project completion determined by the certified renovator conducting a specific "cleaning verification" protocol that the work area has to pass. The cleaning verification protocol involves a visual inspection for residue, and, if none is observed, wiping the windowsills, countertops, and uncarpeted floors in the work area with disposable cleaning cloths, and comparing color of the wipes to a specified level of grayness on an EPA standard cleaning verification card.

The RRP Rule changed several subparts of 40 CFR 745, especially subpart E, Residential Property Renovation, when it was issued (73 FR 21692-21769, April 22, 2008). The RRP rule has been amended several times since (through the publication of this edition of these *Guidelines*, amendments had been published at 74 FR 34257-34262, July 15, 2009; 75 FR 24802-24819, May 6, 2010; and 76 FR 47918-47946, August 5, 2011). For further details on the RRP Rule's development, see the EPA's Renovation, Repair and Painting page, <http://www.epa.gov/lead/pubs/renovation.htm>. For the annual edition of 40 CFR 745, reflecting all amendments up to the time of publication of the latest edition, see the General Printing Office's Federal Digital System website, <http://www.fdsys.gov> or <http://www.gpo.gov/fdsys> (As of 2012, the search involves clicking on the right column's Featured Collection of the Code of Federal Regulations, then, within that collection, searching for the current year, then Title 40, then Chapter 1, then Subchapter R, then Part 745.)

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The purpose of the RRP Rule is to ensure the following:

- Owners and occupants of target housing and child-occupied facilities receive information on lead-based paint hazards before these renovations begin; and
- Individuals performing renovations regulated in accordance with §745.82 are properly trained; renovators and firms performing these renovations are certified; and the work practices in §745.85 are followed during these renovations.

The RRP Rule requires that contractors performing most renovation, repair or painting projects that disturb paint in target housing of child-occupied facilities that is known or presumed to be lead-based paint provide to owners and occupants of the target housing and child-occupied facilities built before 1978, and to parents and guardians of children under age six that attend these facilities the lead hazard information pamphlet. As of 2011, the pamphlet for renovations is available from EPA and HUD in English, as *Renovate Right: Important Lead Hazard Information for Families, Child Care Providers, and Schools*, and in Spanish, as *Remodelar Correctamente: Guia de Practicas Acreditadas Seguras para Trabajar con el Plomo para Remodelar Correctamente*. The rule affects paid workers who do RRP work in pre-1978 housing and child-occupied facilities, including:

- Renovation contractors;
- Maintenance workers in multi-family housing; and
- Painters and other specialty trades; among others;

and the firms that hire them or otherwise contract or subcontract for their RRP services.

Under the rule, child-occupied facilities are defined as residential, public or commercial buildings where children under age six are present on a regular basis. The requirements apply to renovation, repair or painting activities. The RRP rule does not apply to minor repair and maintenance activities where up to six square feet of lead-based paint is disturbed in a room, or up to 20 square feet of lead-based paint is disturbed on the exterior, where none of the work practices prohibited or restricted by the rule (at 40 CFR 745.85(a)(3)) are used and where the work does not involve window replacement. Property owners and contractors who perform these projects in pre-1978 rental housing or space rented by child-care facilities must be certified and follow the lead-safe work practices required by the RRP Rule. (Property owners who work on the homes in which they reside are exempt from the rule. If this housing in which the owner reside has additional dwelling units the owner rents out, the owners are covered by the rule for work on the rental units or those units' exteriors, to the same extent as contractors they would hire to do that work.) To become certified, property owners and contractors must submit an *application for firm certification* and fee payment to EPA or, if the State or Tribe is authorized by EPA to operate the RRP certification program, to the State or Tribe directly. As of July 2012, 12 states had this authority. The EPA or EPA-authorized State or Tribe has up to 90 days after receiving a complete request for certification to approve or disapprove the application.

Differences between HUD's LSHR and EPA's RRP Rule

A description of requirements under HUD's LSHR as it was in place before the EPA RRP Rule went into effect, and the corresponding requirements of EPA's RRP Rule, and the changes for HUD LSHR projects resulting from the implementation of the RRP Rule, are summarized in the following table and explained in the narrative following the table:

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Differences between HUD LSHR and EPA RRP regulations

Stage of Job	Requirement	HUD LSHR before EPA RRP Rule went into effect	EPA RRP Rule	Changes to LSHR projects to incorporate RRP Rule.
Planning and Set-Up	Determination that lead-based paint (LBP) is present.	Only a certified LBP inspector or risk assessor may determine whether LBP is present. EPA-recognized test kits cannot be used to determine that paint is not LBP.	Certified renovators use an EPA-recognized test kit, or a certified LBP inspector or risk assessor makes a determination of whether LBP is present.	No change.
	Training	<p>HUD does not certify renovators or firms.</p> <p>HUD generally requires all workers and supervisors to successfully complete a HUD-approved curriculum in lead-safe work practices, such as the EPA/HUD initial RRP curriculum, except that uncertified workers supervised by a certified LBP abatement supervisor need only project-specific on-the-job training.</p> <p>The EPA/HUD initial RRP curriculum is approved by HUD under the LSHR, as are others listed at www.hud.gov/offices/lead/training/hudtraining.pdf.</p>	<p>EPA or EPA-authorized States certify renovation firms and accredit training providers that certify renovators. Only the certified renovator is required to have classroom training. Workers must receive on-the-job training from the certified renovator.</p> <p>Workers who passed one of the lead-safe work practices listed at www.epa.gov/lead/pubs/trainerinstructions.htm (including a certified LBP abatement supervisors) before October 4, 2011 may become certified renovators by taking either the 4-hour RRP refresher or the 8-hour initial RRP course.</p> <p>Certified LBP inspectors and risk assessors may act as certified dust sampling technicians without further training.</p> <p>People who passed an accredited LBP inspector or risk assessor course before October 4, 2011, but are not certified in those disciplines, may become a certified dust sampling technician by taking either the dust sampling technician refresher or the initial training.</p>	Renovation firms must be certified. At least one certified renovator must be at the job or available when work is being done. Not all workers need to be certified renovators.

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Stage of Job	Requirement	HUD LSHR before EPA RRP Rule went into effect	EPA RRP Rule	Changes to LSHR projects to incorporate RRP Rule.
Planning and Set-Up (cont.)	Pre-Renovation Education	HUD requires conformance with EPA (and other agencies') regulations, including EPA's Pre-Renovation Education Rule. Before December 22, 2008, EPA and HUD had required renovators to hand out the EPA / HUD / CPSC Protect <i>Your Family from Lead in Your Home</i> (Lead Disclosure Rule) pamphlet.	Renovators must hand out the EPA / HUD <i>Renovate Right: Important Lead Hazard Information for Families, Child Care Providers and Schools</i> pamphlet. (This requirement went into effect on December 22, 2008.)	LSHR requires <i>Renovate Right</i> to be handed out.
During the Job	Treating LBP hazards	Depending on type and amount of HUD assistance, HUD requires that lead hazards be treated using "interim controls," "ongoing lead-based paint maintenance," or abatement.	EPA does not require that LBP hazards be treated, only how they are treated when this is done. In general, EPA requires that renovations in target housing be performed using lead-safe work practices by certified renovation firms and certified renovators (with exceptions, such as for minor repair and maintenance projects [see below] and projects that do not disturb known or presumed LBP). When the intent of work is to eliminate the hazards or the LBP for reasons of lead safety, the work is abatement, and certified abatement contractors, certified supervisors and certified workers must be used.	Certified renovation firms and certified renovators must be used for most interim control and ongoing LBP maintenance projects. (The requirements for abatement projects are unchanged.)

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Stage of Job	Requirement	HUD LSHR before EPA RRP Rule went into effect	EPA RRP Rule	Changes to LSHR projects to incorporate RRP Rule.
During the Job (cont.)	Prohibited Work Practices	HUD prohibits 6 work practices. These include EPA's 3 prohibited work practices plus: heat guns that char paint, dry scraping or sanding farther than 1 ft. of electrical outlets, and use of a volatile stripper in poorly ventilated space.	EPA prohibits 3 work practices (open flame burning or torching, heat guns above 1100 degrees F, machine removal without HEPA vacuum attachment).	None.
	Threshold minimum amounts of interior paint disturbance which trigger lead activities.	HUD has a smaller interior " <i>de minimis</i> " threshold (2 sq. ft. per room, or 10% of a small component type) than EPA for lead-safe work practices. HUD also uses this smaller threshold for clearance and occupant notification.	EPA's interior threshold (6 sq. ft. per room) for minor repair and maintenance activities is larger than HUD's <i>de minimis</i> threshold.	None.
	End of Job	Confirmatory Testing	HUD requires a clearance examination done by an independent party instead of the certified renovator's cleaning verification procedure.	EPA allows cleaning verification by the renovator or clearance examination if required by regulation or contract. The cleaning verification does not involve sampling and laboratory analysis of the dust.
	Notification to Occupants	HUD requires the designated party to distribute notices to occupants' units or by posting in centrally located common areas, within 15 days after lead hazard evaluation (or presumption) and control activities in their unit or common areas they access).	EPA has no requirement to notify residents after the renovation, unless they contracted for the renovation, in which case they get the clearance results within 30 days after the renovation is completed.	None.

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A. Responsibilities Shifted from the Renovator to the Designated Party under HUD's LSHR:

1. Under the LSHR, the designated party is generally responsible to either have the paint tested by a certified lead inspector or risk assessor or presume the presence of lead-based paint. Therefore, when HUD's rule applies, the Certified Renovator may **not** use a paint test kit to determine that the paint is **not** lead-based paint. Note: Some states may have conflict-of-interest regulations prohibiting renovators from testing paint on which they will be working.
2. When the HUD LSHR applies, the designated party must have a qualified person, independent of the renovation firm, conduct a lead clearance examination. The Certified Renovator does not conduct a cleaning verification. See below for more information on clearance testing.

B. Additional HUD Requirements for the Renovator:

1. Training requirements for workers and supervisors performing interim controls. To meet the requirements of both rules:

- a. If the supervisor (in HUD terms) was certified before October 4, 2011 as a lead-based paint abatement supervisor or had successfully completed an accredited abatement supervision or abatement worker course before that date, that person must complete a 4-hour RRP refresher course to become a Certified Renovator.
- b. For workers who are not themselves supervisors / Certified Renovators:
 - If their supervisor on this project is a certified lead-based paint abatement supervisor who has completed a 4-hour RRP refresher course, thereby becoming a Certified Renovator, the workers must obtain on-the-job training in lead-safe work practices from the supervisor; unless,
 - The workers must successfully complete either a one-day RRP course, or another lead-safe work practices course approved by HUD for this purpose after consultation with the EPA. HUD has approved the one-day RRP course, the previously-published HUD/EPA one-day Renovation, Remodeling and Repair course, and other one-day courses listed on HUD's website, at www.hud.gov/offices/lead/training/hudtraining.pcf. Note that if the workers had completed some of these courses, the ones listed at www.epa.gov/lead/pubs/trainerinstructions.htm before October 4, 2011, they may become certified renovators by taking either the 4-hour RRP refresher or the 8-hour initial RRP course.
- c. Where the work is being done in a State or Tribal jurisdiction that has been authorized by the EPA to operate an RRP training and certification program, the one-day RRP course and half-day RRP refresher course must be accredited by the State or Tribe. HUD will approve all one-day RRP courses accredited by EPA-authorized States or Tribes.
 - a. The 4-hour RRP refresher course is not sufficient on its own to meet either the EPA or HUD training requirements.

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2. The certified renovation firm and the certified renovator must take additional precautions to protect residents from lead poisoning beyond those in EPA's RRP Rule.

a. Renovators must use lead-safe work practices in work exempt from the RRP Rule that:

- Disturbs between 2 and 6 square feet of paint per room, and so is above the LSHR's *de minimis* threshold but below the RRP's minor repair and maintenance activities threshold.

Note: *Window replacement, window sash replacement, and demolition of painted surface areas* disturb more paint than the LSHR's *de minimis* threshold, even without a calculation of the paint area disturbed.

- Disturbs more than 10% of a component type with a small surface area (such as window sills, baseboards, and trim).

b. Not using HUD's three additional prohibited work practices, in addition to not using EPA's three prohibited work practices (open flame burning or torching, heat guns above 1100 degrees F, and machine removal without HEPA vacuum attachment):

- Heat guns that char the paint even if operating at below 1100 degrees F.
- Dry sanding or dry scraping, except dry scraping in conjunction with heat guns or within 1 ft of electrical outlets.
- Paint stripping using a volatile stripper in a poorly ventilated space.

c. Taking additional measures to protect occupants during longer interior hazard reduction activities: Temporarily relocating the occupants before and during longer interior hazard reduction activities to a suitable, decent, safe, and similarly accessible dwelling unit that does not have lead-based paint hazards. Temporary relocation is not required for shorter projects, where:

- The work is contained, completed in one period of 8-daytime hours, and does not create other safety, health or environmental hazards; or
- The work is completed within 5 calendar days, after each work day, the worksite and the area within 10 feet of the containment area are cleaned of visible dust and debris, and occupants have safe access to sleeping areas, and bathroom and kitchen facilities.

C. Additional Designated Party Responsibilities that may Affect the Renovator

On jobs covered by the HUD LSHR, the certified renovation firm and the certified renovator should know other requirements for the designated party that may affect their role on the project.

1. Designated party must provide occupants with two notices, if the amount of work is above HUD's *de minimis* threshold:

- a. NOTICE OF EVALUATION OR PRESUMPTION: This notice informs the occupants that paint has been evaluated to determine if it is LBP or that paint has been presumed to be LBP. The designated party must notify the occupants within 15 calendar days of receiving the evaluation report or making the presumption. The renovator should ask the

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client if he/she has made this notice. The owner may provide a copy of this notice to the renovator so the renovator knows where LBP is located.

b. NOTICE OF HAZARD REDUCTION ACTIVITY: This notice describes the hazard reduction work that was completed, information on the location of any remaining LBP, the date of the notice, and the contact for occupants to get more information. The designated party must notify the occupants within 15 calendar days of completing the hazard reduction work. The renovator may be given a copy of this notice, or may be asked to prepare or distribute the notice for the owner as part of the renovator's work for the owner.

2. Depending on the type and amount of housing assistance provided, HUD generally requires that identified LBP hazards be treated.

Treatments may include LBP hazard abatement, interim controls or ongoing LBP maintenance. Renovators should inquire if their contract with the owner requires them to perform lead hazard treatment tasks listed below. If so, all workers and supervisors must have the proper training and qualifications. Generally, interim controls include the following activities, which are required if the amount of work is above HUD's *de minimis* threshold; for work below the *de minimis* threshold, any deteriorated paint must be repaired, but the work need not be done using lead-safe work practices, although HUD strongly encourages their use:

- a. Deteriorated LBP must be stabilized. This means that physical defects in the substrate of a paint surface or component that is causing the deterioration of the surface or component must also be repaired.
- b. Friction surfaces that are abraded must be treated if there are lead dust hazards nearby.
- c. Friction points must be either eliminated or treated so the LBP is not subject to abrasion.
- d. Impact surfaces must be treated if the paint on an impact surface is damaged or otherwise deteriorated and the damage is caused by impact from a related building component (such as a door knob that knocks the wall or a door that rubs against its door frame).
- e. LBP must be protected from impact.
- f. Chewable LBP surfaces must be made inaccessible for chewing by children of less than six years of age if there is evidence that such a child has chewed on the painted surface.
- g. Horizontal surfaces that are rough, pitted, or porous must be covered with a smooth, cleanable covering or coating.

3. For certain types of HUD assistance, when a child known to have an environmental intervention blood lead level is present, the designated party must take additional steps to assess the situation and respond to potential lead hazards.

An environmental intervention blood lead level (as of the publication of this edition of these *Guidelines*) is a confirmed reading in a child under 6 years old of 20 micrograms per deciliter of blood (20 pg/dL), or two readings of 15 to 19 pg/dL at least 3 months apart. For certain types of HUD assistance (tenant-based rental assistance, project-based rental assistance, public housing, and HUD-owned multi-family housing), the owner or designated party may ask the renovator to perform work in the unit to address specific lead hazards identified by an

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environmental investigation risk assessment. All persons participating in such work should have appropriate training and qualifications.

4. The designated party must arrange for someone independent of the renovator to conduct a clearance examination, if the amount of work is above HUD's *de minimis* threshold:

a. A clearance examination includes a visual assessment at the end of the renovation work for deteriorated paint, dust, debris, paint chips or other residue; sampling of dust on interior floors, window sills and window troughs; submitting the dust samples to a laboratory for analysis for lead; interpreting the lab results, and preparing a clearance report. EPA also allows a clearance examination to be used instead of the post-cleaning verification, if the clearance examination is required by federal, state or local regulations or by the contract. The unit - or, where work is contained, just the work area and an area just outside the containment - must pass clearance, and must not have any remaining lead hazards. If clearance fails at either the visual assessment step or the dust testing step, cleaning has to be redone in the failed part of the work area. The failed part of the work area is the specific area that was tested, as well as any areas that were not tested, and any other areas that are being represented by the sampled area. For example:

- Just one bedroom was tested, because it was to represent all bedrooms in the housing unit; it failed. Therefore, all of the bedrooms in the unit have to be re-cleaned and re-cleared.
- In a large multi-family apartment building, if a percentage of units are tested in accordance with the HUD Guidelines, if any fail, all of the units except those that passed clearance have to be re-cleaned and re-cleared. (If there are patterns of just certain component types failing, just those component types need to be re-cleaned and re-cleared in the failed and untested units.)

b. The person conducting the clearance examination must be both:

- A certified lead-based paint inspector, risk assessor, clearance examiner, or dust sampling technician, depending on the type of activity being performed. (Either the State or the EPA certifies this person, depending on whether or not the State the housing is in is authorized by EPA to certify people in the lead discipline.)
- Independent of the organization performing hazard reduction or maintenance activities. There is one exception, which is that designated party may use a qualified in-house employee to conduct clearance even if other in-house employees did the renovation work, but an in-house employee may not do both renovation and clearance.

D. How to Find Out About Lead-Based Paint Requirements that Apply to Planned Work in Properties Receiving HUD Housing Assistance, such as Rehabilitation or Acquisition Assistance:

Finding out whether the work is receiving federal housing assistance is important because failing to meet lead-based paint requirements could affect the continuation of the assistance. For each job, the renovation firm should find out whether:

- The housing receives financial assistance; and

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· Any lead-based paint requirements apply to the work because of the assistance provided. The renovation firm should take the following steps:

1. Ask the property owner if the property or the family receives any type of housing assistance, including low-interest loans, from a local, State, or Federal agency. If so:

- Find out the name of the agency, contact person, address and phone number. (See the list of types of agencies below.)
- Get a basic description of the type of assistance the property receives.

Note: You should be able to explain to the owner that there will be information about the work that you will need, and that you also need to check if there are any special requirements.

2. If you have any questions about the Federal or State lead-based paint requirements that apply to the work, contact the public agency administering the assistance and discuss the project with the program specialist or rehabilitation specialist working with the property. For example:

- Some types of public agencies administering housing assistance, such as rehabilitation or acquisition assistance, include:
 - State Housing Agency, Corporation or Authority
 - State Community Development Agency, Corporation or Authority
 - State Housing Finance Agency
 - City or County Housing Authority, Corporation or Authority
 - City or County Community Development Agency, Corporation or Authority
 - USDA Service Center - Rural Housing Programs
- Is the project considered lead abatement?
 - If so, what are the agency's abatement requirements?
 - If the project is not abatement, what are the agency's lead-based paint requirements for the project, and how should they be incorporated into the work write-up?

EPA's **Pre-Renovation Education (PRE) Regulation** (40 CFR 745, subpart E)

EPA's PRE home page can be accessed at: <http://www.epa.gov/lead/pubs/leadrenC.htm>. Section 406 of TSCA directed EPA to develop requirements for renovators to distribute a lead hazard information pamphlet to housing owners and occupants before conducting renovations in pre-1978 housing. The Lead Renovation, Repair and Painting (RRP) rule amends and supplements the 1999 PRE rule.

Since June 23, 2008, renovators have been required to distribute a lead hazard information pamphlet to the owners and administrators of child-occupied facilities before beginning renovations in these facilities. Renovators must also make renovation information available to the parents or guardians of children under age six that attend these facilities. As defined in the rule, child-occupied facilities are residential, public or

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commercial buildings built before 1978 where children under age six are present on a regular basis. Child care facilities and kindergarten and pre-kindergarten classrooms are examples of child-occupied facilities. Since December 22, 2008, contractors have had to use the new renovation-specific lead hazard information pamphlet, entitled *Renovate Right: Important Lead Hazard Information for Families, Child Care Providers and Schools*, to comply with these requirements. For more information, visit EPA's [Renovation, Repair, and Painting web page](#), or contact the [National Lead Information Center \(NLIC\)](#) at 1-800-424-LEAD [5323] to speak with an information specialist. If you are a hearing- or speech-impaired person, you may reach the above telephone number through TTY by calling the toll-free Federal Relay Service at 800-877-8339.

OSHA's Lead Regulations (29 CFR 1910.1025 and 29 CFR 1926.62)

OSHA's lead regulations are described at OSHA's main lead regulation web page at: <http://www.osha.gov/SLTC/lead/> **Note:** As of July 2012, 25 states, Puerto Rico and the Virgin Islands had [OSHA-approved State Plans](#) and had adopted their own standards and enforcement policies. For the most part, these States adopted standards to Federal OSHA's. However, some States have adopted different standards or have different enforcement policies.

OSHA has two lead standards, one for construction and one for general industry. The two standards complement each other; the first covers construction work (construction, alteration, repair, painting and/or decorating (29 CFR 1926.10, (a))), while the second covers work that is not construction work (such as maintenance work not related to construction) and that is not maritime work (i.e., shipyard, marine terminal, or longshoring work). Employers are responsible for determining which standard applies to their workers on a particular project. See Chapter 9, Worker Protection, for information on how the OSHA standards relate to the HUD and EPA lead regulations, and for HUD's recommendations on worker protection even for activities not covered by HUD or EPA regulations.

OSHA's **Lead in General Industry Standard** (29 CFR 1910.1025) covers the use of lead in general industry. This industry includes non-construction-related maintenance work, as well as lead smelting, manufacturing and the use of lead-based pigments contained in inks, paints and other solvents in addition to the manufacturing and recycling of lead batteries. A compliance advisor is available for the Lead in General Industry Standard at <http://www.osha.gov/dts/osta/oshasoft/gilead.html>.

Maintenance work associated with construction, alteration or repair activities is covered by the Construction Standard (29 CFR 1926.62, subsection (a), as discussed below). Non-construction-related maintenance work (such as maintenance activities associated with operations, or if lead is a component of any product that workers make or use) is covered by the General Industry Standard (29 CFR 1910.1025(e)(3)(ii)(A)). Construction activities do not include routine cleaning and repainting (for example, minor surface preparation and repainting of rental apartments between tenants or at scheduled intervals) where there is insignificant damage, wear, or corrosion of existing lead-containing paint and coating or substrates. Maintenance activities covered by the General Industry Standard are those which involve making or keeping a structure, fixture, or foundation in proper condition in a routine, scheduled, or anticipated fashion.

OSHA's **Lead in Construction Standard** (29 CFR 1926.62) applies to all construction work where an employee may be occupationally exposed to lead. OSHA has published a 332-page booklet on this regulation (OSHA 3142-09R 2003), posted at <http://www.osha.gov/Publications/osh3142.pdf>. OSHA has also posted an on-line interactive expert system (compliance advisor) on the Lead in Construction Standard at <http://www.dol.gov/elaws/oshalead.htm>.

The Lead in Construction Standard applies to any source or concentration of lead to which workers may be exposed as a result of construction work. OSHA standards are not limited to lead-based paint as defined by

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HUD or EPA, or lead-containing paint as defined by or the Consumer Product Safety Commission (CPSC). Several letters of interpretation are accessible from OSHA's lead home page (<http://www.osha.gov/SLTC/lead/index.html#litstandards>) including a letter of interpretation dated July 18, 2003, posted at http://www.osha.gov/pIs/oshaweb/owadisp.show_document?p_table=INTERPRETATIONS&p_id=24601, which states that Lead Check and Lead Alert spot test kits are not sufficient for an employer to rule out the possibility of employee exposure to lead.

OSHA's lead in construction standard applies to all construction work where an employee may be exposed to lead. All work related to construction, alteration, or repair, including painting and decorating, is included. Under this standard, construction includes, but is not limited to:

- Demolition or salvage of structures where lead or materials containing lead are present;
- Removal or encapsulation of materials containing lead;
- New construction, alteration, repair, or renovation of structures, substrates, or portions or materials containing lead;
- Installation of products containing lead;
- Lead contamination from emergency cleanup;
- Transportation, disposal, storage, or containment of lead or materials containing lead where construction activities are performed; and
- Maintenance operations associated with these construction activities.

Construction work is defined as work for construction, alteration and/or repair, including painting and decorating. All construction work with the potential for lead exposures excluded from coverage in the general industry standard for lead by 29 CFR 1910.1025(a)(2) is covered by the lead in construction standard. The construction standard establishes maximum limits of exposure to lead for all workers covered, including a permissible exposure limit (PEL) and action level (AL). The PEL sets the maximum worker exposure to lead: 50 micrograms of lead per cubic meter of air (50 $\mu\text{g}/\text{m}^3$) averaged over an eight-hour period. If employees are exposed to lead for more than eight hours in a workday, their allowable exposure as a TWA for that day must be reduced according to this formula:

Employee exposure (in $\mu\text{g}/\text{m}^3$) = 400 divided by the hours worked in the day.

The Action Level, regardless of respirator use, is an airborne concentration of 30 $\mu\text{g}/\text{m}^3$, averaged over an eight-hour period. The Action Level is the level at which an employer must begin specific compliance activities outlined in the standard. Additional compliance activities are required when the exposure exceeds the PEL.

Employers of construction workers are responsible for developing and implementing a worker protection program. At a minimum, the employer's worker protection program for employees exposed to lead must address those requirements that apply no matter what lead exposure is. As noted by OSHA in its 2003 informational booklet "Lead in Construction" (OSHA Publication 3142-09R; <http://www.osha.gov/Publications/osha3142.html> and <http://www.osha.gov/Publications/osha3142.pdf>)

- The employer must maintain any employee exposure and medical records to document ongoing employee exposure, medical monitoring, and medical removal of workers. This data provides a baseline to evaluate the employee's health properly. Employees or former employees, their designated representatives, and OSHA must have access to exposure and medical records in accordance with 29 CFR 1910.1020. Rules of agency

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practice and procedure governing OSHA access to employee medical records are found in 29 CFR 1913.10.

- If the initial assessment indicates that no employee is exposed above the AL, the employer may discontinue monitoring. Further exposure testing is not required unless there is a change in processes or controls that may result in additional employees being exposed to lead at or above the AL, or may result in employees already exposed at or above the AL being exposed above the PEL. The employer must keep a written record of the determination, including the date, location within the work site, and the name and social security number of each monitored employee.

In regard to an employee's exposure to lead in air being at or above the AL, certain compliance activities are required, including:

- For an employee exposed to lead on the job at or above the AL on any one day per year, the employer must make available, at no cost to the employee, initial medical surveillance.
- For an employee exposed to lead on the job at or above the AL for more than 30 days in any consecutive 12 months, the employer must make available, at no cost to the employee:
 - A medical surveillance program with biological monitoring and provisions for medical removal:
 - At least every two months for the first six months and every six months thereafter;
 - At least every two months for employees whose last blood sampling and analysis indicated a blood lead level (BLL) at or above 40 pg/dL; and
 - At least monthly while an employee is removed from exposure due an elevated BLL.
- An immediate medical consultation when the employee notifies the employer that the employee:
 - Has developed signs or symptoms commonly associated with lead-related disease;
 - Has demonstrated difficulty in breathing during respirator use or a fit test;
 - Desires medical advice concerning the effects of past or current lead exposure on the employee's ability to have a healthy child; and
 - Is under medical removal and has a medically appropriate need.
- Medical removal from work with an exposure at or above the AL when:
 - A periodic and a follow-up blood sampling test indicate that the employee's BLL is at or above 50 pg/dL; or
 - A final medical determination has been made that the employee has a detected medical condition which places the employee at increased risk of material impairment to health from exposure to lead.

The worker protection program must address additional requirements if the lead exposure to lead in air is above the PEL, including:

- Hazard determination, including exposure assessment, and notifying employees of results.
- Medical surveillance and provisions for medical removal.
- Job-specific compliance programs.

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- Engineering and work practice controls.
- Respiratory protection.
- Protective clothing and equipment.
- Housekeeping.
- Hygiene facilities and practices.
- Signs.
- Employee information and training (Note: This training is different than HUD or EPA training. For more information, contact your OSHA regional office (<http://www.osha.gov/html/RAmap.html>).
- Recordkeeping.

For each job where employee exposure exceeds the PEL, the employer must establish and implement a written compliance program to reduce employee exposure to the PEL or below. The compliance program must provide for frequent and regular inspections of job sites, materials, and equipment by a competent person. Written programs, which must be reviewed and updated at least every six months, must include:

- A description of each activity in which lead is emitted (such as equipment used, material involved, controls in place, crew size, employee job responsibilities, operating procedures, and maintenance practices);
- The means to be used to achieve compliance and engineering plans and studies used to determine the engineering controls selected, where they are required;
- Information on the technology considered to meet the PEL;
- Air monitoring data that document the source of lead emissions;
- A detailed schedule for implementing the program, including copies of documentation (such as purchase orders for equipment, construction contracts);
- A work practice program;
- An administrative control schedule, if applicable; and
- Arrangements made among contractors on multi-contractor sites to inform employees of potential lead exposure.

Consumer Product Safety Commission Ban of Lead-Containing Paint and Lead in Consumer Products Used by Children (16 CFR Part 1303)

In 1978, the U.S. Consumer Product Safety Commission lowered the legal maximum lead content in most kinds of paint to 0.06% of the weight of the total nonvolatile content of the paint or the weight of the dried paint film (which paint and similar surface-coating materials are referred to as "lead-containing paint"). The Commission issued the 1978 ban because it found that there was an unreasonable risk of lead poisoning in children associated with lead content of over 0.06% in paints and coatings to which children have access and that no feasible consumer product safety standard under the Consumer Product Safety Act would adequately protect the public from this risk.

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Under section 101(f) of the Consumer Product Safety Improvement Act of 2008 (Pub. L. 110-314; see 15 U.S.C. 2051 note, via the U.S. Code search website, <http://uscode.house.gov/search/criteria.shtml>), this amount was reduced to 0.009% (90 parts per million) in consumer products.

The CPSC also bans:

- Toys and other articles intended for use by children that bear "lead-containing paint".
- Furniture articles for consumer use that bear "lead-containing paint".

The CPSC lead regulation is posted at: <http://www.gpo.gov/fdsys/pkg/CFR-2011-title16-vol2/xml/CFR-2011-title16-vol2-part1303.xml>.

For additional CPSC lead-related information, use the Find CPSC Product Safety Standards or Guidance search engine at: <http://www.cpsc.gov/cgi-bin/regs.aspx>.

National Park Service's regulations on Protection of Historic Properties (36 CFR Part 800)

The *National Historic Preservation Act of 1966 (NHPA)* requires Federal agencies to take into account the effects of their undertakings on historic properties, and give the *Advisory Council on Historic Preservation* a reasonable opportunity to comment. The historic preservation review process mandated by Section 106 of the Act is outlined in regulations issued by ACHP. Revised regulations, "*Protection of Historic Properties*," became effective January 11, 2001, with amendments effective August 5, 2004; the current regulations, at 36 CFR Part 800, are posted at <http://www.gpo.gov/fdsys/pkg/CFR-2011-title36-vol3/xml/CFR-2011-title36-vol3-part800.xml>, and summarized on the ACHP's web page at: <http://www.achp.gov/106summary.html>.

See Chapter 18, Lead Hazard and Historic Preservation, of these *Guidelines*, and the National Park Service's Preservation Brief 37, *Appropriate Methods for Reducing Lead-Paint Hazards in Historic Housing*, posted at <http://www.nps.gov/history/hps/tps/briefs/brief37.htm>, for further information and guidance on lead hazard evaluation and control considerations in historic properties.