

U.S. Department of Housing and Urban Development



Office of Public and Indian Housing
Office of Healthy Homes and Lead Hazard Control



Lead Compliance Toolkit Housing Choice Voucher Program HUD's Lead-Based Paint Regulations (24 CFR Part 35)

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PART A: COMPLIANCE ASSISTANCE

Section 1: Introduction

Housing providers funded through HUD provide decent, safe, and sanitary housing to their residents. Part of this responsibility is to protect these residents, particularly children under age six, from the health risks of lead-based paint. Public Housing Authorities (PHAs) and landlords protect these families by complying with HUD's lead-based paint regulations.

With respect to the Housing Choice Voucher Program (HCVP), the Lead Safe Housing Rule (LSHR) applies only to units constructed prior to 1978 occupied (or intended to be occupied) by a child under age six, the common areas servicing those units and exterior painted surfaces

associated with those units and common areas. The Lead Disclosure Rule (LDR) applies to disclosure of lead-based paint and lead-based paint hazards in most housing constructed prior to 1978 ("target housing") at sale or lease, whether or not they are or will be occupied by a child, and whether it is federally assisted or not. The term "target housing" is described in the glossary in Section 4 of Part A of this toolkit, and exceptions from both programs are listed in Part B of this toolkit.

Purpose of the Toolkit

This toolkit will help recipients of HUD funds understand and manage the documents required under HUD's lead-based paint regulations, and document compliance. To do so, it provides an overview of regulatory requirements, checklists, and sample forms.

Why Compliance is Important

Compliance is important because:

- Childhood lead poisoning is a serious health threat to children. Lead-based paint in older housing is the primary cause of childhood lead poisoning.
- Failure to comply with requirements can result in enforcement actions and/or programmatic penalties.
- Failure to comply with the LDR can result in civil money penalties issued by HUD or the Environmental Protection Agency.

Who Keeps Records?

Under the LSHR, the party responsible for having an activity performed – for the HCVP, this is usually the owner or the owner’s agent – generally keeps a record of the activity. This enables the owner or the owner’s agent to document compliance with the LSHR, and demonstrate that proper precautions were taken by parties responsible for work in assisted units occupied by children under age six, common areas servicing those units and exterior painted surfaces associated with those units and common areas. Documenting compliance reduces risk to owners, PHAs and the Department.

In many cases, the responsible party will provide copies of the record to others. For example, the property owner or the owner’s agent who obtains a clearance examination after a maintenance activity would keep the original clearance report. The PHA might ask the owner or the owner’s agent to provide a photocopy for its records.

The LDR requires that the disclosure form be kept for at least three years (Section 35.92(c)). The LSHR requires that notices, evaluation and clearance or abatement reports be kept for at least three years (Section 35.175), however for purposes of the LDR, records and reports regarding lead-based paint must be disclosed upon any sale or lease. If the owner is claiming an exemption from this rule for leases because a lead-based paint inspection found the housing lead-based paint free, the owner or the owner’s agent should retain the inspection report and

other documents that support the claim. The PHA might ask the owner or the owner’s agent to provide a photocopy of disclosure materials for its records.

How to Use This Toolkit

Unless their program requires them, PHAs and funding recipients are encouraged, but not required, to use the sample forms provided in Part 2 to ensure compliance. Users are free to photocopy and distribute the forms. HUD recognizes that some state and local jurisdictions have different requirements for lead-based paint. Users can create additional forms or add specific state or local information as needed.

Overview of the Toolkit

This toolkit is organized into two volumes. **Part A** has four sections:

- **Section 1** discusses the purpose, contents, and use of this toolkit.
- **Section 2** relates lead-based paint-related records to the HCVP and provides a table that summarizes the LSHR requirements.
- **Section 3** contains a compliance document checklist.
- **Section 4** is a brief glossary of the most common terms for lead evaluation and control.

Part B includes sample forms to help in compliance. Many of the forms are also posted on HUD’s website and HUDclips (<http://www.hud.gov/offices/adm/hudclips/>).

Obtaining More Information or Asking a Question

To receive printed information or for questions on lead-based paint and lead-based paint regulations, contact the National Lead Information Clearinghouse (NLIC) at 1-800-424-LEAD or visit its web page at: www.epa.gov/lead/pubs/nlic.htm.

For questions about HUD’s Lead Safe Housing Rule, call 1-202-402-7698 and leave a message, or e-mail lead.regulations@hud.gov.

Hearing- or speech-challenged individuals may access the phone numbers above through TTY

by calling the toll-free Federal Information Relay Service at 1-800-877-8339.

The disclosure pamphlet and forms are available at:
www.hud.gov/offices/lead/enforcement/disclosure.cfm

If you need to know more about lead-based paint requirements, the following resources can provide that information (all available from the Office of Healthy Homes and Lead Hazard Control's (OHHLHC's) website www.hud.gov/offices/lead, unless noted):

- Section 10-11 of the Housing Choice Voucher Guidebook, 7420.10G (www.hud.gov/offices/pih/programs/hcv/forms/guidebook.cfm)
- [Public Housing Occupancy Handbook](http://www.hud.gov/offices/adm/hudclips/), 7465.1 (www.hud.gov/offices/adm/hudclips/; click on "Handbooks")
- HQS inspection checklist and form HUD-52580 and HUD-52580-A (www.hud.gov/offices/adm/hudclips/; click on "forms")
- Lead Disclosure Rule
- Interpretive Guidance on the Lead Disclosure Rule
- Disclosure notices
- EPA's *Protect Your Family From Lead In Your Home* pamphlet
- Lead Safe Housing Rule
- Interpretive Guidance on the LSHR
- Training course materials
- Visual assessment on-line course
- EPA's Pre-Renovation Education brochure, "The Lead-Based Paint Pre-Renovation Education Rule: A Handbook for Contractors, Property Managers, and Maintenance Personnel"
- HUD *Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing*

Programmatic Training

Several courses are posted at:
www.hud.gov/offices/lead/training/training_curricula.cfm including:

- PIH's training curriculum, Addressing Lead-Based Paint in Section 8 Housing Programs

- The on-line Visual Assessment course required for all individuals performing Housing Quality Standards (HQS) inspections.

Additional Information

The [Housing Choice Voucher Guidebook](#), number 7420.10G, contains information about lead-based paint requirements in Chapter 10, "Housing Quality Standards." It is on HUD's website at: www.hud.gov/offices/adm/hudclips/ (click on "library").

The OHHLHC posts lead regulations, fact sheets, sample forms, and pamphlets at www.hud.gov/offices/lead. This website provides direct links to the Lead Disclosure Rule, the Lead Safe Housing Rule, and the HUD *Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing*.

The Centers for Disease Control and Prevention (CDC) has published *Building Blocks for Primary Prevention: Protecting Children from Lead-Based Paint Hazards*, at: www.cdc.gov/nceh/lead/publications/Building_Blocks_for_Primary_Prevention.pdf. Additional health information on lead is at www.cdc.gov/nceh/lead.

The EPA's website on Lead in Paint, Dust, and Soil, at <http://www.epa.gov/lead/> provides information about lead and lead hazards, provides simple steps to protect housing occupants, workers and contractors, includes EPA's lead-based paint regulations and guidance, and lists state lead regulatory agency contacts.

Contacts

- PIH Office of Field Operations, Program Liaison Specialist for Lead Issues
- PIH Office of Policy, Program and Legislative Initiatives
- Office of Healthy Homes and Lead Hazard Control

Section 2: Relating Lead-Based Paint Records to the Housing Choice Voucher Program

This section shows how the various records and reports that are generated by lead-based paint work relate to the requirements.

Organization of 24 CFR Part 35

The HUD lead-based paint regulations consist of several subparts organized by type of housing assistance provided – not by HUD program. **Subpart A** is the Lead Disclosure Rule for leases and sales of target housing (see Section 4 for a detailed description of “target housing.”). **Subpart M** is the section of the Lead Safe Housing Rule (LSHR) that applies specifically to programs providing Tenant-Based Rental Assistance (TBRA) in pre-1978 housing. Subpart M applies to all HUD programs that provide such assistance, including the Housing Choice Voucher Program (HCVP), Indian Housing Block Grants and several Community Planning and Development programs.

The LSHR also references several EPA regulations such as the Pre-Renovation Education Rule, and the Training and Certification rule for lead-based paint activities. Information on EPA’s regulations is available at:

www.epa.gov/lead/pubs/regulation.htm

Housing Choice Voucher Program Conforming Regulations

Three sections of the HCVP regulations at 24 CFR Part 982 were revised to include the lead-based paint requirements:

1. Section 982.158(f)(5) includes the recordkeeping requirements of Part 35, Subpart B.
2. Section 982.305(b)(1)(ii) provides that executed leases must include the HUD-prescribed tenancy addendum and the lead-based paint disclosure information as required in 24 CFR 35.92(b).
3. Section 982.401(j) incorporates the LSHR’s Subparts B, M and R into the

Housing Quality Standards (HQS). These subparts cover general issues, TBRA lead requirements, and technical procedures.

The HCVP Approach to Lead Hazard Control

Lead Safe Housing Rule (LSHR):

Across all of HUD’s programs, the LSHR’s requirements for target housing can be grouped into several levels of evaluation and control, ranging from low to high. Generally, the HCVP has low-level requirements, except where a child has been found to have an environmental intervention elevated blood-lead level (EIBLL; see below).

Many of the lead-based paint requirements are conducted as part of the HQS process, such as the initial and annual visual assessments for deteriorated paint. Forms HUD-52580 and 52580-A, the inspection checklist and inspection form for the HCVP, respectively, have been revised to add the annual visual assessment for deteriorated paint. An Owner’s Self-Certification form documents most of the LSHR’s requirements related to resolving HQS violations and maintenance work. The instructions for Section 8.11 of Form HUD-52580-A require the owner to self-certify that all repairs made to correct HQS deficiencies were done “in accordance with all applicable requirements of 24 CFR Part 35.” The PHA must receive the Lead-Based Paint Owner Certification before the execution of the HAP contract, or within the time period stated by the PHA in the owner HQS violation notice. Receipt of the completed and signed Lead-Based Paint Owner Certification signifies that all HQS lead-based paint requirements have been met and no re-inspection by the HQS inspector is required.

HUD’s intent with these requirements is that the housing unit be free from lead-based paint hazards when it enters the Program. If deteriorated paint (in more than minimal amounts) is found in the initial HQS inspection, that paint is stabilized using lead-safe work practices and the area cleaned up

and cleared for occupancy, as described below. PHAs should advise owners and owner's agents not to repair the deteriorated paint in a unit until after the initial HQS inspection, in order to avoid unsafe work practices and possible contamination of the area. (The Owner Self-Certification form is included in Part B of this Toolkit.)

Lead-based paint related documents are used at initial occupancy, subsequent lease renewals and maintenance work. Special requirements apply in the case of children with EIBLLs, and PHAs are encouraged to inform their HUD field office should this situation arise.

The major elements of compliance with the rules for the HCVP include documenting:

- PHA's visual assessment for deteriorated paint.
- Records concerning paint stabilization of deteriorated paint by owners or owner's agents.
- Clearance examinations after paint stabilization and before reoccupancy.
- Ongoing lead-based paint maintenance when there is an ongoing relationship with HUD.
- Records of actions taken concerning a child with an EIBLL in a covered unit.

Property owners and owner's agents are generally responsible for ongoing maintenance as long as the unit participates in the program. (For exceptions, see section 35.1355(a)(1).) Owners and owner's agents and PHAs also have additional requirements that apply to children with EIBLLs.

(The terms underlined above are defined in section 35.110. Section 4 of Part A of this toolkit is a glossary that provides general descriptions of the terms for initial understanding; the more formal definitions in the regulation are to be used in practice where they are more detailed.)

Lead Disclosure Rule:

The owner or owner's agent must disclose at two points:

- When a prospective tenant is applying for rental of target housing, before the execution of the lease; and,
- When the lease terms change (e.g., rent increase, lease renewal) and the owner or owner's agent has gained any new knowledge about lead-based paint or lead-based paint hazards since the previous disclosure.

The disclosure includes providing a lead warning statement, disclosing any knowledge of lead-based paint or lead-based paint hazards, providing copies of all lead-based paint records and reports to all prospective residents, whether they have children or not. See Part B of this toolkit for the lease Lead Disclosure Form.

The owner or owner's agent must also provide all prospective residents with a copy of the EPA pamphlet *Protect Your Family from Lead in Your Home*, or other EPA-approved disclosure document.

The process for completing the disclosure notice begins when the owner or owner's agent gets the disclosure form (see the form in Part B of this toolkit, or download the form from the web site for disclosure pamphlet and forms in Section 1 of Part A). The owner or owner's agent fills out and signs the notice, and provides it to the tenants before they become obligated under the lease. (The PHA may provide disclosure guidance and training to owners, owners' agents and tenants, but may not prepare or sign disclosure notices for properties for which it is not the owner or lessor.) The tenants read and sign the notice and return it to the owner or owner's agent, who sends a copy of the completed and jointly signed notice to the PHA. The PHA must keep this copy of the executed disclosure notice (§ 982.158(e)(1)). The owner or owner's agent should not send the PHA the original executed disclosure notice, but instead must retain the original in the property files for at least three years. See the discussion of the recordkeeping requirements for the owner or owner's agent in the "Who Keeps Records?" segment of Section 1 of Part A of this toolkit.

EPA Inspections of PHAs

EPA Regional Offices may request to perform document inspections to assess compliance with the Lead Disclosure Rule and/or the EPA Lead Pre-Renovation Education Rule. Compliance with EPA inspections is voluntary, unless EPA has issued a subpoena. In the event that EPA requests such an inspection, the PHA should contact HUD's Office of Healthy Homes and Lead Hazard Control (OHHLHC), or the Office of General Counsel for guidance.

In general, inspections for compliance with the EPA Lead Pre-Renovation Education Rule are only relevant if the PHA and its staff perform painting, renovation, or other work that may disturb paint in properties constructed before 1978. Otherwise, records regarding compliance with this rule should be maintained by the contractors performing the work.

Both HUD and EPA share enforcement of the Lead Disclosure Rule. Under a 1997 Memorandum of Understanding (MOU) and its implementing guidance, HUD has initial responsibility for enforcement of the Lead Disclosure Rule for all sites receiving HUD assistance. This assistance includes all HUD programs, including conventional public housing, project-based rental assistance, tenant based rental assistance, and HUD grants such as HOME and CDBG.

If EPA initiates an inspection for compliance with the Lead Disclosure Rule, HUD recommends that the PHA or owner (or owner's agent) notify EPA that the property receives HUD assistance and request that EPA temporarily suspend the investigation to allow for notification to HUD. EPA may, in some cases, issue a subpoena if the entity is perceived as uncooperative and refuses all inspections. Subpoenas normally offer the PHA, owner or owner's agent a reasonable time period to comply, and during this time, the PHA, owner and/or owner's agent should consult with legal counsel and HUD.

The OHHLHC and the Office of General Counsel are parties to the MOU with EPA

and are available to provide technical assistance regarding the regulations and EPA inspections. For more information, contact the Director, Lead Programs Enforcement Division, OHHLHC, 202-402-0310, or the Deputy Assistant General Counsel for Program Compliance, Office of General Counsel, 202-708-4184.

Environmental Intervention Blood Lead Level vs. Elevated Blood Lead Level

Lead-poisoned children are commonly referred to as having an "elevated blood-lead level," or EBL. The requirements of the LSHR however, are triggered when a child has a blood test result at the Environmental Intervention Blood Lead Level (EIBLL; often pronounced "eye bull"). An EIBLL is also an elevated blood lead-level, but is specifically defined as 20 micrograms (μg) of lead per deciliter (dL) of blood on a single test, or 15 to 19 $\mu\text{g}/\text{dL}$ in two tests taken at least 3 months apart (24 CFR § 35.110). Once an EBL or EIBLL is identified, an environmental investigation is usually performed at the child's residence by a state or local health agency. An environmental investigation usually includes a lead-based paint risk assessment, which tests lead in the home's paint, dust, and soil. It may also include testing of other potential sources, such as cookware or folk medicines, to determine if they are causing the child's elevated blood-lead level.

State and local health departments generally use the term EBL when referring to any children with any blood lead level over the CDC's level of concern of 10 $\mu\text{g}/\text{dL}$. When working with local health departments, PHAs should be clear that an EIBLL, rather than an EBL, triggers an intervention under the LSHR. However, state and local health departments may require lead hazard control work at a level lower than an EIBLL, and the owner or owner's agent must comply with those requirements under the applicable state and/or local laws. Their compliance with those laws is also a condition of the HUD assistance (24 CFR 35.150(b)).

Summary of Requirements

Figure 1 summarizes the regulatory requirements and required actions. It also lists the property exemptions and circumstances when relocation of occupants is not required.

Figure 2 is a flow chart showing the major regulatory requirements and required actions. It also lists the sample forms and checklists from this toolkit, showing when they are to be used, and by whom.

These figures do not contain all the information in the regulations. HVCP personnel should review the regulations for specific requirements.

In some cases, there will be properties that are covered by more than one HUD program. In these cases, the lead requirements of each program must be reviewed and where they overlap, the more protective approach must be followed.

Relationship to State and Local Laws

If state or local laws impose requirements for lead-based paint that differ from the LSHR or other federal law, the more protective standard applies. For technical assistance, contact the Office of Healthy Homes and Lead Hazard Control.

Fair Housing and Equal Opportunity

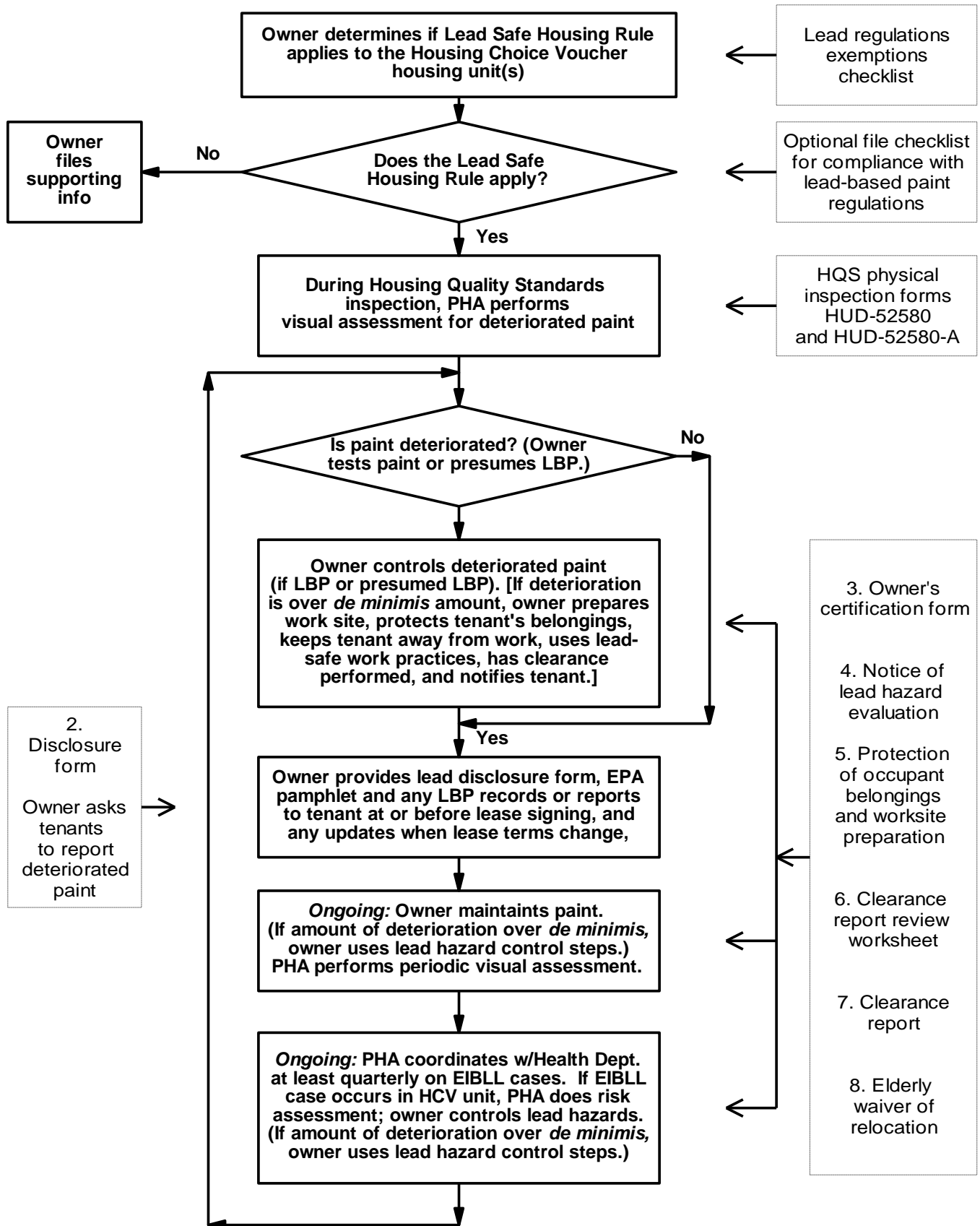
The Federal Fair Housing Act (FHAct) prohibits discrimination on the basis of familial status (i.e., the presence of children under 18 or a pregnant woman in a household) and disability, regardless of risk of lead-based paint hazards. Housing providers may recommend alternative units to households with at-risk children (under six years of age or with EIBLLs) or pregnant women, and may also give such households or groups priority for lead-treated units. However, it would be a violation of the FHAct for housing providers to refuse to rent or sell a unit, even one with lead-based paint hazards, or to provide other services to at-risk households. (See the Office of Fair

Housing and Equal Opportunity's policy statement, Requirements Concerning Lead-based Paint and the Fair Housing Act: www.hud.gov/offices/fheo/library/).

Figure 1. Overview of Lead Requirements for the Housing Choice Voucher Program

Requirement	Action
Applicability	Target housing units and common areas occupied by a child under age six. ^A
Disclosure	Owner or agent responsible for providing pamphlet and completed and signed disclosure form at lease, and, if owner or agent has additional lead information, at change of lease conditions.
Exemptions	See Part B of this toolkit for a list of exemptions.
Approach to Lead Hazard Reduction	Identify and stabilize all deteriorated paint.
Notification to Residents	Notice of lead-based paint inspection, risk assessment or hazard reduction within 15 days.
Pre-Renovation Education	(EPA requirement) Contractor must provide pamphlet to residents before starting work that disturbs 2 square feet or more of paint.
Lead Evaluation or Visual Assessment	Visual assessment for deteriorated paint initially, annually and at turnover.
Lead Hazard Reduction	Paint stabilization. Lead safe work practices & occupant protection. Work must be performed by personnel with proper training or supervision.
Clearance	Required for all paint-disturbing work above the de minimis amounts.
Ongoing Maintenance	Yes. ^B Specific annual and ongoing activities. Ongoing lead-based paint (LBP) maintenance is not required if no LBP exists or it was removed.
EIBLL Requirements	Owner (or agent): Control lead-based paint hazards, including clearance testing (except for clearance of de minimis areas), within 30 days. Notify affected building residents of evaluation or hazard reduction results. ^C PHA: Report EIBLL child to health department within 5 working days after receiving a medical provider's report. (Verify any notice of an EIBLL child from a source other than a medical health care provider). Have a risk assessment conducted in the unit where the EIBLL child was living (and common areas servicing the unit), unless a risk assessment or a health department environmental investigation has already been performed. Quarterly, ask health department for the names and addresses of EIBLL children, and provide the health department with updated addresses of assisted units.
Option	Test deteriorated paint and use safe work practices and clearance only on lead-based paint surfaces
Notes:	
^A These requirements apply to TBRA units occupied or to be occupied by children under 6 years of age and the common areas and exterior painted surfaces associated with these units.	
^B Ongoing Maintenance - Visual assessment to check for failure of lead hazard reduction work or defective paint at unit turnover and annually, followed by safely repairing deteriorated paint and any failed lead hazard reduction work (unless paint is known through an evaluation <u>not</u> to be LBP), standard treatment or interim control of bare soil (unless soil is known not to be a lead hazard), and providing notice to residents.	
^C These requirements apply to the unit regardless of whether the child with the EIBLL is or is not still living in the assisted unit. If the hazard reduction is not performed, the unit does not meet HQS Standards.	
Circumstances When Occupant Relocation Is Not Required [24 CFR 35.1345]:	
<input type="checkbox"/> Treatment will not disturb lead-based paint, dust-lead hazards, or soil-lead hazards.	
<input type="checkbox"/> Treatment of the interior will be completed within one period in eight daytime hours, the worksite will be contained so as to prevent the release of leaded dust and debris into other areas, and the work will not create other safety, health, or environmental hazards.	
<input type="checkbox"/> Only the building's exterior is treated; the windows, doors, ventilation intakes, and other openings in or near the worksite are sealed during hazard reduction activities and cleaned afterward; and a lead-free entry is provided.	
<input type="checkbox"/> Treatment of the interior will be completed within five calendar days; the worksite is contained so as to prevent the release of leaded dust and debris into other areas; treatment does not create other safety, health or environmental hazards; and at the end of work each day, the worksite and area within at least 10 feet of the containment area is cleaned to remove any visible dust or debris, and occupants have safe access to sleeping areas, bathroom, and kitchen facilities.	
Relocation of elderly occupants: Relocation of elderly occupants is not typically required if complete disclosure of the nature of the work is provided and informed consent of the elderly occupant(s) is obtained before the work begins. See Part B of this toolkit for a sample elderly waiver for relocation form.	

Figure 2. Flowchart of Lead Requirements and Forms for the Housing Choice Voucher Program



Section 3: File Checklist for Compliance with Lead-Based Paint Regulations

The LDR requires that the disclosure form be kept for at least three years (Section 35.92(c)). The LSHR requires that notices, evaluation and clearance or abatement reports be kept for at least three years (Section 35.175), however for purposes of the LDR, records and reports regarding lead-based paint must be disclosed upon any sale or lease. To assist PHAs document compliance, HUD suggests the documents listed below be maintained for covered units. Referenced forms are in Part B of this Toolkit.

Document Name	Purpose	√
Lead Regulation Exemptions: Housing Choice Voucher Program Application	Helps determine if unit is covered by LSHR and/or LDR or is exempt	<input type="checkbox"/>
Physical inspection form (HQS or equivalent)	Documents results of visual assessment for deteriorated paint	<input type="checkbox"/>
Owner Certification Form	Owner certifies that paint was stabilized by qualified workers, that safe work practices were followed during paint stabilization, and that ongoing lead-based paint monitoring will occur.	<input type="checkbox"/>
Clearance Report	Documents that unit passed clearance after lead hazard control work.	<input type="checkbox"/>
Disclosure Form	Documents that tenant received lead warning statement, Protect Your Family from Lead in Your Home pamphlet, and knowledge disclosure. (Required for Lead Disclosure Rule, regardless of whether a child resides in home.)	<input type="checkbox"/>
Lead Hazard Reduction Notice	Documents that tenant received required lead hazard reduction notification within 15 days of the work.	<input type="checkbox"/>
Documentation of ongoing maintenance activities: <ul style="list-style-type: none"> • Inspection reports – from annual and turn-over inspections • Clearance report from each maintenance job involving painted surfaces above the de minimis • Notice of lead hazard reduction for each maintenance job involving painted surfaces 	Documents that a visual assessment is performed at least annually and upon unit turnover and that any deteriorated paint is addressed appropriately (including clearance and notice of lead hazard reduction)	<input type="checkbox"/>
Documentation of response to EIBLL child. Copies of: <ul style="list-style-type: none"> • Risk assessment • Abatement or clearance report • Relocation documents • Correspondence with health department 	Documents that if an EIBLL child was identified in the unit, the situation was addressed in accordance with the Lead Safe Housing Rule.	<input type="checkbox"/>

Section 4: Glossary of Key Terms and Federal Lead-Based Paint Standards

This Glossary provides informal description of these key terms. The formal definitions used for implementing the Lead Safe Housing Rule in HCVP properties are at 24 CFR 35.110 (www.hud.gov/offices/lead/enforcement/lshr.cfm).

Abatement: Measures to permanently control (that is, 20 years or more, or forever) 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]

Clearance Examination: Clearance is performed after hazard reduction, rehabilitation or maintenance activities to determine if a unit is free of lead hazards, except when very small (de minimis) amounts of paint are disturbed. It involves a visual assessment, analysis of dust samples, and provision of report. The certified risk assessor, paint inspector, or lead sampling technician performing clearance must be independent from the entity/individual conducting paint stabilization or hazard reduction.

Interim Controls: A set of measures to temporarily control lead-based paint hazards. Qualified workers using safe work practices must complete interim control methods. Follow-up monitoring is needed.

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). A certified risk assessor must perform the screen. The lead hazard screen applies more stringent thresholds than a full risk assessment. If the unit fails the lead hazard screen, a full risk assessment must be performed.

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.

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. A certified paint inspector or risk assessor performs it.

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.

Paint Stabilization: A specific 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.

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.

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

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. Qualified workers using safe work practices must complete standard treatments. As with interim controls, follow-up monitoring is needed.

Target Housing: Generally, housing constructed before 1978. Housing for the elderly, and housing for persons with disabilities, are not target housing, **unless** a child under 6 years old resides or is expected to reside in that housing, in which case, the housing **is** target housing. All zero-bedroom dwellings are not target housing. In jurisdictions which banned the sale or use of lead-based paint before 1978, HUD may use an earlier date for determining target housing.

Visual Assessment: This term has two related meanings:

(1) A visual assessment during initial and periodic inspection of housing quality looks at interior and exterior painted surfaces to identify paint deterioration, and other specific conditions that may be lead-based paint hazards. (A visual assessment does not identify lead-based paint.) This visual assessment must be performed by a person trained in visual assessment, and may be done during the HQS inspection. A self-paced, on-line training module on visual assessment is available on HUD's website at www.hud.gov/offices/lead. A certified risk assessor is also trained to perform visual assessment.

(2) A visual assessment for clearance looks for paint deterioration and visible dust and debris, as the first part of a clearance examination. This visual assessment must be performed by a certified risk assessor, certified inspector, or a trained and appropriately supervised sampling technician.

LEAD POISONING

Environmental Intervention Blood Lead Level (EIBLL): The level of lead in blood that requires intervention in a child under age six. This is defined as 1) a blood lead level of 20 µg/dL (micrograms per deciliter) of whole blood or above for a single test, or 2) blood lead levels of 15-19 µg/dL in two tests taken at least three months apart.

KEY UNITS OF MEASUREMENT

mg (milligram): A milligram is 1/1000th of a gram.

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 or sq. ft. (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 in order to establish whether intervention is needed. A deciliter (one tenth 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): Used to measure the level of lead in soil. Equivalent to parts per million (ppm) by weight.

µg/ft² (micrograms per square foot): Used to measure the level of lead in dust samples. A risk assessment report or a 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 the level of 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.

FEDERAL LEAD-BASED PAINT STANDARDS

Paint – Definition of Lead-Based Paint

Paint or other surface coatings that contain at least:

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

Note: 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 (in micrograms per square foot)

- | | |
|-----------------------------------|------------------------|
| ➤ Floors | 40 µg/ft ² |
| ➤ Interior window sills | 250 µg/ft ² |
| ➤ Window troughs (Clearance only) | 400 µg/ft ² |

Soil – Federal Thresholds for Bare Soil Contamination (in micrograms per gram; equivalent to parts per million)

- | | |
|---|---------------|
| ➤ Play areas used by children under age 6 | 400 µg/gram |
| ➤ Other areas, if more than 9 ft ² in total area of bare soil per property | 2,000 µg/gram |
| ➤ Abatement required by HUD | 5,000 µg/gram |

PART B: SAMPLE FORMS AND OTHER DOCUMENTS

1. Lead Regulation Exemptions: Housing Choice Voucher Program
2. Disclosure Form for Rentals and Leases
3. Owner's Certification Form
4. Sample Notice of Lead Hazard Evaluation
5. Protection of Occupants' Belongings and Worksite Preparation
6. Clearance Report Review Worksheet
7. Sample Clearance Report
8. Elderly Waiver for Relocation – Sample Form

LEAD REGULATION EXEMPTIONS: HOUSING CHOICE VOUCHER PROGRAM

This worksheet should be placed in the project file for any residential property that is assisted with tenant-based rental assistance funds.

Exemptions from Requirements of 24 CFR Part 35

For any "yes" answer, the property is exempt from the Lead Disclosure Rule (LDR) and/or the Lead Safe Housing Rule (LSHR), as shown in the right-hand column. The paragraphs in the regulation that establish each exemption are shown.

Question	Regulatory Citation	Yes	No	If yes, exempt from:
Was the property constructed after 1977?	35.82, 35.115(a)(1)			LDR and LSHR
Is this a zero-bedroom unit or property? (e.g. , SRO, efficiency)	35.82, 35.115(a)(2)			
Is this dedicated elderly housing (i.e., age 62 or older) with no child under age 6 residing or expected to reside in the unit?	35.82, 35.115(a)(3)			
Is this housing dedicated for the disabled with no child under age 6 residing or expected to reside in the unit)?	35.82, 35.115(a)(3)			
Has a paint inspection conducted in accordance with 40 CFR 745 established that the property is free of lead-based paint? *	35.82(b),** 35.115(a)(4)			LDR and LSHR
Has all lead-based paint in the property been identified and removed, with qualified clearance examiner reporting the project passed clearance? *	35.82(b) 35.115(a)(5), 35.1340			
Will the unit be occupied for a total of less than 100 days under emergency leasing assistance to eligible households?	35.82(c) 35.115(a)(11)			

* Date of the inspection or clearance report: Printed name of lead-based paint inspector or risk assessor:	

** Note: The lead-based paint free disclosure exemption applies to leases only.

Sample Owner Self-Certification Form: Page 1

I, _____ (*name*), owner of _____ (unit or address), certify that all deteriorated paint identified in the housing quality standards (HQS) inspection report dated _____ was stabilized and that lead safe work practices were followed. Items 1A-1E were followed, in compliance with Federal, state and local regulations, except in cases where the work was exempt from safe work practice requirements as described in Item 2. I also certify that I will conduct ongoing maintenance as described in Item 3 below.

Check Number 1 or Number 2, and check Number 3

1. _____ These practices were followed as appropriate (check all that apply).

- A. The prohibited work methods listed below were not used.
- Open flame burning or torching.
 - Machine sanding or grinding without a high-efficiency particulate air (HEPA) local exhaust control.
 - Abrasive blasting or sandblasting without HEPA local exhaust control.
 - Heat guns operating above 1,100 degrees Fahrenheit, or those that that operate high enough to char the paint.
 - Dry sanding or dry scraping. (For exceptions to this rule see 24 CFR 35.140 (e).)
 - Paint stripping in a poorly ventilated space using a volatile stripper that is a hazardous substance in accordance with regulations of the Consumer Product Safety Commission at 16 CFR 1500.3, and/or a hazardous chemical in accordance with the Occupational Safety and Health Administration at 29 CFR 1910.1200 or 1926.59, as applicable to the work.
- B. Workers performing the work were trained in accordance with 24 CFR 35.1330(a)(4).
- Workers were supervised by a certified abatement supervisor; or
 - Workers successfully completed a HUD-approved training on Lead Safe work practices (see www.hud.gov/lead for a listing of approved courses).
- C. Protection of occupants and preparation of the worksite as described below.
- Occupants were not permitted to enter the worksite during hazard reduction activities until final clearance was achieved.
 - Occupants were temporarily relocated before and during hazard reduction activities if necessary.
 - Dwelling unit and worksite were secured against unauthorized entry, and occupants' belongings were protected from contamination by dust-lead hazards and debris during hazard reduction activities.
 - Occupants' belongings in a containment area were relocated to a secure area outside the containment area or covered with plastic sheeting.

Sample Owner Self-Certification Form: Page 2

- Worksite Preparation:
 - Worksite was prepared to prevent release of leaded dust and contained lead-based paint chips and other debris from hazard reduction activities within the worksite.
 - A warning sign was posted at each entry to rooms where hazard reduction activities were conducted when occupants were present.

D. Specialized cleaning after hazard reduction activities including:

- Used HEPA vacuum cleaners; or other method of equivalent efficacy; and
- Lead-specific detergents or equivalents.

E. Clearance of unit achieved before reoccupancy was permitted.

2. _____ Lead-safe work practices and clearance were not required because the maintenance or rehab activities did not disturb painted surfaces above the de minimis levels*.

3. _____ I will comply with ongoing maintenance requirements, for the term of the HUD assistance, including:

- Performance of visual assessments for deteriorated paint, bare soil and lead hazard control failures of all lead-based paint in units, annually and at unit turnover.
- Repair all deteriorated paint above de minimis levels* using Safe Work Practices.
- Repair all encapsulated or enclosed areas that are damaged or failing using appropriate interim controls or abatement methods (if applicable).
- Request in writing that occupants of units monitor lead-based paint surfaces and notify me regarding any new potential lead hazards. (For units that are newly leased during this monitoring period.)

* Note: De minimis levels are defined as:

- 20 square feet on exterior surfaces;
- 2 square feet in any one interior room or space; or
- 10 percent of the total surface area on an interior or exterior type of component with a small surface area (such as windowsills, baseboards, and trim).

Owner Signature

Date

PHA Representative

Date

Sample Data Summary for Lead-Based Paint Risk Assessments and/or Lead-Based Paint Inspections

Summarize the types and locations of lead-based paint hazards and lead-based paint below (including unit numbers and common areas) or attach your own summary that has this information. The summary for a risk assessment must list at least locations of the bare soil-lead hazards, dust-lead hazards, and/or paint-lead hazards founds, giving the building components (including type of room or space and the material underneath the paint): The summary for a lead-based paint inspection must list at least the lead-based paint locations and the condition of that paint. (Use additional sheets as needed.)

Soil-Lead Hazards (Risk Assessment)		
Area	µg/g (ppm)	Location
___ None		
___ Perimeter	___ µg/g (ppm)	
___ Play Area	___ µg/g (ppm)	
___ Other	___ µg/g (ppm)	

Dust-Lead Hazards (Risk Assessment)		
Area	µg/SF	Location
___ None		
___ Windowsill	___ µg/SF	
___ Floor	___ µg/SF	
___ Other	___ µg/SF	
___ Other	___ µg/SF	

Lead-Based Paint (Inspection); or Paint-Lead Hazards: Deteriorated, Friction or Impact LBP Surfaces (Risk Assessment)						
<u>Component</u> (window, door, wall, stair rail, etc.)	<u>Location</u>	<u>Condition</u> (intact or deteriorated) (Circle one)		<u>Friction or Impact Surface?</u> (Circle what applies)		<u>Lead Content, if known</u> (Circle one: mg/cm ² ppm)
1.		Intact	Deter.	Friction	Impact	
2.		Intact	Deter.	Friction	Impact	
3.		Intact	Deter.	Friction	Impact	
4.		Intact	Deter.	Friction	Impact	
5.		Intact	Deter.	Friction	Impact	
6.		Intact	Deter.	Friction	Impact	
7.		Intact	Deter.	Friction	Impact	
8.		Intact	Deter.	Friction	Impact	
9.		Intact	Deter.	Friction	Impact	
10.		Intact	Deter.	Friction	Impact	
11.		Intact	Deter.	Friction	Impact	
12.		Intact	Deter.	Friction	Impact	

Checklist for Protection of Occupants' Belongings and Worksite Preparation for Projects with Lead Hazard Reduction Activities

Property Address: _____ Owner: _____

Name of Individual Completing this Form: _____

Organization: _____

Date Completed: _____

Instructions: Review all activities performed to protect occupants' belongings and prepare the worksite.

The worksite must be carefully prepared and occupants' belongings protected, whether or not temporary relocation of occupants is required before and during lead hazard reduction activities,. Check all boxes that apply.

- Occupants were appropriately notified that their belongings would be protected during the work and what, if anything, they would need to do to prepare for the project.
- Occupants' belongings in the containment area were (check one):
 - relocated to a safe and secure area outside the containment area, OR
 - covered with an impermeable covering with all seams and edges taped or otherwise sealed.
- Worksite was prepared to prevent the release of leaded dust, and contain lead-based paint chips and other debris from hazard reduction activities until they were safely removed. Practices that minimize the spread of leaded dust, paint chips, soil and debris were used during worksite preparation.
- A warning sign was posted:
 - At each entry to a room where hazard reduction activities were conducted when occupants were present, OR
 - At each main and secondary entryway to a building from which the occupants had been relocated, OR
 - For an exterior hazard reduction work, where it was easily read 20 feet from the edge of the worksite.
- The warning sign was in:
 - the occupants' primary language, OR
 - another language (specify which language, and why occupants' primary language was not used).
- Final clearance was achieved before occupants' belongings were uncovered or returned to the unit.

Clearance Report Review Worksheet

Clearance testing is the responsibility of the owner, but the PHA may coordinate this activity. It can be used at the completion of work to document that clearance was achieved and the clearance report is complete.

Project title: _____

Property Address: _____ Project Date: _____

Name of PHA Reviewer: _____ Reviewer's Title: _____

Question	Yes	No	Notes/Questions
The clearance exam report from the clearance examiner must include items 1 through 6.			
1. Property address and specific unit or common areas identified.			
2. Name, address, signature and certification number of each person involved in the clearance examinations.			
3. Name and identification number of each laboratory conducting an analysis for lead.			
4. Dates of clearance examination.			
5. Results of visual assessment for the presence of deteriorated paint and visible dust, debris, residue or paint chips.			
6. Results of the analysis of dust samples in micrograms per square feet ($\mu\text{g}/\text{ft}^2$) for each sample location.			
<i>The report must also include information on lead hazard reduction (items 7-11). The owner may have to add this information to the report or request it from the contractor or the individuals who did the work if it is not included in the original clearance exam report.</i>			
7. Name and address of each firm and supervisor (or employer) involved in the lead hazard reduction activity.			
8. Start and completion date(s) of lead hazard reduction activity.			
9. Detailed written description of the lead hazard reduction activity including the methods used.			
10. Locations of exterior surfaces, interior rooms, common areas and/or components where the lead hazard reduction activity occurred.			
11. Any suggested requirements for ongoing monitoring of paint condition or previous treatments.			
<i>Evaluate the results of the report. If the report is unclear or vague, the PHA should contact the owner to ask questions or request an improved report.</i>			
12. Did the project pass clearance? If a clearance report shows that the project passes visual inspection and that lead levels found in the tested areas are below EPA/HUD thresholds, then the unit passes. If yes, the review is completed. If no, recleaning and reclearance are needed.			

Example of a Completed Clearance Report

The following report is an example of a completed clearance report from a paint stabilization job in a one-bedroom unit that houses a HCVP family.

Home Environmental Inspection Services, Inc., 345 Hammond Road, Baytown, ST 12345; 123-123-1235 (phone); 345-789-5678 (fax)

Firm's risk assessment certification number: ST 78787

CLEARANCE REPORT

General Information

Date of clearance examination:	2/25/2008
Clearance Examiner:	Bob Jones
Certification Category:	Risk Assessor
Certification State:	ST
Certification Number:	R77777
Property address:	78 East Main St., Apt. A Ourtown, ST 89898
Client name:	Sally Smith
Client address:	80 East Main St. Hammond, ST 89898
Laboratory:	Analysis Services, Inc.
Address:	990 45 th St., Suite 500 Bigtown, ST 88999
Telephone number:	222-222-2222
NLLAP number:	ST L99999

Summary of Clearance Results

The project area passed visual inspection. Dust at or above Federal standards was found in the following area, so the project failed clearance.

Location	Surface	$\mu\text{g lead/ft}^2$
Bathroom	Floor under C-1 window	200

Signature: *Bob Jones* Date: 2/25/2008

Example of a Completed Clearance Report (page 2)

Summary of Hazard Reduction Activities

Name of firm	ABC Renovations
Address of Firm	123 Main Street East Westport, ST 87654
Supervisor name	John Brown
Supervisor certification number	ST S16345
Start and completion date(s) of hazard reduction or completion activity.	2/25/2008

Description of Hazard Reduction Activities and Areas Addressed

Location	Activity
Kitchen	Workers stabilized the deteriorated paint on ceiling.
Bathroom	Workers stabilized the deteriorated paint on ceiling.
Description of Work	The supervisor was present on the job site when work was being performed. Workers used lead safe work practices. Plastic sheeting covered the work area and outside the work area. Warning signs were posted at the doors to the bathroom and kitchen. Occupants were not allowed in the kitchen and bathroom during this activity. The ceilings were wet scraped. HEPA vacuum was used for cleanup. The plastic sheeting was carefully gathered up and bagged for disposal. Workers replaced their disposable booties when leaving the work area for lunch and breaks. Respirators were not necessary. The clearance examination was requested.

Ongoing Lead-Based Paint Monitoring Requirements

This unit must have an annual visual assessment by a trained individual and lead safe work practices used for all repairs to painted surfaces by trained individuals. Residents are to be provided notice of lead hazard reduction (paint stabilization) within 15 days of work completion. The owner should also ask residents to report any deteriorated paint to the office.

Visual Assessment of the Work Area

Work Area	Deteriorated Paint	Debris	Visible Dust	Notes	Pass/ Fail
Bathroom	None	None	None		Pass
Kitchen	None	None	None		Pass
Hallway	None	None	None		Pass

Example of a Completed Clearance Report (page 3)

DUST SAMPLING RESULTS

Sample #	Location	Surface	Dimensions of sample area	µg Lead/ft ²	Pass/Fail
1-2	Bathroom	Front facing window (C-2) windowsill	4" x 18"	17	Pass
1-3	Bathroom	Floor under C-1 window	12" x 12"	200	Fail
1-4	Kitchen	Floor under A-1 window	12" x 12"	12	Pass
1-5	Kitchen	Windowsill above sink (A1)	4" x 18"	190	Pass
1-6	First floor hallway	Floor	12" x 12"	30	Pass

Understanding the Clearance Report

1. If the visual assessment for clearance finds visible dust or debris in the area being cleared, the project fails clearance and the area must be re-cleaned. Any remaining deteriorated painted surfaces should be repaired using paint stabilization or abatement techniques. A new visual assessment for clearance must be conducted. After the project passes the visual assessment, dust samples may be taken.

For written information on how to address lead hazards, contact the National Lead Information Center Clearinghouse at 1-800-424-LEAD (1-800-424-5323) or www.epa.gov/lead/pubs/nlic.htm. You may consider hiring a risk assessor to evaluate lead hazards in your home and recommend a lead hazard control plan. Risk assessors can be located through your state or EPA lead program office. See the map and links at www.epa.gov/lead/pubs/traincert.htm for the state lead program contacts in states authorized to operate these programs, or at www.epa.gov/lead/pubs/leadoff1.htm for the EPA regional lead coordinators covering the remaining states.

2. The Summary Results section of the clearance report lists all of the areas that failed the clearance examination. The areas represented by the failed samples need to be re-cleaned and re-tested to see if the re-cleaning removed the contaminated dust.
3. The dust lead sampling results are expressed in micrograms per square foot (µg/ft²); soil samples are expressed in micrograms per gram (µg/g).
4. Areas that failed the clearance examination showed lead levels in dust at or above Federal or state standards. The standards that were used for during this clearance examination are:

[Note to clearance examiner: If more stringent state or local clearance standards apply, use them instead of the EPA/HUD standards.]

EPA/HUD Standards for Lead in Dust	
Carpeted and uncarpeted interior floors	40 µg/ft ²
Interior window sills	250 µg/ft ²
Window troughs (clearance only)	400 µg/ft ²

5. The laboratory result forms attached to the report list all of the areas sampled inside and outside the dwelling and the laboratory analysis results for each sample.

Elderly Waiver for Relocation – Sample Form]

The following sample certification reflects policies that could be adopted for an elderly waiver provision. No policy should be adopted without consideration by legal counsel.

**OURTOWN TBRA PROGRAM
STREET ADDRESS
CITY, STATE ZIP
PHONE**

I/We, _____, *[Check one choice.]*

choose to relocate to another unit, or

choose to remain in my home,

while _____ is performing work in my home.

If I/we choose to remain in my/our home, I/we certify making this choice after having read and understood the following:

1. I am at least 62 years old, or my husband/wife is at least 62 years old.
2. No children under age six or women of childbearing age currently live in the home or spend significant amounts of time in the home.
3. The home was built before 1978.
4. I/we have received the pamphlet “Protecting Your Family from Lead in Your Home” and are aware of the health hazards that are posed by lead-based paint.
5. I/we have been given a description of work that will be done in my home and understand that during the course of the work, lead hazards may be created in or outside the work area, and these hazards will be fixed before the job is complete.
6. No member of the household or any other person not connected with performing the work will enter the work area while work is being performed.
7. I/we agree to hold the Housing Agency harmless for any damages due to lead poisoning that occur on these premises during the course of the work.

Signed:

Name	Date	Name	Date