

LEAD-BASED PAINT HAZARDS FINAL NEW HUD / TDEC REGULATIONS

Subpart M: Tenant-Based Rental Assistance

The following regulations are effective as of March 6, 2001, per the Environmental Protection Agency's (EPA) Federal Register dated January 5, 2001. The EPA's requirements are enforced in the State of Tennessee by the Tennessee Department of Environment and Conservation (TDEC).

The requirements pertaining to the Tenant-Based Rental Assistance Program were taken from the Department of Housing and Urban Development's (HUD) "Final New Regulations on Lead-Based Paint Hazards in Federally Owned Housing and Housing Receiving Federal Assistance" dated September 1999.

Regulations apply to

- Units constructed prior to 1978
- Units where one or more children under the age of 6 will reside or is/are expected to reside

Note: Knoxville's Community Development Corporation (KCDC) has defined "under the age of 6" as the day the child attains the age of 6. After this date, the regulations no longer apply.

Requirements

- Provision of Lead-Based Paint pamphlet
- Visual assessment
- Paint stabilization
- Notice to occupants
- Ongoing lead-based paint maintenance
- Response to EBL child

Provision of pamphlet

Lead-Based Paint pamphlet provided by KCDC at initial move-in and annual recertification

Visual assessment

This is conducted during the Housing Quality Standards Inspection of the unit. At the time of the inspection, if the painted surfaces are found to be intact and in good condition, the paint is not considered to be a hazard.

If the paint is found to be deteriorated in any way (chipping, peeling, flaking, chalking, etc.), then it is considered to be a possible lead-based paint hazard.

NOTE: Housing Quality Standards (HQS) as set forth by HUD requires the housing agency to inspect only for deteriorated paint; the housing agency staff members are not trained, nor responsible, for inspecting for lead-based paint.

Lead-based paint hazards include deteriorated lead-based paint; lead-based paint on friction surfaces, impact surfaces, and accessible (chewable) surfaces; and dust and soil that is contaminated with lead above specified standards. The regulation states further that friction, impact, and chewable surfaces must show signs of paint abrasion, damage, or teeth marks to be considered a lead-based paint hazard.

All buildings that are accessible to the family (on the property) including garages, sheds, common area, laundry rooms, play grounds, etc. are to be visually assessed (inspected) for deteriorated paint.

Paint stabilization

Defined as the repair of any physical defect in the material beneath the painted surface that is causing paint deterioration, the removal of loose paint and other material from the surface to be treated using safe work practices (that is, occupant protection, worksite preparation, and specialized cleaning) to reduce dust generation, and the application of a new protective coating or paint.

NOTE: The Owner is not required to test for the presence of lead-based paint; if a test is not conducted, the Owner must assume all paint to be lead-based paint.

However, if the owner chooses to have the unit tested by a company certified to conduct lead testing, and the unit is found to be lead-free, certification must be obtained that the unit is lead-free. A copy of the certification must be maintained in the tenant's file. The unit is then exempt from the regulation.

All deteriorated paint must be stabilized, except paint that is found to be lead-free, or deterioration which is limited to hairline cracks or small nicks, scratches, or nail holes.

Paint stabilization is required only in the areas of deteriorated paint.

Once deteriorated paint is identified, the size of the area of deteriorated lead-based paint, or size of the area of paint to be disturbed, must be determined. The following measurements determine the manner in which the Owner must proceed to correct the deteriorated paint.

- **20 square feet on exterior surfaces***
- **2 square feet in any one interior room or space****
- **10% of the total surface area on an interior or exterior type of component with a small surface area. Examples include windowsills, baseboards, and trim.**

*When measuring deteriorated paint on exterior surfaces, all exterior surfaces are to be included in the determination. This includes all exterior walls, floors and ceilings of porches, exterior doors, etc. This further includes garages, sheds, common areas, laundry rooms, etc.

**When measuring deteriorated paint in interior rooms or spaces, each room or space should be inspected separately when making the determination.

The following information applies if the area of deteriorated paint, or area of paint to be disturbed, is less than the above measurements:

The Owner can stabilize the paint himself, and no clearance examination is required. However, the Owner must avoid the “Prohibited methods of paint removal,” when stabilizing the deteriorated paint. They are as follows:

Prohibited methods of paint removal:

1. Open flame burning or torching
 2. Abrasive blasting without high efficiency (HEPA) vacuum local exhaust
 3. Machine sanding or grinding without HEPA vacuum local exhaust
 4. Heat guns at temperatures above 1100°F
 5. Dry scraping (wet scraping should be done instead, except near electrical outlets, where use of water could result in electrocution hazards and except for very small areas of deteriorated paint, such as nail holes and hairline cracks)
 6. Paint stripping in a poorly ventilated space using a volatile stripper that is a hazardous substance (according to regulations of the Consumer Product Safety Commission or the Occupational Safety and Health Administration), such as methylene chloride
 7. Pressure washing on exterior surfaces
- “Safe work practices” (occupant protection, worksite preparation, and specialized cleaning) are not required.

The following information applies if the area of deteriorated paint, or paint that will be disturbed, is more than the above measurements:

The owner must employ a person or company who has been certified by the State of Tennessee to perform “Lead Hazard Control” activities. A clearance examination will also be required (see below).

Clearance examination

Once the paint has been stabilized, a person certified by the State of Tennessee must conduct a clearance examination. The person will conduct a visual assessment to determine if deteriorated paint surfaces and /or visible amounts of dust, debris, paint chips, or other residue are still present. Both interior and exterior painted surfaces shall be examined for the presence of deteriorated paint. If deteriorated paint or visible dust or debris is still present in living areas, it must be cleaned up; if visible paint chips are present on the ground, they must be eliminated prior to proceeding with the clearance examination.

NOTE: This does not include deteriorated paint that has been certified to be lead-free.

If exterior painted surfaces were disturbed during the lead hazard control activities, the visual assessment shall include an assessment of the ground and any outdoor living areas close to the affected exterior painted surfaces. Visible dust or debris in living areas shall be cleaned up, and visible paint chips on the ground shall be removed.

The unit must pass the visual assessment (inspection) before the clearance examination is conducted.

A company certified to perform clearance examinations must conduct the clearance examination. The unit is not considered to “pass clearance” until the dust lead levels are equal to or below the standards. If the unit does not pass clearance, there must be another cleaning of the spaces and surfaces represented by the failing dust samples.

Notice to occupants

Once the clearance test is conducted with a pass rating, the clearance examiner must prepare and sign a report certifying that the unit passed clearance. The Owner must notify the occupants of the results of the clearance examination.

Ongoing lead-based paint maintenance

A HQS inspection by KCDC shall be conducted for deteriorated lead-based paint, bare soil, and the failure of any paint stabilization measures shall be performed at unit turnover (initial lease-up) and annual recertifications.

Response to EBL child

If information regarding the child is received from a source other than the public health department or other medical health care provider, then the public health department or

other medical health care provider must verify the information. Once the information is verified, the following actions are required:

A risk assessment must be conducted by a person or company certified by the State of Tennessee to conduct risk assessments. A risk assessment of the child's dwelling unit must be completed within 15 days after the Owner is notified of the presence of a lead-poisoned child. A health department or other medical health care provider must present the report of the EBL child.

A risk assessment determines whether or not lead-based paint hazards exist, and, if they do, where they are located.

Lead-based paint hazards include: deteriorated lead-based paint; lead-based paint on friction surfaces, impact surfaces and accessible (chewable) surfaces; and dust and soil that is contaminated with lead above specified standards. The regulation further states that friction, impact and chewable surfaces must show signs of abrasion, damage or teeth marks to be considered lead-based paint hazards.

If information regarding the child is received from a source other than the public health department or other medical health care provider, then the public health department or other medical health care provider must verify the information. Once the information is verified, the following actions are required:

The Owner must employ a person or company certified to conduct lead hazard control activities within 30 days after receiving the risk assessment report.

After the lead hazard control work has been completed, a clearance examination will be required by another company certified by the State of Tennessee to conduct clearance examinations. In other words, the company that performed the lead hazard control work cannot be the company that conducts the clearance examination. The company that conducted the risk assessment may be the company that conducts the clearance examination.

The lead hazard control work is considered complete once the clearance report states that all lead-based paint hazards identified in the risk assessment have been properly treated.

If the Owner does not complete the lead hazard control work required, the dwelling unit is in violation of HQS, and the family will be required to relocate to another unit.

Companies certified by the State of Tennessee

Once the determination has been made that the Owner is required to hire a person or a company to conduct lead hazard control work, clearance examinations, or risk assessments, the Owner should contact the Tennessee Department of Environment and Conservation to obtain a list of companies certified by the State of Tennessee to perform the work. The list is continually updated as people or companies become certified.

For a current list of people or companies certified by the State of Tennessee, the Owner may call 1-888-771-5323, or Ms. Jo McCrary at 615-532-0794.

Due to the severability of the new Lead Paint Regulations, we strongly suggest owners repair deteriorated paint before any inspections.

For more information on the Lead-Based Paint Regulations in the State of Tennessee, please call Ms. Adrienne White, Environmental Specialist, with the Tennessee Department of Environment and Conservation (TDEC), Division of Solid Waste Management. Ms. White can be reached at (615)532-0885 or e-mailed at awhite3@mail.state.tn.us.

Additional Information

EPA www.epa.gov/opptinr/lead
THE LEAD LISTING www.leadlisting.org
HUD www.hud.gov/lea/leahome.
KCDC Website www.kcdc.org

1. Click on Housing
2. Click on Section 8
3. Click on Notice: Lead Base Paint Hazards

Tennessee Lead-Base Paint Hot Line 1-888-771-5323

Tennessee Website for Lead-Based Paint Abatement Requirements
www.state.tn.us/sos/soshmpg.htm

1. Click on Rules and Regulations
2. Scroll down to 1200 (Health, Environment, and Conservation)
3. Click on 1200-1 (Bureau of Environmental Health Services)
4. Click on 1200-1-18 (Lead-Based Paint Abatement)

Lead Paint Testing Companies

Barge Waggoner Sumner & Cannon, Inc.
2400 First Tennessee Plaza, Suite 2400
Knoxville, TN 37929
865-637-2810

Tennessee Lead Eliminator Action Program
MTSU
P. O. Box 19
Murfreesboro, TN 37132
615-904-8091

Lead Based Paint Abatement and Stabilization Contractors

Decco
2015 Spence Place
Knoxville, TN 37920
Phone: 865-579-0717
Contact: Khader Sakalla
Phone: 865-579-0717

Harrison Industrial Contractors, Inc.
P. O. Box 1065
Lewisburg, TN 37901
Phone: 931-270-6557

Helton & Associates
1763 Topside Road
Louisville, TN 37777
Contact: Eddie Carmichael
Phone: 865-970-3932