



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

WASHINGTON, DC 20410-5000

OFFICE OF PUBLIC AND INDIAN HOUSING  
OFFICE OF HEALTHY HOMES AND LEAD HAZARD CONTROL

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Special Attention of:  
Office Directors of Public Housing;  
Regional Directors; Public Housing  
Agencies; Housing Choice Voucher  
Property Owners; Healthy Homes  
Representatives, Lead Enforcement  
Analysts

Notice PIH 2017-13 (HA); OHHLHC 2017-01

Issued: August 10, 2017

Expires: This notice remains in effect until  
amended, superseded or rescinded

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Cross References:  
24 CFR Part 35

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**SUBJECT:** Guidance on HUD’s Lead Safe Housing Rule Pertaining to Elevated Blood Lead Levels for the Public Housing, Housing Choice Voucher, and Project-Based Voucher Programs

**1. Purpose**

This Notice provides general guidance to public housing agencies (PHAs), Housing Choice Voucher (HCV) property owners and Project-Based Voucher (PBV) property owners on the required actions they must take when a child in a family receiving HCV or PBV assistance is identified as having an elevated blood lead level (EBLL). The notice focuses on (but is not limited to) recent changes to HUD’s Lead Safe Housing Rule (LSHR) as it relates to children identified as an EBLL. The Lead Safe Housing Rule is codified as 24 Code of Federal Regulations (CFR) Part 35, subparts B – R. This Rule was effective February 13, 2017.<sup>1</sup> PHAs were to complete all policy updates and comply with the Rule by July 13, 2017.

The LSHR applies to “target housing,” which, under the LSHR, is any housing constructed prior to 1978, except housing for households for the elderly or persons with disabilities or any 0-bedroom dwelling (unless any child who is less than 6 years of age resides or is expected to reside in such housing ).<sup>2</sup>

The key changes in the LSHR include revising HUD’s “Environmental Investigation Blood Lead Level” (EIBLL) to the EBLL, enhancing the level of investigation required for a housing unit of a child with an EBLL to an “environmental investigation” and adding a requirement for testing in other covered units when a child is identified in a multiunit property.

This Notice will remain effective until amended, superseded, or rescinded.

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<sup>1</sup> 82 Federal Register 4151, January 13, 2017.

<sup>2</sup> If a child under age 6, with or without an EBLL, lives in a 0-bedroom unit or a unit that has been designated for the elderly or persons with disabilities, the unit and the common areas servicing it are covered by not exempt from the LSHR.

## **2. Lead Poisoning**

Childhood lead poisoning has serious negative consequences on childhood growth and development. The U.S. Centers for Disease Control and Prevention (CDC) has consistently affirmed that deteriorated lead-based paint and lead-contaminated dust are the most hazardous sources of lead exposure in children. Lead-based paint can be found in homes built before 1978, with an increased prevalence in very old homes with original painted windows, doors, and trim (Jacobs et al., 2002; Cox et al., 2015).

In 2012, the CDC lowered its reference level for lead in the blood of children under age 6 to 5 micrograms of lead per deciliter of blood, and provided guidance for health departments and medical professionals at [www.cdc.gov/nceh/lead/acclpp/cdc\\_response\\_lead\\_exposure\\_recs.pdf](http://www.cdc.gov/nceh/lead/acclpp/cdc_response_lead_exposure_recs.pdf). On January 13, 2017, HUD amended the LSHR to align it with CDC's updated guidance.

Consistent with CDC's guidance, HUD is now using the reference level of 5 micrograms per deciliter to identify children with an EBLL. This new level is the blood lead level of the highest 2.5 percent of U.S. children ages 1 to 5 years. CDC may revise this level in the future, and if so, HUD will update its EBLL as used under the LSHR, via the notice and comment process, as provided by the definition of EBLL in the amendment (24 CFR 35.110).

However, if a state or local government establishes more protective standards in response to lead in children's blood, LSHR's section 35.150 directs PHAs to follow those standards.

## **3. Key Definitions for this Guidance**

**Assisted Units** – the Lead Safe Housing Rule covers federally-assisted and federally-owned “target” housing, which includes units assisted under Sections 8 and 9 of the United States Housing Act of 1937, as amended.<sup>3</sup>

**Designated Party** – for purposes of this Notice, the housing agency or the property owner, as indicated in the applicable section, is responsible for complying with applicable requirements.

**Elevated Blood-Lead Level (EBLL)** - elevated blood lead level means a confirmed concentration of lead in whole blood of a child under age 6 equal to or greater than the concentration in the most recent guidance published by the U.S. Department of Health and Human Services (HHS) on recommending that an environmental intervention be conducted.

A confirmed concentration is one that is measured by a venous (from a vein) blood draw, and not a finger prick/quick capillary screening test.

**Environmental Investigation** – a risk assessment with additional questions for the family

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<sup>3</sup> In the case of local non-traditional activities under the Moving to Work Demonstration Program, this includes units funded by Sections 8 and 9.

regarding other sources of lead exposure (e.g., water, pottery, daycare settings), and testing of other potential sources of lead exposure in accordance with Chapter 16, Investigation And Treatment Of Dwellings That House Children With Elevated Blood Lead Levels, of [HUD's Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing](#) (current edition) (the *HUD Guidelines*).<sup>4</sup>

Notes: Chapter 16 of the *HUD Guidelines* includes a detailed description of the differences between an environmental investigation and a risk assessment. Testing includes, at a minimum, house dust, paint/coatings that are not intact or subject to friction, and bare soil, especially in play areas. Testing of drinking water is done in certain circumstances, based on the family questionnaire, discussion with the child's case manager, and additional information, such as knowledge that the community drinking water is known to be at risk; the family's home is served by a private well; history suggests contamination; or no other sources of lead can be found.

**Expected to Reside** – actual knowledge that a child will reside in a 0-bedroom dwelling unit or in a dwelling unit reserved or designated for the elderly and/or persons with disabilities. If a resident woman is known to be pregnant, there is actual knowledge that child will reside in the dwelling unit.

Notes: The condition of “actual knowledge” differs from the potential for a child under age 6 to reside there sometime in the future; the potential does not create an expectation under the LSHR. While a resident woman being known to be pregnant creates actual knowledge, an expectation is also created when a child under age 6 or a pregnant woman is otherwise known to be moving into the unit, such as by the woman or another person having signed a lease or other rental agreement for the child and/or woman (as applicable) to move in.

**Index Unit** – the unit where a child with an elevated blood lead level resides.

**Multi-unit Property** - a residential property containing two or more dwelling units. For the purposes of the LSHR, all buildings with assisted units or servicing those buildings (e.g., garages, toolsheds, etc.) associated with the property are covered by the requirements.

**Other Covered Units** - federally-assisted units where a child under age 6 resides or is expected to reside in a multiunit property that has an index unit. The child's age is considered as of the date the Environmental Investigation in the index unit and associated common areas is completed.

**Target Housing** - any housing constructed prior to 1978, except housing for the elderly or persons with disabilities or any 0-bedroom dwelling (unless a child of less than 6 years of age

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<sup>4</sup> [https://portal.hud.gov/hudportal/HUD?src=/program\\_offices/healthy\\_homes/lbp/hudguidelines](https://portal.hud.gov/hudportal/HUD?src=/program_offices/healthy_homes/lbp/hudguidelines).

resides or is expected to reside in such housing). In the case of jurisdictions which banned the sale or use of lead-based paint prior to 1978, HUD may designate an earlier date.<sup>5</sup>

Note: The Consolidated Appropriations Act, 2017 revised the definition of target housing to include any 0-bedroom dwelling in which a child who is less than 6 years of age resides or is expected to reside. This guidance reflects that change.

#### **4. Reminder of Requirements for the Project-Based Voucher (PBV) Program**

PBV units, while funded through the Tenant-Based Rental Assistance/HCV program appropriation, are regulated under the LSHR as project-based assistance under 24 CFR Part 35, Subpart H. This program clarification was issued in a 2004 amendment to the LSHR.<sup>6</sup> Under Subpart H, owners of target housing properties receiving more than \$5,000 annually per unit in project-based assistance are required to ensure that target housing receives a lead risk assessment by a certified risk assessor, regardless of whether there is a child under age 6 in residence, and that occupants are notified of the results of the risk assessment.

Owners must ensure that lead-based paint hazards identified by the risk assessment receive interim controls by a certified renovation or abatement firm, that clearance by a certified risk assessor is passed before re-occupancy occurs, and that assisted occupants are notified of the results of the hazard reduction activity. Owners must monitor and maintain any remaining lead-based paint and the hazard controls, with annual visual assessments and a reevaluation with dust testing every two years by a certified risk assessor.

Owners in the PBV program are also responsible for complying with notification and response steps for a child with an EBLL under section 35.730. Because the comprehensive requirements of Subpart H may not be broadly understood by all PHAs and owners participating in the PBV program, HUD plans to issue additional guidance to assist them in complying with the requirements. More information can be found at [www.hud.gov/healthyhomes](http://www.hud.gov/healthyhomes).

#### **5. Summary of Changes and Requirements**

The LSHR uses the approach of having a “designated party” responsible for complying with its requirements under a particular assistance program. Under some subparts of the LSHR, just the property owner is responsible, under some subparts, just the PHA, and under other subparts, the owner is responsible for certain activities, and the PHA, for others. Specifically:

- For public housing, the PHA is the designated party and is responsible for all the activities regarding EBLL response.
- For the PBV project-based assistance program, the owner is the designated party and is responsible for all the activities regarding EBLL response.

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<sup>5</sup> As of the issuance of this notice, HUD has not done so for any jurisdictions.

<sup>6</sup> 69 Federal Register 34262-34276, June 21, 2004.

- For HCV tenant-based rental assistance program, while the PHA is the designated party, the LSHR provides that the owner is responsible for certain EBLL response activities and the PHA other EBLL response activities.

The update to the LSHR revised the type of evaluation that must be performed for the housing unit of a child with an EBLL, and added risk assessment requirements covering certain other units, and new reporting requirements. Under the new regulations, the evaluation for the child's unit must be an environmental investigation.

### **Public Housing**

For public housing, when a child under 6 is identified with an EBLL, the PHA must take the following steps. (For a more detailed explanation, please refer to section 6.):

- **Initial notification of a confirmed case to HUD:** The PHA must notify the Field Office and HUD's Office of Lead Hazard Control (OLHCHH) of the EBLL case within 5 business days.
- **Initial notification of a confirmed case to public health department, when necessary:** The PHA must notify the public health department of the EBLL case within 5 business days when it received the notification of the case from another medical health care professional.
- **Verification of the case, when necessary:** If a PHA learns that a child has an EBLL from someone other than a medical health care provider, such as from a parent, the PHA must immediately verify the report with the health department or medical health care provider.
- **Environmental Investigation:** The PHA must conduct an environmental investigation of the child's unit and the common areas servicing that unit within 15 calendar days in accordance with Chapter 16 of the HUD *Guidelines*, as described in section 6 below. If lead-based paint hazards are found in the index unit in a multiunit property, perform risk assessments in other covered units with a child under age 6 and the common areas servicing those units, as described in section 9 below.
- **Control:** The PHA must ensure that any lead-based paint hazards identified by the environmental investigation are controlled within 30 calendar days by a certified lead-based paint abatement firm or certified lead renovation firm, including having the unit and common area pass a post-work dust clearance exam in accordance with section 35.1340. If lead-based paint hazards are found in the index unit in a multiunit property, and the risk assessments in other covered units with a child under age 6 and the common areas servicing those units identified lead-based paint hazards, control those lead-based paint hazards as described in section 9 below.
- **Notification to other residents:** As already required by the LSHR, in a multiunit property, the PHA must notify all residents of lead evaluation and hazard control

activities.

- **Follow-up notification:** The PHA must notify the HUD Field Office of the results of the environmental investigation and then of the lead hazard control work within 10 business days of each activity.
- **Ongoing maintenance and reevaluation:** As already required by the LSHR in sections 35.1120(c) and 35.1355(a), after the work passes clearance, the PHA must ensure that the unit and common areas are maintained as lead-safe for continued occupancy, which includes no deteriorated paint or failed lead hazard control methods. As also already required by the LSHR in section 35.1355(b), the PHA must generally conduct periodic reevaluations every two years, using a certified lead risk assessor, and respond to them. The reevaluations shall be for: deteriorated paint surfaces unless they are known not to be lead-based paint, deteriorated or failed interim controls of lead-based paint hazards or encapsulation or enclosure treatments, dust-lead hazards, and soil-lead hazards in newly-bare soil. Exceptions from the reevaluation requirement are in section 35.1355(b)(1) and (4); the requirements for responding to the reevaluations are in section 35.1355(c).

The following table summarizes the responsibilities of the PHA for compliance when a child in the public housing program is identified with an EBLL.

	<b>Responsible Entity</b>
<b>Activity</b>	<b>PHA</b>
Initial notification to HUD of confirmed case	√
Verification, if necessary	√
Initial notification of confirmed case to public health department	√
Environmental investigation	√
Lead hazard control	√
Clearance after work completed	√
Follow-up notification to HUD	√
Notification to other residents	√
Ongoing LBP maintenance	√
Ensuring compliance with LSHR	√

### **Housing Choice Voucher (HCV) Program**

For Housing Choice Voucher (HCV) units, when a child under 6 is identified with an EBLL, the PHA or the owner, as described below, must take certain steps. (For a more detailed explanation, please refer to section 6.) For the HCV program, the regulations identify the PHA as the designated party for ensuring compliance with all the regulations. This includes the same

steps as for public housing, except that the owner is responsible for some of the steps, and the PHA, other steps. In addition, for several steps, as described below, the PHA may wish to collaborate with the owner to expedite implementation.

The Owner is responsible for:

- **Initial notification of a confirmed case to HUD:** Notifying the HUD field office and the HUD Office of Lead Hazard Control and Healthy Homes of the case – that is, the child’s address – within 5 business days. The PHA may wish to collaborate with the owner on this notification process, such as by agreeing with the owner to be notified of the case by the owner and to forward the notification to the two HUD offices.
- **Initial notification of the public health department, when necessary:** When the owner is notified of the case by any medical health care professional other than the public health department, the owner shall notify the public health department of the name and address of the child within 5 business days. The PHA may wish to collaborate with the owner on this notification process, such as by agreeing with the owner to inform the public health department.
- **Verification of the case, when necessary:** When the owner receives information from a person who is not a medical health care provider that a case may have occurred, the owner should immediately convey the information to the PHA so the PHA may notify the public health department, if the PHA has indicated, or indicates at this time, that it wishes to collaborate with the owner on implementation of the rule, as described below.
- **Control of lead-based paint hazards:** Completing the reduction of lead-based paint hazards in the index unit and common areas servicing that unit that were identified by the environmental investigation conducted by the PHA within 30 calendar days, using a certified lead-based paint abatement firm or certified lead renovation firm. Work shall include occupant protection, and clearance of the unit and common areas servicing that unit by an independent certified risk assessor or a trained dust sampling technician working under the risk assessor in accordance with section 35.1340.
- **Notification to other residents:** As already required by the LSHR, in a multiunit property, the owner must notify all residents of lead evaluation and hazard control activities.
- **Ongoing maintenance:** Maintaining covered housing without deteriorated paint if there is child under 6 in the family in accordance with sections 35.1220 and 35.1355(a).

The PHA is responsible for:

- **Verification of the case, when notification is not from a medical health care provider:** The PHA may wish to collaborate with the owner on this verification of an EBLL case, such as by agreeing with the owner to receive the information about the possible case. The PHA shall immediately verify the information with the public health department or other medical health care provider.

- **Environmental Investigation:** Conducting an environmental investigation of the child's unit and the common areas servicing that unit in accordance with Chapter 16 of the HUD *Guidelines*, as described in section 6 below. If lead-based paint hazards are found in the child's unit (the index unit) in a multiunit property, see section 9 below regarding risk assessments to be conducted in other covered units with a child under age 6 and the common areas servicing those units.
- **Monitoring of owner's compliance with LSHR:** Monitoring the owner's compliance with the LSHR in accordance with the Housing Assistance Payments (HAP) contract between the PHA and the owner. PHAs can perform oversight of this in conjunction with periodic Housing Quality Standards (HQS) inspections, but not at a frequency less than annually if there was deteriorated paint or known lead-based paint hazards identified in the child's unit or common areas servicing that unit. This includes such actions as (see above) monitoring the owner's:
  - Notifying HUD of a confirmed case;
  - Notifying the public health department when any other medical health care professional notified the owner of the case;
  - Verifying the case when the owner receives information from a person who is not a medical health care provider that a case may have occurred;
  - Ensuring that any required lead hazard control (including passing clearance) is complete;
  - Ensuring that residents of other units in a multiunit property were notified of lead evaluation and hazard control activities; and
  - Ensuring that ongoing maintenance of paint is conducted in accordance with sections 35.1220 and 35.1355(a).
- **Control:** Ensuring the owner completes and clears the control of lead-based paint hazards identified in the Environmental Investigation of the index unit and the common areas servicing that unit. If lead-based paint hazards are found in the index unit in a multiunit property, and the risk assessments in other covered units with a child under age 6 and the common areas servicing those units identified lead-based paint hazards, control those lead-based paint hazards as described in section 9 below.

The PHA may wish to collaborate with the owner on the response, including providing the names of qualified and certified lead hazard control contractors, providing for the clearance examination, and ensuring notification to other residents in a multi-unit property.

The following table summarizes the responsibilities of PHAs and HCV rental property owners for compliance when a child in the HCV program is identified with an EBLL.

Activity	Responsible Entity	
	PHA	HCV Owner
Initial notification of confirmed case to HUD	*	√
Verification, when necessary	√	*
Initial notification of confirmed case to public health department, when necessary	*	√
Environmental Investigation	√	
Lead Hazard Control		√
Clearance after work completed	*	√
Notification to other residents		√
Ongoing LBP Maintenance		√
Monitoring of owner's compliance with LSHR and HQS	√	

\* The PHA may wish to collaborate with the owner on implementing this process, as described above.

### Project-Based Vouchers (PBV)

For project-based vouchers, when a child under 6 is identified with an EBLL, the owner must take the following steps. (For a more detailed explanation, please refer to section 6.) For several steps, as described below, the PHA may wish to collaborate with the owner to expedite implementation.

The owner is responsible for:

- **Initial notification of a confirmed case to HUD:** Notifying the HUD field office and the HUD Office of Lead Hazard Control and Healthy Homes of the case – that is, the child's address – within 5 business days. The PHA may wish to collaborate with the owner on this notification process, such as by agreeing with the owner to be notified of the case by the owner and to forward the notification to the two HUD offices.
- **Initial notification of a confirmed case to public health department, when necessary:** When the owner is notified of the case by any medical health care professional other than the public health department, the owner shall notify the public health department of the name and address of the child within 5 business days. The PHA may wish to collaborate with the owner on this notification process, such as by agreeing with the owner to inform the public health department.
- **Verification of the case, when necessary:** When the owner receives information from a person who is not a medical health care provider that a case may have occurred, the

owner shall immediately convey the information to the public health department, asking that department to verify the information to determine whether the child has an EBLL. The PHA may wish to collaborate with the owner on this verification process, such as by agreeing with the owner to receive the information, convey the information to the public health department and ask for that department's verification, and convey the result of the verification to the owner for further action if the case is confirmed or closing out the action if not.

- **Environmental Investigation:** Within 15 calendar days, conducting an environmental investigation of the child's unit and the common areas servicing that unit in accordance with Chapter 16 of the HUD *Guidelines*, as described in section 6 below. The PHA may wish to collaborate with the owner on this evaluation process, such as by agreeing with the owner to conduct the environmental investigation. If lead-based paint hazards are found in the child's unit (the index unit) in a multiunit property, see section 9 below regarding risk assessments to be conducted within 30 or 60 calendar days in other covered units with a child under age 6 and the common areas servicing those units depending on the number of units.
- **Control:** The owner must control (and clear) any lead-based paint hazards identified by the environmental investigation within 30 calendar days using a certified lead-based paint abatement firm or certified lead renovation firm, including having the unit and common area pass a post-work dust clearance exam in accordance with section 35.1340. If lead-based paint hazards are found in the index unit in a multiunit property, and the risk assessments in other covered units with a child under age 6 and the common areas servicing those units identified lead-based paint hazards, control those lead-based paint hazards within 30 or 90 days depending on the number of units as described in section 9 below.
- **Notification to other residents:** As already required by the LSHR, in a multiunit property, the owner must notify all residents of lead evaluation and hazard control activities.
- **Follow-up notification:** The owner must notify the HUD Field Office of the results of the environmental investigation and then of the lead hazard control work within 10 business days of the deadline for each activity. The PHA may wish to collaborate with the owner on this notification process, such as by agreeing with the owner to be notified of the results and then forward them to the Field Office.
- **Ongoing lead-based paint maintenance:** As already required by the LSHR in sections 35.715(c) and 35.720(b), after the work passes clearance, the owner must ensure that the unit and common areas are maintained as lead-safe for continued occupancy, which includes no deteriorated paint or failed lead hazard control methods. The requirements for ongoing LBP maintenance are in section 35.1355(a).
- **Reevaluation if PBV exceeds \$5,000 per unit per year:** As already required by the LSHR in section 35.715(c), if the PBV is for more than \$5,000 per unit per year, the owner must generally conduct periodic reevaluations every two years, using a certified lead risk assessor, and respond to them. The reevaluations shall be for: deteriorated paint

surfaces unless they are known not to be lead-based paint, deteriorated or failed interim controls of lead-based paint hazards or encapsulation or enclosure treatments, dust-lead hazards, and soil-lead hazards in newly-bare soil. Exceptions from the reevaluation requirement are in section 35.1355(b)(1) and (4); the requirements for responding to the reevaluations are in section 35.1355(c).

The PHA is responsible for:

- **Monitoring of owner's compliance with LSHR:** Monitoring the PBV owner's compliance with the LSHR in accordance with the Housing Assistance Payments (HAP) contract between the PHA and the owner. This includes such actions as (see above) monitoring the owner's compliance in:
  - Notifying HUD of a confirmed case;
  - Notifying the public health department when any other medical health care professional notified the owner of the case;
  - Verifying the case when the owner receives information from a person who is not a medical health care provider that a case may have occurred;
  - Ensuring that any required lead hazard control (including passing clearance) is complete;
  - Ensuring that residents of other units in a multiunit property were notified of lead evaluation and hazard control activities; and
  - Ensuring that ongoing maintenance of paint is conducted.

The PHA may wish to collaborate with the owner on this monitoring, such as in ways described above.

- **Housing Assistance Payments Contract monitoring:** For the owner to allow the resident family to return to full occupancy of their housing unit, the owner must notify the family of the completion of work and passing of clearance. Because the PHA will be monitoring the owner's compliance with the LSHR in accordance with the HAP contract between the PHA and the owner, the PHA may wish to collaborate with the owner on this monitoring process, such as by agreeing to have the owner inform the PHA that the lead hazard control (including passing clearance) is complete, and providing documentation.
- **Lead Hazard Control:** Ensuring the owner completes and clears the control of lead-based paint hazards identified in the Environmental Investigation of the index unit and the common area servicing that unit. If lead-based paint hazards are found in the index unit in a multiunit property, and the risk assessments in other covered units with a child under age 6 and the common areas servicing those units identified lead-based paint hazards, control those lead-based paint hazards as described in section 9 below.
- **Ongoing monitoring:** Units with identified lead-based paint hazards must have annual re-examinations for deteriorated paint and/or failed hazard control. This can be done in conjunction with periodic HQS inspections, but not at a frequency less than annually if

there was deteriorated paint or known lead-based paint hazards identified in the child’s unit or common areas servicing that unit.

The following table summarizes the responsibilities of the owner for compliance when a child in the PBV program is identified with an EBLL, and ways in which the PHA can collaborate with the owner in such a case.

Activity	Responsible Entity	
	PHA	PBV Owner
Initial notification of confirmed case to HUD	*	√
Verification, when necessary	*	√
Initial notification of confirmed case to public health department, when necessary	*	√
Environmental Investigation	*	√
Lead Hazard Control		√
Clearance after work completed	*	√
Notification to other residents		√
Ongoing LBP Maintenance		√
Periodic Reevaluation and Response, if >\$5,000/unit/year	√	√
Monitoring of owner’s compliance with LSHR	√	

\* The PHA may wish to collaborate with the owner on implementing this process, as described above.

## **6. Responding to EBLLs, Environmental Investigations, and Lead Hazard Control**

### **Verification:**

The first step a PHA or owner, as applicable, based on the type of assistance, or the PHA on behalf of the owner, if they have decided to collaborate in that way (see section 5, above), must take when learning of a child with an EBLL from a parent, guardian, or other person or entity that is not a medical health care provider is to verify the results, and determine whether it is a confirmed EBLL. In accordance with Chapter 16 of the HUD *Guidelines*, a confirmed EBLL is one measured through a venous (i.e., from a vein) blood draw, or two capillary blood specimens, drawn within 12 weeks of each other, both with elevated lead concentration. If the parent or guardian suspects that a child under 6 has an EBLL based on a single finger print, they should see a medical health care provider to obtain confirmation.

PHAs and owners can verify the report with the local health department or the child's medical health care provider. For the HCV and PBV programs, the owner may wish to collaborate with the PHA to notify the PHA of the EBLL within 5 days so that the PHA can notify the public health department or the child's medical health care provider.

If the parent or guardian provides the PHA or owner, as applicable, with a written EBLL diagnosis from a medical healthcare professional, or the public health department notifies the PHA or owner, as applicable, of the case, no additional verification is needed.

If an EBLL has been reported but not verified, the PHA or owner shall make at least 2 attempts to verify the information with the medical health care provider or health department. If the PHA's verification attempts fail, the PHA must inform the Field Office, which must attempt its own verification and/or inform OLHCHH, which will attempt the verification.

Once an EBLL has been verified, the PHA (for public housing) or owner (for PBV or HCV housing), as applicable, must notify their field office representative and OLHCHH within 5 business days. Notifications to OLHCHH must be by done via email to [LeadRegulations@hud.gov](mailto:LeadRegulations@hud.gov). The PHA may wish to collaborate with the owner on this notification process, such as by agreeing with the owner to be notified of the results and then forwarding them to the Field Office and OLHCHH.

In the notification to their field office representative and OLHCHH, the PHA or owner, as applicable, must provide:

- PHA code and name, if the PHA is providing the notification, or Owner's name and address, if the owner is;
- Date of EBLL test result;
- Program (public housing, HCV, project-based vouchers);
- Unit address and, if the housing is in a multi-unit property or development, the development name; and
- Whether the PHA or owner has notified the public health department of the EBLL, or been notified by the health department, and the date of that notification.

Information emailed to HUD should not include the child's name or blood result. This information is considered personally identifiable information (PII), and is also confidential medical information which shall be maintained in accordance with the PHA's policy for private medical information. If the PHA must transmit PII, it shall be done in a secure manner or in an encrypted email. For more information on Privacy Protection Guidelines for PHAs, see [PIH-2015-06](#).

### **Investigation:**

Next, the PHA or owner, as applicable, based on the type of assistance, or the PHA on behalf of the owner, if they have decided to collaborate in that way (see section 5, above), must next

ensure that a certified Lead-Based Paint Risk Assessor performs an “environmental investigation,” as defined above, in the child’s home and any common areas that service the unit.

The environmental investigation must be completed within 15 calendar days after verification or notification by a public health department or other medical health care provider. PHAs and owners can find certified lead risk assessment firms through either their state lead licensing agency or EPA’s website at [www.epa.gov/lead](http://www.epa.gov/lead).

In some cities and counties, the local public health department will evaluate the child’s home for lead-based paint hazards and other possible sources of lead exposure when a child is found with an EBLL. In these instances, the PHA or owner, as applicable, is not required to perform an additional environmental investigation, and can rely on the results of the health department’s evaluation.

After receiving the results of an environmental investigation (or an evaluation report from the health department), the PHA must notify their assigned HUD field office contact within 10 business days and the family of the results within 15 calendar days. The notifications must include the date the investigation was completed. If the evaluation was completed in a multiunit property, the PHA must also notify all residents that an evaluation was completed in accordance with section 35.125. This must be done by letter or notice delivered to each occupied dwelling unit affected by the evaluation, and not by central posting. The LSHR prohibits, for the protection of the privacy of the child and the child’s family or guardians, notice of environmental investigation being posted to any centrally located common area. (See section 35.125(c)(4)(iii).)

### **Required Lead-Based Paint Hazard Control**

If lead-based paint hazards are identified by the environmental investigation, the hazards must be addressed within 30 calendar days of receiving the results. This means performing any necessary lead-based paint hazard control work in the unit and common areas servicing the unit, and conducting a clearance examination on the unit and common areas when the work is complete. The work must be performed by a certified lead abatement or lead renovation firm, with the clearance examination performed by a certified risk assessor or clearance sampling technician as described in section 35.1340.

The party that does the hazard control work and the clearance examination depends on the assistance program:

- In the public housing program, the PHA is responsible for completing the hazard control work and conducting the clearance examination.
- In the HCV and PBV programs, the owner is responsible for completing the hazard control work and conducting the clearance examination. The PHA may wish to collaborate with the owner on conducting the clearance examination, as described in section 5, above.

The HUD field office must be notified of the lead hazard control work that was completed and the results of the clearance examination within 10 business days of passing clearance. The party that does this notification depends on the assistance program:

- In the public housing program, the PHA is responsible for notifying the HUD field office.
- In the HCV and PBV programs, the owner is responsible for notifying the HUD field office. The PHA may wish to collaborate with the owner on notifying the HUD field office, as described in section 5, above.

The table below summarizes the timelines for environmental investigations, lead hazard control work, clearance, and field office notifications when the PHA learns a child has an EBLL.

<b>Activity</b>	<b>Timeframe</b>
Notify HUD field office and OLHCHH of EBLL case	Within 5 business days after verification of the EBLL
Conduct environmental investigation	Within 15 calendar days after verification of the EBLL
Notify HUD field office of results of environmental investigation	Within 10 business days after receiving the results of the environmental investigation
Complete lead hazard control work and clearance	Within 30 calendar days of receiving the results of the environmental investigation.
Notify HUD field office of results of clearance	Within 10 business days after clearance

## **7. Index Units**

In a case where the child discovered to have an EBLL lives in a multiunit property, the child’s home is considered the “index unit” under the new regulations. As described in section 9 below, if the index unit is found to contain lead-based paint hazards, additional evaluation is required for other assisted target housing units in the property where children under age 6 reside (known as other “covered units”). Note that a multiunit property can include multiple buildings, and all buildings are covered if they meet the definition of target housing. This requirement already existed for public housing under 35.1130(f). Under this new rule, the requirement has been extended to the HCV and PBV programs.

## **8. Index Units Recently Tested**

An index unit may not need a full environmental investigation under the following scenarios:

- An environmental investigation was performed by the health department or another party between the time that the child’s blood was last sampled and the date that the PHA, designated party or owner (as applicable) was notified of the EBLL. If a risk assessment was performed, a certified risk assessment firm can be brought in to conduct the elements

of an environmental investigation that go beyond the requirements of a risk assessment.

- If a risk assessment was performed on the unit prior to the date that the child's blood was last sampled, the results of the risk assessment cannot be relied on, and a full environmental investigation must be performed.
- If the unit is scheduled for redevelopment or demolition, and the tenants are expected to be relocated within 45 calendar days. In this scenario, the PHA does not have to perform the environmental investigation if the family is relocated within 15 calendar days.
  - In this scenario, the PHA may not know if the index unit contains lead-based paint hazards. Without test results, the PHA would have to presume all covered units contain lead-based paint hazards.
  - Allowing the family to move from the index unit would not exempt any other covered unit in the property from the need for a risk assessment, unless those units are also scheduled for redevelopment or demolition and relocation is scheduled within 45 days.
  - If the PHA chooses to perform an environmental investigation in the index unit anyway, and finds there are no lead-based paint hazards, additional testing or expedited relocation of families in covered units would not be necessary.

### **9. Other Covered Units of the Property (and Common Areas Servicing those Units)**

If the environmental investigation indicates there are lead-based paint hazards in the index unit or common areas servicing that unit, any other assisted units in the property with a child under age 6 residing ("Other Covered Units") must receive a risk assessment, as must common areas servicing those units. This includes other assisted units designated as housing for the elderly and/or persons with disabilities where a child under age 6 resides or is expected to reside. The party that conducts the risk assessments depends on the assistance program:

- In the public housing program, the PHA conducts the risk assessments.
- In the HCV and PBV programs, the owner is responsible for conducting the risk assessments. The PHA may wish to collaborate with the owner on conducting the risk assessments, as described in section 5, above.

The risk assessments of the other covered units must be conducted within 30 calendar days of receiving the results of the environmental investigation for a property with 20 other covered units or fewer, and within 60 calendar days for a property with more than 20 other covered units.

While a PHA or owner may, for its own strategic reasons, choose to conduct risk assessments on all the other assisted dwelling units with a child under age 6 (or even all the other assisted dwelling units or all the other dwelling units), random sampling of other covered dwelling units to be assessed is permissible in properties with more than 20 covered dwelling units for pre-1960

properties, and more than 10 covered dwelling units for 1960-1977 properties. HUD’s sampling protocol can be found in Table 7.3 of the *Guidelines*, on page 7-38. For example, for a 1925 multiunit property in which there are 47 other covered units (with certain characteristics identified in the table) shows that at least 31 units are to be sampled randomly.

If the evaluation was completed in a multiunit property, all assisted residents must be notified that an evaluation was completed. The party that conducts the resident notification depends on the assistance program:

- In the public housing program, the PHA is responsible for notifying the assisted residents.
- In the HCV and PBV programs, the owner is responsible for notifying the assisted residents. The PHA may wish to collaborate with the owner on notifying the assisted residents, as described in section 5, above.

All lead-based paint hazards identified by the risk assessments must be controlled. As under the original LSHR, if a random sampling of units and/or common areas is used in the risk assessment, if lead-based paint hazards were found in that sample, all units and/or common areas represented by the random sampling must have corresponding building components that have lead-based paint hazards in sampled and un-sampled units controlled, because the components in un-sampled units are presumed to have lead-based paint hazards.

The table below summarizes the timelines for risk assessments, lead hazard work, and clearance for other covered dwelling units depending on the number of units in the property.

<b>Activity</b>	<b>If the Property Has 20 or Fewer Other Covered Units</b>	<b>If property Has More than 20 Other Covered Units:</b>
Conduct risk assessment	Within 30 calendar days of receiving the results of the environmental investigation	Within 60 calendar days of receiving the results of the environmental investigation
Complete lead hazard control work and clearance	Within 30 calendar days of receiving the results of the risk assessment	Within 90 calendar days of receiving the results of the risk assessment

### **10. Exemptions for Other Covered Units**

A covered dwelling unit *is* exempt from needing a risk assessment under the following scenarios:

- The property has been certified by a State- or EPA-certified lead inspector as lead-based paint free or all lead-based paint has been identified and removed through abatement, and clearance has been achieved. Lead-based paint free means that the housing has been found to be lead-based paint free by a State- or EPA-certified lead inspector in accordance with Chapter 7 of the *Guidelines*. This exemption would not be applicable to

units that have undergone lead abatement through enclosure or encapsulation, because they still contain lead-based paint behind the enclosure or encapsulant.

- The dwelling unit is scheduled for demolition. While units scheduled for redevelopment are generally not exempt, language in the preamble to the Final Rule permits exemption of a dwelling unit for redevelopment where start of construction and completion of tenant relocation is to occur within 45 calendar days (i.e., the sum of the 15-day period for conducting the environmental investigation and the 30-day period for conducting lead hazard control in the unit). In that scenario, the dwelling unit does not need a risk assessment; however, the family must be relocated out of the unit within 15 calendar days.

A covered dwelling unit *may* be exempted from needing a risk assessment if one was recently performed and hazards were already controlled. Specifically:

- The PHA or owner conducted a risk assessment of the covered dwelling unit in question and the common areas servicing that unit, and any necessary interim controls on identified lead-based paint hazards were performed, including passing clearance. The risk assessment and controls must have been performed between the date the child's blood was last sampled and the date the owner received the notification of the elevated blood lead level; and
- The PHA or owner has documentation of compliance with evaluation, notification, lead disclosure, ongoing lead-based paint maintenance, and lead-based paint management requirements under this part throughout the 12 months preceding the date the owner received the environmental investigation report; and

Certified documentation is provided to the HUD field office to this effect, including copies of the risk assessment and the results, and a copy of the clearance exam. The party that provides this documentation depends on the assistance program:

- In the public housing program, the PHA is responsible for providing the documentation to the HUD field office.
- In the HCV and PBV programs, the owner is responsible for providing the documentation to the HUD field office. The PHA may wish to collaborate with the owner on providing the documentation, as described in section 5, above.

## **11. Monitoring and Enforcement**

HUD may request documentation of compliance with the LSHR at any time, for the HCV, PBV, and public housing programs.

### **HCV and PBV Program**

PHAs are responsible for ensuring compliance with the regulations, and, for the HCV programs,

funding initial lead evaluations, but the HCV or PBV owner has certain requirements that the PHA must oversee in accordance with their housing assistance payment contract with the owner, including:

- The owner is responsible for promptly notifying the HUD field office and the Office of Lead Hazard Control and Healthy Homes of EBLL cases, although the PHA may wish to collaborate with the owner on this notification, as described in section 5, above.
- The owner is responsible for performing the lead hazard control work, and for incorporating ongoing lead-based paint maintenance activities into regular building operations (see section 35.1355(a)), including conducting a visual assessment for deteriorated paint, dust-lead hazards, bare soil, and the failure of any hazard reduction measures at unit turnover and every twelve months.

The PHA can assist owners in finding certified contractors, or in obtaining training and submitting the documentation to become certified to perform lead hazard control work themselves. See the EPA lead website, [www.epa.gov/lead](http://www.epa.gov/lead). PHAs can also opt to have a certified risk assessor on staff with the PHA becoming a certified risk assessment firm, where required, or available via contract (the PHA does not have to become a certified risk assessment firm). PHAs must also ensure units that had lead-based paint hazards identified receive annual and turnover visual assessments to ensure that the interim controls have not failed and that there is no new deteriorated paint. The party that conducts the visual assessments depends on the assistance program:

- In the public housing program, the PHA is responsible for conducting the visual assessments.
- In the HCV and PBV programs, the owner is responsible for conducting the visual assessments. The PHA may wish to collaborate with the owner on conducting the visual assessments, as described in section 5, above.

If the required evaluation and lead hazard control work is not completed for the index unit or other covered units within the established timeframes, the dwelling unit(s) shall be considered out of compliance with HQS. Enforcement may include suspension, reduction, or termination of housing assistance payments (HAP). If the owner does not meet the requirements after enforcement, the unit is not in compliance with HQS, and the PHA must terminate the HAP contract and assist the family in finding a unit that will meet HQS and is lead-safe. A lead safe unit is one that is either built after 1977, or one built before 1978 that has had a risk assessment, control of any lead-based paint hazards identified, and met clearance. PHAs should follow the existing regulations at section 982.404 for HQS enforcement of the HCV and PBV programs before the family moves in. (If the owner or PHA, as applicable, is unable to comply with the deadline for lead hazard control work due to weather conditions, the PHA can allow additional time in accordance with section 35.115(a)(12).)

See the Non-Reporting segment below for guidance on instances when the owner has not reported an EBLL case to HUD or the public health department, either directly or through the PHA, or when the PHA, after being notified of an EBLL case by the owner, has not reported the case to HUD or the public health department, when required.

### **Public Housing Program**

Compliance with the LSHR is included as part of the Capital Fund Program regulations at Part 905 Subpart H. PHAs annually certify compliance with new Capital Fund awards. PHAs that are not compliant with the LSHR may be subject to Sanctions described at Part 905-804, including limiting, withholding, reducing, or terminating Capital Fund or Operating Fund assistance.

PHAs that believe properties are exempt from the LSHR because leasing is done exclusively to elderly or persons with a disability can only qualify for this exemption if 1) the PHAs has a current, HUD-approved Designated Housing Plans, or 2) as described in the Quality Housing and Work Responsibility Act of 1998, the housing has been operating continuously as a mixed housing designated for both elderly and disabled residents. Evidence of the second option must be made available to HUD upon request. However, the Fair Housing Act prohibits PHA properties, including those designated for elderly and/or disabled occupancy, from excluding eligible families with children. Therefore, as described in section 3, regardless of the Designated Housing Plan, if a child under six resides or is expected to reside in the dwelling unit, that unit and common areas serving the dwelling unit lose their LSHR exemption.

HUD's Real Estate Assessment Center (REAC) inspectors will continue to request to view lead evaluation reports, i.e., reports of lead-based paint inspections, lead risk assessments, environmental investigations, clearance examinations, and Lead Disclosure Rule forms as part of regular physical assessments of public housing developments. PHAs should ensure that all relevant lead paint evaluation records are available at the property for the inspector.

### **Non-Reporting in HCV, PBV, and Public Housing Programs**

If a person becomes aware of an EBLL case where the owner or PHA did not report the EBLL to HUD or the public health department when required, the person should report the case to the OLHCHH at [LeadRegulations@hud.gov](mailto:LeadRegulations@hud.gov), and to the Office of the Inspector General via the OIG Hotline at [www.hudoig.gov/hotline](http://www.hudoig.gov/hotline). Under the Whistleblower Protection Act, it is illegal for HUD, PHAs, HCV property owners, and PBV property owners to retaliate against their employees and personal service contractors for disclosing a case to the OIG. See 5 U.S.C. § 2302; 41 U.S.C. § 4712.

## **12. Preparing for Full Compliance**

HUD recommends that PHAs that manage public housing take steps now to ensure they can respond quickly if they are notified of an EBLL case. Preparations can include:

- Ensuring that all lead-based paint testing required under the existing LSHR is already completed and that records are securely stored at the property and are available for inspection.
  - Public housing subject to the existing rule should already have at minimum received a lead-based paint inspection, undergone lead-based paint abatement at the time of modernization, undergone interim controls of lead-based paint hazards identified by risk assessments before the abatement, and passed post-work clearance.
  - If any lead-based paint remained after the abatement, it should be monitored as part of ongoing building operations to ensure that abatement methods have not failed.
- Determining whether lead evaluations and hazard control work will be performed by trained, certified staff or through contract.
  - If new contracts require approval by the PHA's Board of Commissioners, the process should be started in advance of the need.
- Ensuring that all PHA employees who disturb paint in pre-1978 housing (e.g., through repairs or scraping) are certified as renovators under EPA's Renovation, Repair, and Painting Rule. More information is in [PIH Notice 2011-44](#) and [www.epa.gov/lead](http://www.epa.gov/lead).
- Updating the Annual Plan and Five-Year Plan (or Moving to Work annual plan and report, as appropriate) with any additional testing or abatement not yet completed identified for action.
- Identifying a current contact person at the local or state health department for communication and data sharing. Under the existing LSHR, PHAs are required to exchange address data and any known EBLs with health departments on a quarterly basis, so these contacts should have been made, but they may need updating.
- Informing residents of the risks of lead-based paint and encouraging them to have young children tested for lead in their blood. Blood lead testing is covered by Medicaid and often available for free at the local health department. Resident Service Coordinators can include obtaining local blood-lead testing as part of the information they make available to families with children.
- Continuing to disclose known lead-based paint, lead-based paint hazards, and all records or reports on lead-based paint or lead-based paint hazards, to residents as part of their lease of target housing units. Providing a copy of "Protect Your Family from Lead in Your Home" found at [www.hud.gov/healthyhomes](http://www.hud.gov/healthyhomes) and [www.epa.gov/lead/real-estate-disclosure](http://www.epa.gov/lead/real-estate-disclosure).

Preparations for PHAs managing HCV housing should include:

- Ensuring that HQS inspectors have completed training in visual assessment for deteriorated paint posted at [www.hud.gov/offices/lead/training/visualassessment/h00101.htm](http://www.hud.gov/offices/lead/training/visualassessment/h00101.htm) and are performing this enhanced visual inspection at initial and periodic inspections in target housing dwelling units when a family has a child under age six. (HQS inspectors who are certified lead risk assessors do not need the visual assessment training above; the subject is covered in their risk assessment course.)
- Determining whether lead evaluations will be performed by trained, certified staff or through a contract. If staff are to be certified, the PHA's obtaining certification as a firm in the discipline(s) in which the staff will be certified.
- Confirming a current contact person at the local or state health department for communication and data sharing.
- Informing residents of target housing of the risks of lead-based paint and encouraging them to have young children tested for lead in their blood. Notify residents of how to promptly report EBLs to the PHA. This may include written notice in the leasing package, and/or at the next regular reexamination.
- Informing and engaging HCV owners about lead safety and their obligations under the LSHR, including the Lead Disclosure Rule. Note that for project-based vouchers (PBV), the rules regarding lead-based paint are different from those applying to tenant-based vouchers. PHAs with project-based vouchers in their HCV programs should ensure that those PBV dwelling units with vouchers for a property valued at over \$5,000 per unit per year have already received a risk assessment and hazard control as outlined in 24 CFR 35, Subpart H, 35.700 et seq.; if the PBV vouchers are for no more than \$5,000 per unit per year, the units should have already received a visual assessment for deteriorated paint and paint stabilization as outlined in 24 CFR 35, Subpart H.

### **13. Data Sharing with Public Health Departments**

At least quarterly, the PHA must provide an updated list of their HCV property target housing addresses to the health department so that the health department may evaluate whether they have information about incidences of EBL cases in assisted housing. If the health department does not want, or is unable, to receive this data, the PHA should document this for HUD compliance reviews. PHAs should also attempt quarterly to obtain the names and addresses of children under age 6 with an EBL that live in their owned or managed housing from the health department. If a match occurs, the PHA shall comply with all requirements of the LSHR and this guidance.

If a health department agrees to share EBL information, the PHA must ensure that this information is protected and maintained as confidential, and is used only for the public health protection of children and their families from lead exposure.

#### **14. For Further Information**

Contact your field office representative, or HUD's Lead Regulations Hotline, Office of Lead Hazard Control and Healthy Homes, Programs and Regulatory Support Division, U.S. Department of Housing and Urban Development, 451 7<sup>th</sup> Street, SW (8236), Washington, DC 20410, 202-402-7698 (or, for persons who are deaf or hard of hearing, or have speech disabilities, the Federal Relay (FedRelay) teletype (TTY) number, 800-877-8339, or by other methods shown at [www.gsa.gov/fedrelay](http://www.gsa.gov/fedrelay)), or [LeadRegulations@hud.gov](mailto:LeadRegulations@hud.gov).

Information on the functions and activities of the HUD Office of Inspector General (OIG) is at [www.hudoig.gov](http://www.hudoig.gov). Information on whistleblower protection is on the OIG's website at [www.hudoig.gov/fraud-prevention/whistleblower-protection](http://www.hudoig.gov/fraud-prevention/whistleblower-protection). To submit a question or complaint to the OIG, go to the OIG Hotline at [www.hudoig.gov/hotline](http://www.hudoig.gov/hotline).

/s/

\_\_\_\_\_  
Dominique Blom, General Deputy Assistant Secretary  
for Public and Indian Housing

/s/

\_\_\_\_\_  
Matthew E. Ammon, Director, Office of Lead Hazard  
Control and Healthy Homes

Attachment

## Appendix A: Optional PHA or Owner's Elevated Blood Lead Level Case Checklist

This checklist is intended as a courtesy for optional use by a public housing authority (PHA) or Owner in tracking the main steps for responding to an elevated blood lead level (EBLL) case; it is not intended to be submitted to the HUD Field Office nor the HUD Office of Lead Hazard Control and Healthy Homes.

PHA code (if applicable):

PHA or owner name:

Date of EBLL test result:

Program:  Public housing  Housing choice voucher  Project-based voucher

Dwelling unit address and (if applicable) development name:

Required Steps:

- Verify EBLL case report with medical provider or health department, if report came from elsewhere.
- Maintain confidentiality for all records related to the EBLL, and ensure the identity of the child or family are not disclosed to other residents in multiunit property.
- Notify health department of EBLL case (if it is not already aware of it) within 5 days (either directly or through PHA).
- Notify HUD field office contact and [LeadRegulations@hud.gov](mailto:LeadRegulations@hud.gov) of EBLL case within 5 days (either directly or through PHA).
- Engage certified lead risk assessor to perform environmental investigation of child's unit within 15 days.
- Notify residents of child's unit of results of environmental investigation within 15 days directly, but not by posting in common area.
- If lead-based paint hazards are found in the child's unit or in a common area servicing that unit in a multiunit property, engage a certified lead abatement professional or certified renovation firm to control the hazards, and a certified lead risk assessor to conduct risk assessments of other assisted dwelling units with a child under age six ("other covered units").
- In a multiunit property, notify residents that lead-based evaluation will be performed.
- If lead-based paint hazards are identified in other covered units, engage a certified lead abatement professional or certified renovation firm, and notify other residents of the results of the risk assessment and that lead hazard control work will be performed.
- Ensure adequate occupant protection, including temporary relocation for EBLL family and/or other families, when required, until their dwelling unit passes clearance.
- Complete lead hazard control in child's unit and common area servicing that unit if lead-based paint hazards are identified, within 30 days of receiving environmental investigation report.
- Complete lead hazard control in other covered units and common areas servicing those units if lead-based paint hazards are identified, within 30 days of receiving environmental investigation report, if up to 20 other covered units, or 90 days, if over 20 other covered units.
- Ensure all dwelling units and common areas that received lead hazard control pass clearance as determined by a certified risk assessor.
- In multiunit property, notify other residents that lead hazard control work was completed, and results.

- \_\_\_ Provide all documentation to the HUD field office contact in 10 business days.
- \_\_\_ Disclose information about lead-based paint hazards and all new records and report to residents upon lease initiation or renewal (if not already disclosed).

# 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](mailto:awhite3@mail.state.tn.us).

## Additional Information

EPA	<a href="http://www.epa.gov/opptinr/lead">www.epa.gov/opptinr/lead</a>
THE LEAD LISTING	<a href="http://www.leadlisting.org">www.leadlisting.org</a>
HUD	<a href="http://www.hud.gov/lea/leahome">www.hud.gov/lea/leahome</a>
KCDC Website	<a href="http://www.kcdc.org">www.kcdc.org</a>

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](http://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