

Attachment # 32

Difference Between US HUD Lead Safe Housing and EPA

EPA Certified Renovation Firms and Certified Renovators Additional Requirements of HUD's Lead Safe Housing Rule

These approaches also include all the basic HUD requirements describe in the slide presentations in Module 2. They clearly demonstrate the importance to the renovator of asking the client whether federal housing assistance is provided for the project.

The differences between HUD's LSHR and the Environmental Protection Agency's (EPA's) Renovation, Repair and Painting (RRP) regulation, part of EPA's regulations at 40 CFR Part 745, and the changes for HUD LSHR projects, are summarized in the following table and explained in the narrative after the table:

Differences between HUD LSHR and EPA RRP regulations

Stage of Job	Requirement	HUD LSHR	EPA RRP	Changes to LSHR Projects to Comply with RRP.
Planning and Set-Up	Determination that lead-based paint (LBP) is present.	EPA-recognized test kits cannot be used to say paint is not LBP. Only a certified LBP inspector or risk assessor may determine whether LBP is present.	Certified renovators use an EPA-recognized test kit to determine if RRP rule applies or not.	None.
	Training	HUD does not certify renovators or firms. All workers and supervisors must complete a HUD-approved curriculum in lead safe work practices, except that non-certified renovation workers need only on-the-job training if they are supervised by a certified LBP abatement supervisor who is also a certified renovator.	EPA or EPA-authorized States certify renovation firms and accredit training providers that certify renovators. Only the certified renovator is required to have classroom training. Workers must receive on-the-job training from the certified renovator.	Renovation firms must be certified. At least one certified renovator must be at the job or available when work is being done. (The certified renovator may be a certified LBP abatement supervisor who has completed the 4-hour RRP refresher course.)

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Stage of Job	Requirement	HUD LSHR	EPA RRP	Changes to LSHR Projects to Comply with RRP.
	Pre-Renovation Education	HUD requires conformance with EPA regulations, including EPA's Pre-Renovation Education Rule. EPA had required renovators to hand out the EPA / HUD / CPSC <i>Protect Your Family from Lead in Your Home</i> (Lead Disclosure Rule) pamphlet.	Renovators must hand out the EPA / HUD <i>Renovate Right: Important Lead Hazard Information for Families, Child Care Providers and Schools</i> pamphlet. (This requirement went into effect on December 22, 2008.)	None.
During the Job	Treating LBP hazards	Depending on type and amount of HUD assistance, HUD requires that lead hazards be treated using "interim controls" or "ongoing lead-based paint maintenance."	EPA generally requires that renovations in target housing be performed using lead-safe work practices.	None.
	Prohibited Work Practices	HUD prohibits 6 work practices. These include EPA's 3 prohibited work practices plus: heat guns that char paint, dry scraping or sanding farther than 1 ft. of electrical outlets, and use of a volatile stripper in poorly ventilated space.	EPA prohibits 3 work practices (open flame burning or torching, heat guns above 1100 degrees F, machine removal without HEPA vacuum attachment).	None.

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Stage of Job	Requirement	HUD LSHR	EPA RRP	Changes to LSHR Projects to Comply with RRP.
	Threshold minimum amounts of interior paint disturbance which trigger lead activities.	HUD has a lower interior " <i>de minimis</i> " threshold (2 sq. ft. per room, or 10% of a small component type) than EPA for lead-safe work practices. HUD also uses this lower threshold for clearance and occupant notification.	EPA's interior threshold (6 sq. ft. per room) for minor repair and maintenance activities is higher than HUD's <i>de minimis</i> threshold.	None.
End of Job	Confirmatory Testing	HUD requires a clearance examination done by an independent party instead of the certified renovator's cleaning verification procedure.	EPA allows cleaning verification by the renovator or clearance examination. The cleaning verification does not involve sampling and laboratory analysis of the dust.	None.
	Notification to Occupants	HUD requires the designated party to distribute notices to occupants within 15 days after lead hazard evaluation and control activities in their unit (and common areas, if applicable).	EPA has no requirement to notify residents who are not the owners after the renovation.	None.

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

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

B. Additional HUD Requirements for the Renovator:

1. **Training requirements for workers and supervisors performing interim controls.**
To meet the requirements of both rules:
 - a. If the supervisor (in HUD terms) or Certified Renovator (in EPA terms) is certified as a lead-based paint abatement supervisor or has successfully completed an accredited abatement supervision or abatement worker course, that person must complete a 4-hour RRP refresher course.
 - b. For workers who are not themselves supervisors / Certified Renovators:
 - If their supervisor on this project is a certified lead-based paint abatement supervisor who has completed a 4-hour RRP refresher course, the workers must obtain on-the-job training in lead-safe work practices from the supervisor.
 - Otherwise, the workers must successfully complete either a one-day RRP course, or another lead-safe work practices course approved by HUD for this purpose after consultation with the EPA. HUD has approved the one-day RRP course, the previously-published HUD/EPA one-day Renovation, Remodeling and Repair course, and other one-day courses listed on HUD's website, at www.hud.gov/offices/lead.
 - c. Where the work is being done in a State or Tribal jurisdiction that has been authorized by the EPA to operate an RRP training and certification program, the one-day RRP course and half-day RRP refresher course must be accredited by the State or Tribe. HUD will approve all one-day RRP courses accredited by EPA-authorized States or Tribes.
 - d. The 4-hour RRP refresher course is not sufficient on its own to meet either the EPA or HUD training requirements.
2. **The certified renovation firm and the certified renovator must take additional precautions to protect residents from lead poisoning beyond those in EPA's RRP Rule.**
 - a. **Renovators must use lead-safe work practices in work exempt from the RRP Rule that:**
 - Disturbs between 2 and 6 ft² of paint per room; the LSHR's *de minimis* threshold and the RRP's minor repair and maintenance activities threshold, respectively.
Note: Window replacement, window sash replacement, and demolition of painted surface areas disturb more paint than the LSHR's *de minimis* threshold.

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- Disturbs more than 10% of a component type with a small surface area (such as window sills, baseboards, and trim).
Note: The square foot and percent thresholds above apply to all work performed within a thirty day period.
 - Is in target housing where the owner-occupant signs a statement under the RRP Rule that lead safe work practices are not required.
Note: HUD does not allow any owner, whether an owner-occupant or landlord, to opt out of the use of lead safe work practices at any time, even though the EPA allows an owner-occupant to sign a statement that lead safe work practices are not required.
- b. **Not using HUD's 3 additional prohibited work practices:**
- Heat guns that char the paint even if operating at below 1100 degrees F.
 - Dry sanding or dry scraping, except dry scraping in conjunction with heat guns or within 1 ft of electrical outlets.
 - Paint stripping using a volatile stripper in a poorly ventilated space.
- c. **Taking additional measures to protect occupants during longer interior hazard reduction activities:** Temporarily relocating the occupant before and during longer interior hazard reduction activities to a suitable, decent, safe, and similarly accessible dwelling unit that does not have lead-based paint hazards. Temporary relocation is not required for shorter projects, where:
- The work is contained, completed in one period of 8-daytime hours, and does not create other safety, health or environmental hazards; or
 - The work is completed within 5 calendar days, after each work day, the worksite and the area within 10 feet of the containment area are cleaned of visible dust and debris, and occupants have safe access to sleeping areas, and bathroom and kitchen facilities.

C. Additional Designated Party Responsibilities that may Affect the Renovator

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

1. **Designated party must provide occupants with two notices, if the amount of work is above HUD's *de minimis* threshold:**
 - a. **NOTICE OF EVALUATION OR PRESUMPTION:** This notice informs the occupants that paint has been evaluated to determine if it is LBP or that paint has been presumed to be LBP. The designated party must notify the occupants within 15 calendar days of receiving the evaluation report or making the presumption. The renovator should ask the client if he/she has made this notice. The owner may provide a copy of this notice to the renovator so the renovator knows where LBP is located.
 - b. **NOTICE OF HAZARD REDUCTION ACTIVITY:** This notice describes the hazard reduction work that was completed and gives the contact for occupants to get more information. The designated party must notify the occupants within 15 calendar days of completion the hazard reduction work. The renovator may be given a copy of this notice, or may be asked to prepare or distribute the notice for the owner at part of the renovator's work for the owner.

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2. Depending on the type and amount of housing assistance provided, HUD generally requires that identified LBP hazards be treated. Treatments may include LBP hazard abatement, interim controls or ongoing LBP maintenance. Renovators should inquire if their contract with the owner requires them to perform lead hazard treatment tasks listed below. If so, all workers and supervisors must have the proper training and qualifications. Generally, interim controls include the following activities, which are required if the amount of work is above HUD's *de minimis* threshold; for work below the *de minimis* threshold, any deteriorated paint must be repaired, but the work need not be done using lead-safe work practices, although HUD strongly encourages their use:
 - a. Deteriorated LBP must be stabilized. This means that physical defects in the substrate of a paint surface or component that is causing the deterioration of the surface or component must also be repaired.
 - b. Friction surfaces that are abraded must be treated if there are lead dust hazards nearby.
 - c. Friction points must be either eliminated or treated so the LBP is not subject to abrasion.
 - d. Impact surfaces must be treated if the paint on an impact surface is damaged or otherwise deteriorated and the damage is caused by impact from a related building component (such as a door knob that knocks the wall or a door that rubs against its door frame).
 - e. LBP must be protected from impact.
 - f. Chewable LBP surfaces must be made inaccessible for chewing by children of less than six years of age if there is evidence that such a child has chewed on the painted surface.
 - g. Horizontal surfaces that are rough, pitted, or porous must be covered with a smooth, cleanable covering or coating.
3. For certain types of HUD assistance, when a child known to have an environmental intervention blood lead level is present, the designated party must take additional steps to assess the situation and respond to potential lead hazards. An environmental intervention blood lead level is a reading in a child under 6 years old of 20 micrograms per deciliter of blood (20 µg/dL), or two readings of 15 to 19 µg/dL, at least 3 months apart. For certain types of HUD assistance (tenant-based rental assistance, project-based rental assistance, public housing, and HUD-owned multifamily housing), the owner or designated party may ask the renovator to perform work in the unit to address specific lead hazards identified by an environmental investigation risk assessment. All persons participating in such work should have appropriate training and qualifications.
4. The designated party must arrange for a party independent of the renovator to conduct a clearance examination, if the amount of work is above HUD's *de minimis* threshold:
 - a. A clearance examination includes a visual assessment at the end of the renovation work for deteriorated paint, dust, debris, paint chips or other residue; sampling of dust on interior floors, window sills and window troughs; submitting the dust samples to a laboratory for analysis for lead; interpreting the lab results, and preparing a clearance report. EPA also allows a clearance examination to be used instead of the post-cleaning verification, if the clearance examination is required by federal, state or

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local regulations or by the contract. The unit – or, where work is contained, just the work area and an area just outside the containment – must pass clearance, and must not have any remaining lead hazards. If clearance fails at either the visual assessment step or the dust testing step, cleaning has to be redone in the failed part of the work area. The failed part of the work area is the specific area that was tested, as well as any areas that were not tested, and any other areas that are being represented by the sampled area. For example:

- Just one bedroom was tested, because it was to represent all bedrooms in the housing unit; it failed. Therefore, all of the bedrooms in the unit have to be re-cleaned and re-cleared.
 - In a large multifamily apartment building, if a percentage of units are tested in accordance with the HUD Guidelines, if any fail, all of the units except those that passed clearance have to be re-cleaned and re-cleared. (If there are patterns of just certain component types failing, just those component types need to be re-cleaned and re-cleared in the failed and untested units.)
- b. The person conducting the clearance examination must be both:
- A certified lead-based paint inspector, risk assessor, clearance examiner, or dust sampling technician, depending on the type of activity being performed. (Either the State or the EPA certifies this person, depending on whether or not the State the housing is in is authorized by EPA to certify people in the lead discipline.)
 - Independent of the organization performing hazard reduction or maintenance activities. There is one exception, which is that designated party may use a qualified in-house employee to conduct clearance even if other in-house employees did the renovation work, but an in-house employee may not do both renovation and clearance.

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

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

- The housing receives financial assistance; and
- Any lead-based paint requirements apply to the work because of the assistance provided.

The renovation firm should take the following steps:

1. Ask the property owner if the property or the family receives any type of housing assistance, including low-interest loans, from a local, State, or Federal agency. If so:
 - a. Find out the name of the agency, contact person, address and phone number. (See the list of types of agencies below.)
 - b. Get a basic description of the type of assistance the property receives.

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

2. If you have any questions about the Federal or State lead-based paint requirements that apply to the work, contact the public agency administering the assistance and discuss the project with the program specialist or rehabilitation specialist working with the property. For example:
 - a. Is the project considered lead abatement? If so, what are the agency's abatement requirements?
 - b. If the project is not abatement, what are the agency's lead-based paint requirements for the project, and how should they be incorporated into the work write-up?

Some types of public agencies administering housing assistance, such as rehabilitation or acquisition assistance, include:

- State Housing Agency, Corporation or Authority
- State Community Development Agency, Corporation or Authority
- State Housing Finance Agency

- City or County Housing Authority, Corporation or Authority
- City or County Community Development Agency, Corporation or Authority

- USDA Service Center - Rural Housing Programs

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The U.S. Department of Housing and Urban Development's Lead Safe Housing Rule (HUD's LSHR, which is found in HUD's regulations at 24 CFR Part 35, Subparts B through M), generally applies to work performed in target housing units receiving HUD housing assistance, such as rehabilitation or acquisition assistance.

Under the LSHR, the program participant (governmental jurisdiction, non-profit, community organization or the property owner who accepts HUD funds) becomes responsible for compliance with the LSHR and is referred to as the designated party (or DP). Renovation firms may include, for example, for-profit contractors, non-profit organizations, or a designated party using its own employees for renovation. In the spirit of maintaining good customer relations, certified renovation firms should ask their client if:

- 1) The work involves lead hazard control (including abatement, interim control of lead hazards or ongoing lead-based paint maintenance); and
- 2) The housing receives financial assistance. If so, the renovator should ask the client to find out if the assistance is federal assistance.

Most clients would appreciate these questions so they may avoid violating HUD or EPA rules. See www.hud.gov/offices/lead/enforcement/lshr.cfm for more information.

The information below and in the table explain the basic requirements of HUD's regulation for renovators who have not yet had experience with HUD-funded work. The term "rehabilitation" is used by HUD to describe residential renovation work. When HUD funds pay for this work, funding often flows from HUD through cities, states or other program participants, and addressing lead-based painted surfaces becomes a routine part of the job. HUD's specific requirements depend on the amount of Federal rehabilitation assistance the project is receiving:

- 1) Up to \$5,000 per unit: "Do no harm" approach. Lead safety requirements cover only the surfaces being disturbed. Program participants can either test these surfaces to determine if they contain lead-based paint or presume they contain lead-based paint. Work which disturbs painted surfaces known or presumed to contain lead-based paint is done using lead safe work practices, and clearance of the worksite is performed at the end of the job (unless it is a very small "de minimis" scale project) to ensure that no lead dust hazards remain in the work area. Training that meets the EPA's RRP Rule requirements is sufficient for this work.
- 2) Greater than \$5,000 and up to \$25,000 per unit: Identify and control lead hazards. Identify all lead hazards at the affected units and common areas servicing those units by performing a lead-based paint risk assessment. Control the hazards using interim controls. Participants may skip the risk assessment and presume that all potential lead hazards are present, and then must use standard treatments to address them. In addition to training that meets the EPA's RRP Rule requirements, HUD-approved interim control training (such as the HUD-EPA RRP curriculum) is required for renovators and workers.
- 3) Greater than \$25,000 per unit: Identify and abate lead hazards. Identify all lead hazards at the property by performing a risk assessment and then abate all the hazards. Participants may skip the risk assessment and presume that all potential lead hazards are present and abate them. This approach requires certified abatement contractors perform the abatement part of the job.