

HUD Federally-Assisted Lead-Based Paint Final Rule

HUD has released the final rule on lead paint hazard reduction in federally assisted housing. The rule applies to all types of federal assistance -- including Section 8 subsidies, tenant-based rental assistance, rehabilitation assistance, and mortgage insurance. The rule goes into effect in September 15, 2000 (except for prohibitions against using dangerous methods of removing paint -- which take effect on November 15, 1999). Properties excluded include those built after January 1, 1978, properties designated for elderly or disabilities (unless a child under 6 is expected to reside there), lead-free housing, and non-residential property. Requirements under the rule vary based upon age of the property, and type of assistance received. The regulation does allow for rent increases to support costs associated with the Rule. For a full copy of the Rule, visit <http://www.hud.gov/lea/leahome.htm>.

While the Final Rule does not define specific penalties for violating the provisions contained within, parties who are found to be in non-compliance will be sanctioned according to their specific situation. For example, a party who is found to be in violation, may be considered in default of their regulatory or HAP agreement, and may be debarred from receiving assistance from HUD, or denied participation in any future HUD programs. Civil money penalties and other sanctions may also apply.

TYPE OF ASSISTANCE	TYPE OF PROPERTY	HAZARD REDUCTION REQUIREMENT
Multifamily mortgage insurance - other than conversions and major rehabilitations	Multifamily property constructed before 1960	Risk Assessment Interim controls until clearance achieved Ongoing lead-based paint maintenance activities
Multifamily mortgage insurance - other than conversions and major rehabilitations	Constructed after 1959 and before 1978	On going lead-based paint maintenance practices
Multifamily mortgage insurance for conversions and rehabilitations	Multifamily property constructed before 1978	Lead-based Paint Inspection Abatement of all lead-based paint (exception for historically significant properties)
Project based assistance of up to \$5,000 per unit (including Section 8 mod rehab, project-based certificate, etc)	Pre-1978 constructed multifamily or single family	Visual Assessment Paint Stabilization with clearance Notice to occupants of results of clearance Ongoing lead-based paint maintenance If a child of under 6 years of age, has an environmental intervention

		<p>blood lead level the owner must conduct:</p> <p>Risk assessment Verification Hazard reduction Notice of reduction</p> <p>Report on child to public health department</p>
<p>Project-based assistance of more than \$5000 per unit</p>	<p>Constructed before 1960</p>	<p>Risk Assessment to be completed by September 17, 2001</p> <p>Interim controls Ongoing lead based paint maintenance and re-evaluation</p> <p>Transitional Requirements until Risk Assessment complete:</p> <p>Ongoing lead based paint maintenance</p> <p>If a child of under 6 years of age, has an environmental intervention blood lead level the owner must conduct:</p> <p>Risk assessment Verification Hazard reduction Notice of reduction</p> <p>Report on child to public health department</p>
<p>Project-based assistance of more than \$5000 per unit</p>	<p>Constructed after 1959, and before 1978</p>	<p>Risk Assessment to be completed by September 15, 2003</p> <p>Interim controls Ongoing lead based paint maintenance and re-evaluation</p> <p>Transitional Requirements until Risk Assessment complete:</p> <p>Ongoing lead based paint maintenance</p> <p>If a child of under 6 years of age, has an environmental intervention</p>

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HUD-owned multifamily property	Constructed pre-1978	<p>Risk Assessment Interim controls and clearance Ongoing lead-based paint maintenance and re-evaluation</p> <p>If a child of under 6 years of age, has an environmental intervention blood lead level the owner must conduct:</p> <p>Risk assessment Verification Hazard reduction Notice of reduction</p> <p>Report on child to public health department</p>
Rehabilitation assistance of up to \$5000 per unit	Constructed pre-1978	<p>Conduct paint testing, or presume the presence of lead-based paint</p> <p>If tests show, or lead paint assumed:</p> <p>Implement safe work practices during rehabilitation work</p> <p>Perform a clearance examination</p>
Rehabilitation assistance of between \$5,000-\$25,000 per unit	Constructed pre-1978	<p>Conduct paint testing, or assume presence of lead-based paint Perform risk assessment</p> <p>Perform interim controls of all lead-based paint hazards</p>
More than \$25,000 per unit in rehabilitation assistance	Constructed before 1978	<p>Conduct paint testing, or assume presence of lead-based paint Perform risk assessment</p>

		Abate all lead-based paint hazards
Sold to a buyer with a HUD mortgage	Pre-1978 constructed single family	<p>The following must occur before the property can be sold:</p> <ul style="list-style-type: none"> A visual assessment of all painted surfaces in order to identify deteriorated paint; Paint stabilization of all deteriorated paint; Clearance examination <p>Occupancy is not permitted until the above is achieved.</p> <p>If the above are not completed before a sale, they must be carried out by the purchaser before occupancy.</p>
Tenant-based rental assistance	<p>Multifamily property built before 1978 and in which:</p> <ul style="list-style-type: none"> Dwelling unit is occupied, or will be occupied by families or households that have one or more children of less than 6 years of age Common areas servicing a dwelling unit occupied by the above 	<ul style="list-style-type: none"> Visual assessment Stabilization of deteriorated paint surfaces and clearance Notice to occupants of results of clearance Ongoing lead-based paint maintenance activities <p>If a child of under 6 years of age, has an environmental intervention blood lead level the owner must conduct:</p> <ul style="list-style-type: none"> Risk assessment Verification Hazard reduction Notice of reduction Report on child to public health department Collect data from public health department names of children with an identified environmental intervention blood lead level

RISK ASSESSMENT - an on-site investigation to determine and report the existence, nature, severity, and location of lead-based paint hazards, which, in accordance with Title X, include dust-lead and soil-lead hazards, as well as deteriorated lead-based paint, as well as lead-based paint on friction, impact and chewable surfaces. A risk assessment includes limited dust wipe sampling or other environmental sampling techniques, identification of hazard reduction options, and a report explaining the results of the investigation and options for reducing lead-based paint hazards.

CLEARANCE - an examination conducted after hazard reduction, rehabilitation, or maintenance activities (a) to visually determine that deteriorated surfaces that are known or presumed to be lead-based paint have been controlled or abated and that visible dust, debris, paint chips, or other residue have been cleaned up; and (b) to collect samples of settled dust and test them for lead content to determine that no dust-lead hazards remain.

INTERIM CONTROLS - a set of measures designed to reduce temporarily human exposure or likely exposure to lead-based paint hazards. Interim controls include, but are not limited to, repairs, painting, temporary containment, specialized cleaning, clearance, ongoing lead-based paint maintenance activities, and the establishment and operation of management and resident education programs.

VISUAL ASSESSMENT - means looking for, as applicable:

- Deteriorated paint;
- Visible surface dust, debris and residue as part of a risk assessment or clearance examination; or
- The completion or failure of a hazard reduction measure.

PAINT STABILIZATION - means repairing any physical defect in the substrate of a painted surface that is causing paint deterioration, removing loose paint and other material from the surface to be treated, and applying a new protective coating or paint.

HAZARD REDUCTION - measures designed to reduce or eliminate human exposure to lead-based paint hazards through methods including interim controls or abatement or a combination of the two.

ABATEMENT - any set of measures designed to permanently eliminate lead-based paint or lead-based paint hazards. Abatement includes:

- The removal of lead-based paint and dust-lead hazards, the permanent enclosure or encapsulation of lead-based paint, the replacement of components or fixtures painted with lead-based paint, and the removal or permanent covering of soil-lead hazards, and
- All preparation, cleanup, disposal, and post abatement clearance testing activities associated with such measures.

Environmental intervention blood lead level - a confirmed concentration of lead in whole blood equal to or greater than 20 mg/Dl (micrograms of lead per deciliter) for a single test or 15–19 mg/dL in two tests taken at least 3 months apart.