

**Table of Contents**

<b>Applicability.....</b>	<b>2</b>
<b>Definitions .....</b>	<b>2</b>
Abatement .....	2
Clearance Examination.....	2
De minimis (HUD).....	3
Hazard Reduction.....	3
Interim Controls .....	3
Lead-Based Paint (LBP) Inspection .....	3
Lead Hazard Screen.....	3
Paint Stabilization.....	3
Paint Testing.....	3
Risk Assessment.....	4
Safe Work Practices .....	4
HUD Visual Assessment .....	4
<b>Exemptions.....</b>	<b>4</b>
<b>General Information .....</b>	<b>5</b>
§ 35.935 Ongoing lead-based paint maintenance activities.....	5
<b>Specific Notices, Examinations, and Pamphlet Requirements .....</b>	<b>6</b>
<b>Action Prior to Acquisition.....</b>	<b>7</b>

## **Applicability**

HOME, NSP, and HTF activities.

## **Definitions**

### **Abatement**

A set of measures designed to permanently eliminate lead-based paint or lead-based paint hazards.

IHFA will accept funding proposals/applications for acquisition and/or rehabilitation of residential housing constructed on or before January 1, 1978 under the following conditions:

1. Entities defined as the Owner-Developer or Developer must be an EPA-Certified Renovation Firm.
2. Funding proposal must include evidence the area in which the property is located has an adequate supply of EPA-Certified Risk Assessors/Renovation contractors and workers. This requirement helps ensure the project is completed within the specified timeframe and approved budget.
3. The Federally funded hard rehabilitation costs minus any Lead-Based Paint costs (i.e. Lead-Based Paint Inspection, EPA-Certified Risk Assessment, Interim Control of lead hazards, and clearance testing) cannot exceed \$24,999 per unit.
4. A project assisted with HOME, HTF, NSP funds must comply with rules and guidelines of the EPA Renovation, Repair and Paint Rule and HUD's Lead-Safe Housing Rule, as amended at [24 CFR Part 35, subparts B-R](#).

Abatement includes the removal of **identified** 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; an also all preparation, cleanup, disposal, and post-abatement clearance testing activities associated with such measures.

### **Clearance Examination**

Clearance must be performed after hazard reduction, rehabilitation, or maintenance activity(s) to determine if the unit is safe for occupancy. It involves a visual assessment, analysis of dust samples, and preparation of a report. The clearance test **MUST** be performed by someone **INDEPENDT** from the entity/individual that conducted the paint stabilization or hazard reduction activity.

- EPA Certified Risk Assessor
- EPA Certified Paint Inspector
- EPA Certified Lead Sampling Technician (also referred to as a Clearance Technician in HUD Lead-Safe Housing Rule)

**De minimis (HUD)**

Safe work practices and clearance are not required when maintenance or hazard reduction activities do not disturb painted surfaces below the *De minimis* threshold:

- 20 Sq. feet (2 Sq. meters) on exterior surfaces;
- 2 Sq. feet (0.2 Sq. meters) in any one interior room or space; or
- 10% of the total surface area on an interior or exterior type of component with a small surface area (such as windowsills, baseboards, and trim).

**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.

**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.

**Lead-Based Paint (LBP) Inspection**

A surface-by-surface investigation is required to determine the presence of lead-based paint and the provision of a report explaining the results of the investigation.

- EPA Certified Risk Assessor
- EPA Certified Paint Inspector

While a risk assessment determines the presence of lead-based paint hazards in deteriorated paint, only LBP Paint Testing inspection determines the presence of lead-based paint on painted surfaces.

**Lead Hazard Screen**

A limited risk assessment activity that can be performed instead of a full risk assessment in housing units that meet certain criteria (e.g. are in good condition – paint is intact with no deteriorated paint surfaces). If the unit fails the lead hazard screen, a full risk assessment must be performed.

- EPA Certified Risk Assessor

**Paint Stabilization**

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.

**Paint Testing**

Testing paint on specific surfaces by an EPA Certified Risk Assessor or Paint Tester with an XRF and includes lab analysis to determine the presence of lead in the tested surfaces.

## **Risk Assessment**

A procedure for determining the existence, nature, severity, and location of lead-based paint **hazards** in or on a residential property, and for reports , the findings of the assessment and the option for controlling or abating the hazards that are found. A risk assessment does not identify if lead-based paint is present.

- EPA Certified Risk Assessor

## **Safe Work Practices**

There are four components to safe work practices, and they include:

- Occupancy Protection,
- Worksite Preparation and Containment,
- Prohibited Methods, and
- Worksite Cleanup.

## **HUD Visual Assessment**

This is a visual assessment of the interior and exterior surfaces to identify the condition of all painted surfaces that may present a lead-based paint hazard. The visual assessment does not evaluate or determine the presence of lead-based paint. The following professionals can perform a HUD Visual Assessment:

- Home Inspector who has certificate of completion for the HUD Visual Assessment course,
- EPA Certified Risk Assessor/Paint Inspector, or
- Other professional not directly involved in the transaction who has certification of completion for the HUD Visual Assessment course (i.e. an appraiser, certified renovator).

Training and printable certificate for the Visual Assessment is available at:

<http://www.hud.gov/offices/lead/training/visualassessment/h00101.htm>

## **Exemptions**

An Exempted property must receive prior approval from IHFA HOME Programs Department. The following types of properties are not covered by EPA or HUD LBP regulations because lead paint is unlikely to be present, or children will not occupy the housing in the future:

- Housing built on or after January 1, 1978 (when lead paint was banned for residential use),
- Housing (100% of all units) that will or was built exclusively for the elderly or persons with disabilities, unless a child under age 6 is expected to reside there for prolonged periods of time,
- Zero-bedroom dwellings, including efficiency apartments, single-room occupancy housing, dormitories, or military barracks,
- Property that has been found to be free of lead-based paint by a certified inspector,
- Property from which all lead-based paint has been removed, and clearance has been achieved,
- Unoccupied housing that will remain vacant until it is demolished,
- Non-residential property, or
- Any rehabilitation or housing improvement that does not disturb a painted surface.
- Emergency repair actions, which are those needed to safeguard against imminent danger to human life, health or safety, or to protect property from further structural damage, are exempted.

Finally, the requirements do not apply to emergency housing assistance (such as for the less), unless the assistance lasts more than 100 days, in which case the rule does apply.

## **General Information**

**Important Note:** All required EPA and HUD LBP documentation, disclosures, proof of delivery, reports, notifications, certifications, must be made available to IHFA for any assisted project subject to the LBP regulations.

Any work (repair, maintenance, renovation, alteration, etc.) on an assisted property constructed pre-1978 is subject to both EPA and HUD's 2012 Lead Safe Housing Rule. Failure to follow HUD and EPA Lead-Based Paint requirements may jeopardize funding.

For purposes of determining the activity as described at §[35.930](#) and §[35.935](#), federal assistance includes all Federal funds assisting the project, regardless of the type or use of the funds, including any Federal funds being used for acquisition of the property, construction, permits, fees, and other project costs. The costs of LBP site preparation, occupant protection, relocation, interim controls, abatement, clearance, and waste handling attributable to compliance with the requirements of this part are not to be include in the hard costs of rehabilitation for determining the scope of LBP hazard reduction activity below:

1. **\$1 to \$5,000 per unit: “Do No Harm” Approach.** Lead safety requirements apply only to the surfaces being disturbed as part of the work. Surfaces may be tested to determine presence of LBP, or it can be presumed that the surfaces contain LBP. Work/repairs that may disturb painted surfaces known or presumed to be LBP shall be done by a Certified RRP renovator using safe work practices. Clearance testing/report is required. See next page for specific activities.
2. **Greater than \$5,000 and up to \$25,000 per unit: Identify and Control Lead Hazards.** Identify all lead hazards in funded units, common areas and exteriors by performing a Lead-Based Paint Risk Assessment in accordance with HUD's LSHR. Control all hazards using interim controls. Surfaces may be tested to determine presence of LBP, or it can be presumed that the surfaces contain LBP. Standard treatments must be used to address hazards. HUD/EPA RRP course is required for renovators and workers. See next page for specific activities.
3. **Not Allowed – 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 hazards. Surfaces may be tested to determine the presence of LBP, or it can be presumed that the surfaces contain LBP and abate them. This approach requires certified abatement contractors perform the abatement part of the job. See next page for specific activities.

### **§ [35.935](#) Ongoing lead-based paint maintenance activities.**

In the case of a rental property receiving Federal rehabilitation assistance under the HOME program, the grantee or participating jurisdiction shall require the property owner to incorporate ongoing lead-based paint maintenance activities in regular building.

### Specific Notices, Examinations, and Pamphlet Requirements

Federal Funds	Required Activities
Funding for rehabilitation is less than or equal to \$5,000 (per dwelling unit, per year).	<ul style="list-style-type: none"> <li>Provide to Occupants: <i>Renovate Right: Important Lead Hazard Information for Families, Child Care Providers and Schools</i> pamphlet (Subpart J, <a href="#">Section 35.910</a> and Subpart B, <a href="#">Section 35.130</a>)</li> <li>Test Paint on Surface(s) to be Disturbed or Presume LBP (Subpart J, <a href="#">Section 35.930(b)(1)</a>)</li> <li>Implement Safe Work Practices performed by EPA certified contractor (Subpart J, <a href="#">Section 35.930(b)(1)</a>)</li> <li>Repair Disturbed Paint (Subpart J, <a href="#">Section 35.930(b)(2)</a>)</li> <li>Perform Clearance Test (Subpart J, <a href="#">Section 35.930(b)(3)</a>)</li> <li>Provide Notice to Occupant of Result (Subpart B, <a href="#">Section 35.125</a> and Subpart J, <a href="#">Section 35.910</a>)</li> </ul>
Rehabilitation assistance is greater than \$5,000 and less than or equal to \$25,000 (per dwelling unit, per year).	<ul style="list-style-type: none"> <li>Provide to Occupants: <i>Renovate Right: Important Lead Hazard Information for Families, Child Care Providers and Schools</i> pamphlet (Subpart J, <a href="#">Section 35.910</a> and Subpart B, <a href="#">Section 35.130</a>)</li> <li>Test on Surface(s) to be Disturbed or Presume LBP (Subpart J, <a href="#">Section 35.930(c)(1)</a>)</li> <li>Conduct Risk Assessment (Subpart J, <a href="#">Section 35.930(c)(2)</a>)</li> <li>Implement Safe Work Practices performed by EPA certified contractor (Subpart J, <a href="#">Section 35.930(c)(4)</a>)</li> <li>Establish Interim Control (Subpart J, <a href="#">Section 35.930(c)(3)</a>)</li> <li>Perform a Clearance Examination (Subpart R, <a href="#">Section 35.1330(a)(3)</a>)</li> <li>Provide Notice to Occupants of Results (Subpart B, <a href="#">Section 35.125</a> and Subpart J, <a href="#">Section 35.910</a>)</li> </ul>
Rehabilitation assistance is greater than \$25,000 (per dwelling unit, per year).  Not allowed under IHFA's HOME, NSP, HTF Programs.	<ul style="list-style-type: none"> <li>Provide to Occupants: <i>Renovate Right: Important Lead Hazard Information for Families, Child Care Providers and Schools</i> pamphlet (Subpart J, <a href="#">Section 35.910</a> and Subpart B, <a href="#">Section 35.130</a>)</li> <li>Test Paint on Surfaces(s) to be Disturbed or Presume LBP (Subpart J, <a href="#">Section 35.930(d)(1)</a>)</li> <li>Conduct Risk Assessment (Subpart J, <a href="#">Section 35.930(d)(2)</a>)</li> <li>Implement Safe Work Practices performed by EPA certified contractor (Subpart J, <a href="#">Section 35.930(d)(4)</a>)</li> <li>Abatement of all LBP hazards identified (Subpart J, <a href="#">Section 35.930(d)(3)</a>)</li> <li>Perform Clearance Examination (Subpart R, <a href="#">Section 35.1340(a)</a>)</li> <li>Provide Notice to Occupants of Results (Subpart B, <a href="#">Section 35.125</a> and Subpart J, <a href="#">Section 35.910</a>)</li> </ul>

Action Prior to Acquisition