



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410-3000

OFFICE OF HEALTHY HOMES AND
LEAD HAZARD CONTROL

POLICY GUIDANCE NUMBER: 2002-02	DATE: May 14, 2002
SUBJECT:	Use Of Contractors Trained In Lead-Safe Work Practices To Conduct Interim Controls In Housing Being Treated Under The Grant Program
STATUS:	Current
APPLICABILITY:	All grant rounds
RELATED GUIDANCE:	
COMMENTS:	

Dear Lead Hazard Control Grantee:

I am writing this letter to announce a significant policy change relating to the use of contractors and their personnel under the Lead Hazard Control Grant Program.

Effective immediately for all existing lead hazard control grant programs, grantees may utilize contractors who have successfully completed HUD-approved training in lead-safe work practices to conduct interim controls in housing being treated under the grant program. It is important to underscore, however, that certified abatement contractors and certified lead-based paint professionals must be used for abatement work and for inspections and risk assessments. Final clearance must continue to be performed by certified inspectors, certified risk assessors, or certified sampling technicians, or by trained sampling technicians whose report is signed by a certified inspector or risk assessor in states that do not certify sampling technicians. To help you understand and use the appropriate qualified personnel in your program, we are attaching the definitions of "abatement" and "interim controls" taken directly from the Lead Safe Housing Rule, as well as the April 19, 2001 letter from HUD and the Environmental Protection Agency describing abatement and non-abatement work. In addition, we are attaching a list of the training courses HUD has approved for lead-safe work practices as of May 1, 2002. An updated list is available through our Office's web site, www.hud.gov/offices/lead.

Background

Since the inception of the grant program, HUD has always required the use of certified abatement contractors in the program, at first certified under a state program, and, after the promulgation of sections 402 and 404 of the Toxic Substances Control Act, certified either by an EPA authorized state program or, in the absence of state authorization, by EPA. The reason was two-fold: first, to build a national infrastructure of contractors and personnel that could carry out the mission of making housing lead-safe, and second, to ensure that the work is done competently and safely. The advent of the Department's new Lead Safe Housing Rule (24 CFR 35, subparts B-R) that allows the use of lead-based paint contractors and workers trained under

HUD-approved lead-safe work practices courses to conduct interim control work in HUD-assisted housing has resulted in a large pool of individuals who should be permitted to perform lead-based paint work in houses treated under the grant program.

If you have questions about this change, please contact your Government Technical Representative.

Sincerely,

A handwritten signature in black ink, appearing to read "Ellis Goldman", with a long horizontal flourish extending to the left.

Ellis G. Goldman, Director
Program Management Division

Enclosures:

- Frequently-asked questions about the use of contractors under the grant program.
- Definitions from the Lead Safe Housing Rule
- Interim controls training paragraph from the Rule
- List of HUD-approved lead-safe work practices courses (as of May 1, 2002)
- HUD-EPA "Abatement Letter" of April 19, 2001

Frequently Asked Questions:
Contractors Used Under the HUD Lead Hazard Control Grant Program
May 2002

What does this change in policy to allow use of contractors who have successfully completed HUD-approved training in lead-safe work practices to conduct interim controls in housing being treated under the grant program mean in practical terms?

For grantees doing lead hazard control work in conjunction with construction funded from sources other than their Lead Hazard Control Grant: The intent of the work elements is critical. Work elements that permanently eliminate lead-based paint hazards (such as window replacement) **and** are intended primarily to control lead hazards, are abatement activities, which must be done by certified contractors. On the other hand, work elements that permanently eliminate lead-based paint hazards are not abatement if they are done primarily for the purpose of rehabilitation, that is, they are designed primarily to repair, restore, or remodel housing. Certified contractors do not have to be used for this non-abatement work, but the contractors used must be trained in lead-safe work practices in accordance with the Lead Safe Housing Rule and must conduct the work using interim controls. (The interim controls training paragraph of the Rule is attached; information on the training curriculum and training availability is at the HUD lead website, <http://www.hud.gov/offices/lead>)

For grantees doing “stand-alone” lead hazard control work without funding from other sources: The effects of this policy change are smaller. For these grantees, the intent of work that permanently eliminates lead-based paint hazards (such as window replacement) is clearly for the purpose of abating the lead-based paint hazards. A certified contractor must be used for this abatement work.

For grantees doing both abatement and interim controls: These grantees may either use a certified contractor for all of the lead-related work, or use two contractors - a certified one for abatement and a trained one for interim controls. This may be quite feasible for some grantees, and impractical for others. The choice is the grantee's based on such local conditions as the characteristics of the local contractor pool (e.g., the availability, quality and cost of lead-trained contractors and certified contractors), the grantee's ability to coordinate multiple contractors (many grantees already do so), and the sequencing of work (rehabilitation and lead hazard control are concurrent, rehabilitation is done first, or lead hazard control is done first), etc.

**DEFINITIONS FROM HUD'S LEAD SAFE HOUSING RULE
(24 CFR 35.110)**

Abatement means any set of measures designed to permanently eliminate lead-based paint or lead-based paint hazards (see definition of "permanent"). Abatement includes:

(1) 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

(2) All preparation, cleanup, disposal, and post abatement clearance testing activities associated with such measures.

Interim controls means 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.

**INTERIM CONTROLS TRAINING PARAGRAPH FROM HUD'S LEAD SAFE HOUSING
RULE
(24 CFR 35.1330(a)(4)):**

A person performing interim controls must be trained in accordance with 29 CFR 1926.59 and either be supervised by an individual certified as a lead-based paint abatement supervisor or have successfully completed one of the following courses:

[A list of HUD-approved courses as of May 1, 2002, is attached.]

LIST OF HUD-APPROVED LEAD-SAFE WORK PRACTICES COURSES

(as of May 1, 2002)

Note to Users: Each course on this list meets HUD's minimum training requirements for individuals performing interim controls, paint stabilization, standard treatments and ongoing LBP maintenance work as required by the Lead Safe Housing Rule. However, these courses were designed by various organizations to meet the specific training needs of their workers. Before selecting a training course, you should carefully evaluate all course options. Then select the one that is the most appropriate for your workers and the jobs they perform. HUD recommends that individuals knowledgeable about lead and with experience teaching adults deliver these courses.

EPA- or State-Approved Abatement Worker and Abatement Supervisor Courses

Course requirements for these programs are found in EPA's lead certification and training ("402/404") rules and qualify people to perform lead-based paint abatement. These courses meet the HUD lead-safe work practices training requirement. To identify an accredited training provider in your geographical area, contact the National Lead Information Center at 1-800-424-LEAD, or check under lead service providers on the "Lead Listing" at www.leadlisting.org.

HUD's Adaptation of EPA Model Curriculum for Remodelers and Renovators titled "Addressing Lead-Based Paint Hazards During Renovation, Remodeling and Rehabilitation in Federally Owned and Assisted Housing"

This one-day course is HUD's February, 2001, adaptation of the EPA model course for remodelers and renovators. It provides information about the containment, minimization and cleanup of lead hazards during these activities in federally owned and assisted housing. The appendices include The Lead Paint Safety Field Guide, "Protect Your Family from Lead in Your Home" pamphlet, summaries of important lead regulations and other useful information. Appendix 10 is an optional module on Supervisory and Business Issues. The student manual and appendices are available in .pdf format from the HUD Office of Healthy Homes and Lead Hazard Control web site, <http://www.hud.gov/offices/lead/lbptraining.cfm>.

HUD Lead-Based Paint Training for Remodelers and Renovators

This one-day training program is designed to teach lead-safe work practices to people doing remodeling, renovating and general rehabilitation such as dry wallers, painters and carpenters. The original two-day HUD/National Association of the Remodeling Industry (NARI) course was shortened to this one-day version.

The course materials are easy to read and understand. They include notes to the instructor, icebreaker, nine training modules, examination and evaluation. Trainers can create handouts by printing the power point presentation as "Handouts" or "Notes pages." This curriculum can be downloaded in Power Point for download and delivery at www.hud.gov/offices/lead/lbptraining.cfm. A notice of completion should be provided to each student passing the exam with a minimum score of 70%.

“Lead-Based Paint Maintenance Training: Work Smart, Work Wet, Work Clean to Work Lead-Safe”

This video-based course is specifically designed to teach lead-safe work practices and procedures to maintenance workers and supervisors who work in multifamily properties that have or may contain lead-based paint. The course materials include an instructor’s guide, video and hard copy of slide presentation suitable for use as a student handout. The course includes several exercises and optional hands-on activities. A notice of completion should be provided to each student passing the exam with a minimum score of 70%.

This curriculum available for purchase from:
National Environmental Training Association (NETA)
3020 East Camelback
Phoenix, AZ 85016
602-956-6099

Interim Controls/Lead-Safe Work Practices and Awareness Manual

This training manual contains information on how to perform interim controls, paint stabilization ongoing maintenance and standard treatments in accordance with the Lead Safe Housing Rule. Copies of regulations and reference charts for HUD’s Lead Safe Housing Rule are included as appendices of the manual.

1) Manual available in MS Power Point for download and delivery at www.hud.gov/offices/lead/lbptraining.cfm. Click on the course title for instructions on how to download the manual (.pdf format).

2) Training course previously delivered by the

National Apartment Association (NAA), Alexandria, VA Phone: 703-518-6141
and the

Wisconsin Apartment Association (WAA), Madison, WI 53717 Phone: 608-824-0024

For information on future NAA deliveries of this training course, contact your local Apartment Association.

State of Vermont Essential Maintenance Practices Course

This course was designed to teach lead-safe work practices to maintenance workers in Vermont.

State of Vermont
Department of Health
Burlington, VT

In Vermont, call 800-439-8550 for a list of training providers. From outside Vermont, call 802-652-0358.

State of Maine Lead-Smart Renovator Course

This course teaches lead-safe work practices to people doing renovation and repainting in the State of Maine. Call for a list of Maine's DEP-licensed training providers.

State of Maine
Department of Environmental Protection
Augusta, Maine
207-287-2133

EMI Lead Hazard Reduction for Maintenance Workers and Painters

People taking this course are qualified to perform interim controls, paint stabilization, standard treatments and ongoing LBP maintenance.

Environmental Management Institute, Inc.
5610 Crawfordsville Road, Suite 15
Indianapolis, IN 46224
317-248-4848

Craven County, NC, Lead-Safe Work Practices Course

People taking this course are qualified to perform interim controls, paint stabilization, standard treatments and ongoing LBP maintenance. It is based on the one-day version of the HUD/NARI course and includes State- and County-specific information and resources.

Craven County, North Carolina Health Department
P.O. Drawer 12610
2818 Neuse Boulevard
New Bern, NC 28561
252-636-4920

Occupational Knowledge Interim Controls/Lead-Safe Work Practices and Awareness Training

People taking this course are qualified to perform interim controls, paint stabilization, standard treatments and ongoing LBP maintenance. This course uses the manual, "Interim Controls/Lead-Safe Work Practices and Awareness."

Occupational Knowledge, Inc.
1255 Post Street, Suite 437
San Francisco, CA 94109
415-441-5199

Commonwealth of Massachusetts Lead-Safe Renovator Worker and Supervisor

People taking this course are qualified to perform interim controls, paint stabilization, standard treatments and ongoing LBP maintenance, as defined by HUD. Additionally, these courses meet the requirements for certification in Massachusetts for Lead-Safe Renovator Worker and Supervisor.

Department of Labor and Workforce Development
Division of Occupational Safety
1001 Watertown Street, 2nd Floor
W. Newton, MA 02465
617-969-7177

State of Connecticut Lead-Safe Work Practices for Painting, Remodeling, and Maintenance Course (Also available in a Spanish adaptation)

People taking this course are qualified to perform interim controls, paint stabilization, standard treatments and ongoing LBP maintenance, as defined by HUD.

Childhood Lead Poisoning Prevention Program
Lead Environmental Management Unit
Department of Public Health
State of Connecticut
410 Capitol Avenue - MS #51LED
P.O. Box 340308
Hartford, CT 06134
860-509-7307

State of Wisconsin Lead Low-Risk Worker Course

People taking this 8-hour course are qualified to perform interim controls, paint stabilization, standard treatments and ongoing LBP maintenance, as defined by HUD. Additionally, successful completion of this course provides eligibility for Wisconsin certification as a lead low-risk worker. Low-risk work in Wisconsin includes activities such as surface preparation and repainting, restoring proper functioning of doors and windows, and enclosure or encapsulation of lead-based painted components without removing components. This course provides a minimum of 4 hours of hands-on practice and a hands-on skills assessment. For information, contact:

Department of Health and Family Services
Division of Public Health
1414 E. Washington Avenue
P.O. Box 2659
Madison, WI 53701-2659
608-267-0928



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APR 19 2001

Dear Colleague:

This letter clarifies the Title X requirements for rehabilitation and lead hazard reduction in property receiving up to \$25,000 per unit in Federal rehabilitation assistance under regulations issued by the Department of Housing and Urban Development (HUD). This letter also clarifies the definition of "abatement" under regulations issued by the Environmental Protection Agency (EPA) and HUD. Both agencies issued their regulations under the authority of Title X of the 1992 Housing and Community Development Act, which among other things amended the Toxic Substances Control Act. EPA and HUD are working together to ensure that these two regulations complement each other to ensure that children are protected from lead-based paint hazards.

EPA is authorized to set minimal standards for all lead-based paint abatements, inspections, and risk assessments. This includes establishing training and certification requirements and work practice standards for individuals and firms engaged in those activities, and developing hazard standards. While EPA regulations do not mandate abatement, they require that whenever abatement activities occur by design, they be performed by certified personnel. EPA also authorizes states and tribes to operate their own training and certification programs to address inspections, risk assessments, and abatement if they demonstrate that they are at least as protective as the EPA program and provide for adequate enforcement. Because authorized state and tribal programs may differ from the EPA training and certification program, individuals and firms working in these areas must check with the authorized state or tribe to ensure compliance with those requirements. Local jurisdictions may also have requirements for lead hazard control.

HUD is authorized to require lead-based paint hazard control measures in federally-assisted housing, community development, and loan guarantee programs, and to provide grants to address lead-based paint hazards in low-income, privately-owned dwelling units. HUD's Lead Safe Housing Rule, also issued under the authority of Title X, requires that each recipient of Federal rehabilitation assistance less than \$25,000 per unit must reduce lead-based paint hazards, through either interim controls or, if desired, abatement (this does not include public housing authorities conducting modernization). With limited exception, recipients conducting Federally assisted rehabilitation of more than \$25,000 per unit must abate lead-based paint hazards.

Pursuant to Title X, both EPA's and HUD's regulations define abatement generally as any measure or set of measures *designed* to permanently eliminate lead-based paint hazards, including occupant protection and safe work practices. Whenever activities intended to permanently eliminate lead hazards are being conducted, EPA and HUD consider such activities

to be abatement. Under HUD's Lead Safe Housing Rule, intention to conduct abatement would, in virtually all circumstances, be established when HUD regulations require abatement, when abatement is specified in work specifications, job write-ups, cost allocation, or similar documents, or when abatement is expressly ordered by a responsible state or local agency or court order. HUD regulations require abatement during modernization of conventional pre-1978 family public housing developments (regardless of funding level), conversions, and for housing rehabilitation programs funded through the HUD Office of Community Planning and Development when Federal rehabilitation assistance exceeds \$25,000 per unit.

EPA's regulations at 40 CFR Part 745.223 exclude from abatement "renovation, remodeling, landscaping or other activities, when such activities are not *designed to permanently eliminate lead-based paint hazards*, but, instead, are designed to repair, restore, or remodel a given structure or dwelling, even though these activities may incidentally result in a reduction or elimination of lead-based paint hazards" (emphasis added). When the primary purpose of work is rehabilitation or weatherization, EPA and HUD do not consider such activities to be abatement. The presence of a lead inspection or risk assessment report or the presumption of the presence of lead-based paint does not trigger federal abatement requirements or automatically change a housing rehabilitation project into an abatement project. Similarly, the use of specific work practices, such as window replacement, does not by itself change a rehabilitation project into an abatement project. On the other hand, even if a housing unit's Federal rehabilitation assistance is less than \$25,000, activities expressly intended to permanently eliminate lead hazards are considered abatement. For example, if a cost allocation document subtracts the cost of window replacement from the hard cost of rehabilitation as a lead-based paint hazard reduction measure, the window removal is considered to be abatement. Any other building component replacement, enclosure, or encapsulation measure intended to permanently eliminate a lead-based paint hazard, particularly as documented in regulation, project specifications, cost allocation document, or court or agency order is abatement.

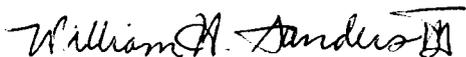
For paint repair and rehabilitation activities in properties receiving less than \$25,000 in federal rehabilitation assistance, HUD regulations require occupant protection, the use of workers trained in lead-safe work practices and clearance testing whenever more than de minimis amounts of paint are disturbed. Occupant protection is a required element of all federally-assisted rehabilitation projects covered under Subpart J of the HUD regulation, regardless of funding level, because occupant protection is a requirement under lead-safe work practices (see 24 CFR 35.1350(b) and 24 CFR 35.1345). While EPA does not currently regulate remodeling or renovation activities, both EPA and HUD support the use of lead-safe work practices for all rehabilitation and paint repair activities involving surfaces that may contain lead-based paint. HUD has adapted EPA's one-day training courses to address the requirements of HUD's Lead Safe Housing Rule and HUD is working to make its courses widely available for those subject to HUD's rule (see www.hud.gov/offices/lead for a schedule of course offerings).

HUD will enforce its requirements. Those who believe HUD's lead-based paint

regulations are being violated should send a written complaint and supporting documentation to:

John P. Kennedy
Associate General Counsel for Finance and Regulatory Enforcement
U. S. Department of Housing and Urban Development
451 Seventh St., SW
Washington, DC 20410

When fully implemented, these requirements will help to ensure that every child living in federally-assisted housing will have a lead-safe home.



William H. Sanders, III, Director
Office of Pollution Prevention and Toxics
U.S. Environmental Protection Agency



David E. Jacobs, Director
Office of Healthy Homes and Lead Hazard Control
U.S. Department of Housing and Urban
Development