New HUD Lead-Based Paint Regulations

Prepared by Office of Lead Hazard Control
U.S. Department of Housing and Urban Development
Note to Audience

- This presentation was developed by the HUD Office of Healthy Homes and Lead Hazard Control to assist others in understanding the structure and requirements of HUD’s new lead-based paint regulations which cover Federally assisted housing and Federally owned housing which is being sold.

- Users should ensure they have read and understand the actual regulation.
Why is LBP a Concern?

Childhood lead poisoning is “a major, preventable environmental health problem.”

- About 890,000 children have Elevated Blood Lead levels above CDC limits
- Irreversible health effects
- Brain and nervous system damage
- Reduced intelligence
- Learning disabilities

CDC, 1997
Myths about LBP

- Children must eat paint chips to be poisoned
- Only inner-city children are at risk
- It is more hazardous to treat LBP than to leave it alone
- Addressing Lead-Based Paint is an all-or-nothing proposition
- It costs too much
- Lead is everywhere, paint is only a small part of the problem
Who is most at risk?

- Children under the age of six
- Pregnant women
- Workers
LBP in Housing - Overview

- Over 60 million homes built before 1978 contain Lead-Based Paint (LBP)
- 20 million homes with LBP hazards
- 4 million homes with LBP hazards have a young child
- 400,000 homes with a young child are in poor condition and lack the funds to correct hazards

Regulation Preamble
LBP in Residential Housing

- Over 60 million homes built before 1978 contain lead-based paint
- Some homes are more prone to LBP hazards
  - Older, pre-1960 units
  - Poor condition
  - Unsafe renovation or maintenance
  - Exterior contaminated soil
Presentation Overview

- Legislation and regulations
- Disclosure
- New HUD Regulation

Section 1012/1013 of Title X

- Introduction and Regulation Structure
- Evaluation and hazard control requirements
- Program requirements
- Implementation
Legislation

- Lead-Based Paint Poisoning Prevention Act of 1971
- Residential Lead-Based Paint Hazard Reduction Act of 1992 (Title X)
  - Section 1012/1013 of Title X

“To reduce the threat of childhood lead poisoning in housing owned, assisted, or transferred by the Federal Government.”

Section 1003, Title X
Lead Regulations

- **Housing and Urban Development (HUD)**
  - Housing and health
- **Environmental Protection Agency (EPA)**
  - Environment and health
- **Occupational Safety and Health Administration (OSHA)**
  - Workplace safety and health
- **Consumer Product Safety Commission (CPSC)**
  - Lead in consumer products
HUD Lead Regulations

- Disclosure of Known Lead-Based Paint and LBP Hazards (1996)
  - Published jointly with EPA
  - Pre-1978 housing

- Notification, Evaluation and Reduction of Lead-Based Paint Hazards (1999)
  - Covers pre-1978 housing receiving Federal assistance and Federally owned housing being sold
  - Revises and consolidates existing HUD regulations
EPA Lead Regulations

- Disclosure of Known Lead-Based Paint and LBP Hazards (HUD & EPA - Final - 1996)

- LBP Activities in Target Housing and Child-Occupied Facilities (Final - 1996)
  - Certification and work practices
  - State certification programs

- Pre-Renovation Education (Final - 1998)
Disclosure Regulation

- Most pre-78 housing at sale or lease
- Public and privately owned housing
- Requires
  - Free educational pamphlet
  - Warning statement in contract
  - Disclosure of known LBP or LBP hazards
  - All available information
  - Opportunity for testing
    - 24 CFR 35 and 40 CFR 745
HUD’s 1012/1013 Regulation

- Pre-1978 housing receiving HUD or other Federal assistance
- Pre-1978 Federally owned housing being sold
- Requirements
  - Lead Hazard Control based on program
  - Required activities vary by type of assistance
- Effective September 15, 2000

24 CFR 35 B-D, F-M, R
Hazard Control Strategies

- Strategies vary in stringency, cost, and durability, considering the statute, and:
  - Amount, type and duration of HUD assistance
  - Age of housing
  - Occupants (rental or owner-occupied)
  - Regulation Preamble

As HUD involvement increases with a residential property, the responsibilities to protect children and families increase.
Strategies for HUD Programs

Seven strategy levels

- Safe Work Practices during Rehabilitation
- Ongoing LBP Maintenance
- Visual Assessment and Paint Stabilization
- Risk Assessment and Interim Controls
- LBP Inspection, Risk Assessment and Interim Controls
- Risk Assessment and Abatement of LBP hazards
- LBP Inspection and Abatement of all LBP
Strategies

- **Safe Work Practices during Rehabilitation**
  - Prevents low-cost rehabilitation from creating LBP hazards
  - Worksite clearance

- **Ongoing LBP Maintenance**
  - When a continuing HUD relationship exists
  - Paint maintenance
  - Includes Safe Work Practices
  - Worksite clearance
Strategies

- **Visual Assessment, Paint Stabilization, and Clearance**
  - Provide housing without deteriorated paint
  - Ongoing LBP Maintenance when continuing HUD relationship

- **Risk Assessment, Interim Controls, and Clearance**
  - Option to conduct Standard Treatments
  - Assures LBP hazards are eliminated
  - Ongoing LBP Maintenance when continuing HUD relationship
Strategies

- LBP Inspection and Risk Assessment, Interim Controls, and Clearance
  - Used on HUD-owned multifamily housing
  - Most being sold; no ongoing relationship with HUD; ongoing LBP maintenance not possible
  - Inspection provides location of remaining LBP for buyer
  - Notification of evaluation
  - Notification of hazard control

- Risk Assessment, Abatement of all LBP hazards, and Clearance
  - Used with concurrent substantial Federal rehab
  - Assure no new LBP hazards created by rehab
Strategies

● LBP Inspection, Abatement of all lead-based paint, and Clearance

◆ Greatest HUD involvement
  ● Public housing (abatement during modernization)
  ● Properties being converted to residential use
  ● Properties undergoing major rehab financed with HUD/FHA multifamily mortgage insurance

◆ These types of substantially renovated properties should be as free as possible of future LBP hazards
Summary of Important Terms

Statutory Terms
- Lead-Based Paint
- Lead-Based Paint Hazards
- Abatement
- Interim Controls
- LBP Inspection
- Risk Assessment

Regulatory Terms
- Chewable surface
- Clearance examination
- Environmental Intervention Blood Lead Level
- Hard costs of rehab
- Paint testing
- Visual assessment
- Worksite
Units of Measure

**mg/cm²**  Milligrams per square centimeter
- lead in paint

**µg/ft²**  Micrograms per square foot
- lead in dust

**µg/dL**  Micrograms per deciliter
- lead in blood
Important Statutory Terms

- **Lead-Based Paint (LBP)**
  - 1.0 mg/cm² lead on surface
  - 0.5% (5,000 ppm) lead in dry weight of paint film

- **Lead-Based Paint Hazard**
  - Condition which causes exposure to lead that would result in adverse human effects from:
    - Dust-lead
    - Soil-lead
    - Lead-based paint on deteriorated, chewable, friction, or impact surfaces
Important Statutory Terms

- **Abatement**
  - Measures designed with intent to permanently eliminate LBP or LBP hazards
  - Includes cleaning and clearance

- **Interim Controls**
  - Measures to temporarily reduce human exposure to lead-based paint hazards
  - May include repairs, painting, cleaning, ongoing LBP maintenance, and management programs
Important Statutory Terms

- **LBP Inspection**
  - Surface-by-surface investigation to determine the presence of LBP
  - Report of results

- **Risk Assessment**
  - On-site investigation
  - Existence, nature, severity, and location of LBP hazards
  - Report of results and recommendations
Important Regulatory Terms

- **Chewable**
  - Interior or exterior painted surface
  - Can be mouthed or chewed
  - Same as “accessible surface”

- **Clearance Examination**
  - Hazard reduction activities are complete
  - No soil-lead or dust-lead hazards exist
  - Includes visual assessment and analysis of environmental samples
Important Regulatory Terms

- **Environmental Intervention Blood Lead Level**
  - Blood lead at least 20 µg/dL or two readings of 15-19 µg/dL taken three months apart

- **Hard costs of rehabilitation**
  - Correcting substandard conditions
  - Meeting local rehab standards
  - Essential and non-essential improvements
  - Do **not** include administrative costs or costs allocated to lead hazard control
Important Regulatory Terms

- **Paint testing**
  - Determines the presence or absence of LBP on deteriorated paint or surfaces to be disturbed or replaced
  - Must be done by certified inspector or risk assessor

- **Visual assessment**
  - Looks for deteriorated paint; provides no lead information
  - Visible dust, debris and residue as part of risk assessment or clearance examination
  - Failure of hazard reduction measures
  - Visual assessment training required (on web)
Important Regulatory Terms

- **Worksite**
  - Interior or exterior area where lead-based paint hazard reduction takes place
  - Must be contained to prevent spreading, blowing or tracking of dust and debris for worksite clearance
  - Dwelling unit may have more than one worksite
Exemptions

- Post-1977 housing
- Zero-bedroom units
- Housing exclusively for elderly or disabled
- Property certified as lead-based paint free
- Property where lead-based paint was removed
- Unoccupied property pending demolition
- Nonresidential part of property
- Rehabilitation or maintenance activities that do not disturb painted surfaces
- Emergency actions

24 CFR 35.115
Prohibited Methods

- Open flame burning
- Machine sanding or grinding without HEPA local exhaust control
- Abrasive blasting or sandblasting without HEPA local exhaust control
- Using heat guns over 1,100° F
- Dry sanding or dry scraping
- Using certain paint strippers in poorly ventilated space

Effective November 15, 1999

24 CFR 35.140
Structure of Regulation

- Subpart A - Disclosure Rule
- Subpart B - General LBP requirements
- Subparts C-M – Program-specific requirements
- Subpart R - Methods and standards

“How” in Subpart B and R
“Who” and “What” in Subpart C-M
Regulation Subparts

A  Disclosure of Known Lead-Based Paint Hazards Upon Sale or Lease of Residential Property
B  General Lead-Based Paint Requirements and Definitions for All Programs
C  Disposition of Residential Property Owned by a Federal Agency Other Than HUD
D  Project-Based Assistance Provided by a Federal Agency Other Than HUD
E  Reserved
F  HUD-Owned Single Family Property
G  Multifamily Mortgage Insurance
Regulation Subparts

H  Project-Based Rental Assistance
I  HUD-Owned and Mortgagee-in-Possession Multifamily Property
J  Rehabilitation
K  Acquisition, Leasing, Support Services, or Operation
L  Public Housing Programs
M  Tenant-Based Rental Assistance
N-Q  Reserved
R  Methods and Standards for Lead-Based Paint Hazard Evaluation and Hazard Reduction Activities
Subpart R

- Interim dust and soil standards
- Interim controls
- Standard Treatments
- Clearance
- Occupant protection and worksite preparation
- Safe work practices
- Ongoing LBP maintenance and reevaluation
Structure of Program Subparts

- Applicability
- Notice and pamphlet requirements
- Evaluation requirements
- Lead hazard reduction requirements
- Schedule for lead hazard reduction
- Special requirements, including Environmental Intervention Blood Lead Level response
Types of Evaluation

- Paint testing
- Lead-based paint inspection
- Risk assessment

Based on Type of Federal Assistance
Visual Assessment

- Used in three activities
  - Periodic inspections
    - To identify deteriorated paint requiring paint stabilization
  - Clearance examinations
    - To identify dust and debris
    - To identify deteriorated paint
  - Ongoing LBP Maintenance activities
    - To identify failed hazard reductions
    - To identify deteriorated paint
Paint Testing

- Testing lead content of:
  - Deteriorated paint
  - Painted surfaces to be disturbed or replaced

- Differs from LBP Inspection
  - Reduced scope
  - Less expensive

- Performed by a certified LBP inspector or risk assessor

24 CFR 35.1355
Lead-Based Paint Inspection

- Surface-by-surface examination of painted or finished surfaces for lead-based paint
- Interior and exterior
- Comprehensive
- Includes intact paint and areas not to be disturbed
- Performed by a certified LBP inspector or risk assessor

40 CFR 745.227(b)
Risk Assessment

- **Identification of LBP hazards**
- **Includes**
  - Visual inspection for deteriorated paint
  - Information on occupant use patterns
  - Testing of deteriorated paint and possibly other surfaces
  - Dust sampling
  - Soil sampling
  - Reports results and recommendations
- **Performed by a certified risk assessor**

40 CFR 745.227(d)
Lead Hazard/Clearance Criteria

- Deteriorated paint
- Lead in dust (clearance/risk assessment)
  - Floors 40 µg/ft²
  - Interior window sills 250 µg/ft²
  - Troughs 400 µg/ft² (clearance only)
- Lead in bare soil (risk assessment)
  - Play areas 400 µg/g
  - Other soils 1,200 µg/g
Clearance Examination

- Visual Assessment
- Dust sampling
  - Dust Lead standards
  - Laboratory analysis
- Certified, or trained and supervised personnel
  - Inspectors, Risk Assessors: abatement and non-abatement clearances
  - Sampling/Clearance Technician: only non-abatement clearances as state allows
Notice and Pamphlet Requirements

- Pamphlet, if not already provided
- Notice to occupants of evaluation or presumption
  - Within 15 days of receipt of report
  - Summary of results
  - Contact information
- Notice to occupants of hazard reduction
  - Within 15 days of completion
  - Summary of work done and clearance
  - Contact information
  - Available information on remaining LBP

24 CFR 35.125
Qualifications

- **Visual Assessment for deteriorated paint**
  - Training available from www.hud.gov/offices/lead/lbptraining.cfm

- **Paint Testing, Inspection or Risk Assessment**
  - EPA, Tribal, or State certification

- **Clearance**
  - Certification as Inspector, Risk Assessor or Sampling/Clearance Technician
  - Supervision (if uncertified Sampling Technician)
Qualifications

- **Interim Controls**
  - Trained in OSHA hazard communication standard and supervised by a certified abatement supervisor or
  - Completion of HUD-approved training (one of the courses listed on web – www.hud.gov/offices/lead/lbppcaining.cfm)

- **Abatement (EPA requirements)**
  - Certified abatement supervisor
  - Certified abatement workers
Lead Hazard Reduction Methods

- **Interim Controls**
  - Paint stabilization
  - Treatment of friction, impact and chewable surfaces
  - Lead-contaminated dust and soil control
  - Standard Treatments are an option

- **Abatement**
  - Permanent Elimination of Lead-Based Paint or
  - Permanent Elimination of Lead-Based Paint Hazards

- **Ongoing LBP Maintenance and Reevaluation**

  Depends on Type of Federal Assistance
Evaluation Options

- Presume LBP or LBP Hazards
- Paint testing of deteriorated paint
- Lead Hazard Screen instead of Risk Assessment
  - May require a follow-on risk assessment
Standard Treatments Option

- Instead of evaluation and Interim Controls
- Skip risk assessment and presume LBP and LBP hazards
- Actions include
  - Paint Stabilization
  - Smooth and cleanable horizontal surfaces
  - Correction of dust generating conditions
  - Treatment of bare residential soil
  - Safe Work Practices included
  - Clearance
- Not allowed when abatement is required

24 CFR 35.1335
Ongoing LBP Maintenance

- Visual Assessment, including bare soil
- Stabilize deteriorated paint
- Treat bare soil
- Repair, perform interim controls on or abate failed encapsulation or enclosure treatments
- Clearance and Lead Safe Work Practices required above de minimis
- Periodic reevaluation by risk assessor, if required

24 CFR 35.1355
Reevaluation

- If LBP remains after hazard reduction
- Identify
  - Deteriorated paint surfaces
  - Deteriorated or failed Interim Controls
  - Dust-lead hazards
  - Newly bare soil with soil-lead over standards

- Performed by certified risk assessor
- Reevaluation every two years
  - Begins two years after hazard reduction
  - Opportunity to achieve exemption

- Response to identified hazards
Interim Controls

- Training requirements for personnel
- Includes occupant protection and clearance

Activities include
- Paint stabilization
- Friction or impact surfaces
- Chewable surfaces
- Dust-lead hazard control
- Soil-lead hazard control
Paint Stabilization

- **Type of Interim Control**
  - **Includes:**
    - Substrate repair
    - Surface preparation methods
    - New paint

- **Lead Safe Work Practices if over de minimis**

- **Clearance required over de minimis**

24 CFR 35.1330(b)
Abatement

- Certified personnel
- Abatement of Lead-Based Paint or Lead-Based Paint Hazards

Methods include:
- Component replacement
- Paint removal
- Encapsulation (flow-on product; relies on adhesion; 20-year life)
- Enclosure (mechanically fastened; 20-year life)
- Paving or removal soil

Clearance follows abatement

24 CFR 35.1325
Safe Work Practices

- Specifically required for:
  - Ongoing LBP Maintenance
  - Paint stabilization
  - Rehab (<$5,000)
  - Standard treatments

- Prohibited methods
- Occupant protection and worksite preparation
- Specialized cleaning
- Control dust generated with wet methods
- Contain dust and debris
- Proper clean-up and pass clearance
- Required above de minimis levels

24 CFR 35.1350
De Minimis Levels

- Exception to Safe Work Practices

- Work which disturbs less than:
  - 20 square feet on exterior surfaces
  - 2 square feet in any one interior room or space
  - or 10 percent of area of a interior or exterior component with a small area (sills, baseboards, etc.) per room

24 CFR 35.1350
Program Information
C-Non-HUD Property Disposition

- **Pre-1960 housing**
  - Risk Assessment and inspection before closing
  - Abate all lead-based paint hazards identified in risk assessment
  - Clearance

- **1960-1977 housing**
  - Risk assessment and inspection before closing
  - Provide copies of reports to purchaser

24 CFR 35.210-35.215
D-Non-HUD Project-Based Assist.

- Residential property receiving over $5,000 per year in project-based assistance
- Risk Assessment
- Interim Controls of hazards based on Risk Assessment
- Clearance
- Units with EIBLL children
  - Accelerate Risk Assessment and Interim Controls

24 CFR 35.300-35.325
F-HUD Owned Single Family

- Housing sold with HUD Mortgage Insurance
- Visual Assessment for deteriorated paint
- Paint Stabilization of deteriorated paint surfaces
- Clearance before occupancy

24 CFR 35.300-35.325
G-Multifamily Mort. Insurance

- **Housing covered by new application or if HUD owns mortgage**
  - Does not apply to refinancing if appraisal is not required

- **Pre-1960 housing**
  - Risk Assessment before firm commitment
  - Interim Controls and clearance before commitment
  - Ongoing LBP Maintenance

- **1960-1977 housing**
  - Commitment to incorporate ongoing lead-based paint maintenance

24 CFR 35.600-35.630
Conversions and Major Rehabilitation

- Conversion of nonresidential property or rehab over 50% of replacement cost
- Inspection before firm commitment
- Abatement of all LBP and clearance before occupancy

24 CFR 35.630
H-Project-Based Rental Assist.

- Multifamily units with up to $5,000 annual assistance per unit and all single-family
  - Periodic Visual Assessment
  - Paint Stabilization and clearance
  - Ongoing LBP Maintenance
  - Special requirements for EIBLL children

- Multifamily units with over $5,000 annual assistance per unit
  - Risk Assessment (phased deadlines)
  - Interim Controls and clearance
  - Ongoing LBP Maintenance
  - Special requirements for EIBLL children

24 CFR 35.700-35.730
EIBLL Requirements

- Verification
- Risk assessment and interim controls
- Reporting
- Exchange of information for Tenant-Based Rental Assistance
H-Project-Based Rental Assist.

- Implementation dates (up to $5,000)
  - September 15, 2000

- Implementation dates (over $5,000)
  - Pre-1960 property
    - Transitional requirements begin Sept 15, 2000
    - Risk assessment complete by Sept 17, 2001
  - 1960-1977 housing
    - Transitional requirements begin Sept 15, 2000
    - Risk assessment complete by Sept 15, 2003
  - Transitional requirements
    - Ongoing LBP maintenance
    - Specific requirements for EIBLL children

24 CFR 35.715
Risk Assessment and Inspection
- Complete by December 15, 2000 or 90 days after subpart becomes applicable to property

Interim Controls and Clearance
- Within 90 days of the risk assessment if children under 6 reside
- Within 12 months of the risk assessment if no children reside

Ongoing LBP Maintenance and Reevaluation

Special requirements for EIBLL children

24 CFR 35.800-35.830
J-Rehabilitation

● Requirements depend on “hard costs” of rehabilitation assistance
  ❖ Hard costs include
    ● Correcting substandard conditions
    ● Meeting local rehab standards
    ● Essential and non-essential improvements
    ● But no administrative costs
    ● Does not include additional costs of lead hazard reduction and compliance with the regulation

● Ongoing LBP Maintenance for HOME assisted rental properties
J-Rehabilitation

- **Up to $5,000 per unit**
  - Paint testing or presume LBP
  - Safe work practices and clearance of *worksite allowed*

- **$5,000 - $25,000 per unit**
  - Paint testing or presume LBP
  - Risk assessment of the unit, common areas, and exterior
  - Interim controls and clearance
J-Rehabilitation

- Over $25,000 per unit
  - Paint testing or presume LBP
  - Risk assessment of the unit, common areas, and exterior
  - Abate identified lead-based paint hazards
  - Interim controls acceptable on exterior surfaces not being disturbed by rehabilitation
  - Clearance of unit and common areas

24 CFR 35.900-35.940
K-Acquisition, Leasing, etc.

- Acquisition, leasing, support services, or operation programs
  - May include many CPD programs
- Visual Assessment
- Paint Stabilization of deteriorated paint
- Clearance
- Ongoing LBP Maintenance

24 CFR 35.1000-35.1020
L-Public Housing Programs

- **Inspection (if not performed already)**
  - Review existing inspections
  - Revise or augment existing inspections by September 17, 2001

- **Risk Assessment**
  - If earlier inspection identified LBP that has not yet been removed
  - If no inspection had been performed
  - By March 15, 2001 for pre-1960 properties
  - By March 15, 2002 for 1960-1977 properties

24 CFR 35.1100-35.1140
L-Public Housing Programs

- Abate all lead-based paint and lead-based paint hazards during modernization
- Interim Controls in units not yet abated
  - Ongoing LBP maintenance
- Special requirements for units with EIBLL child
  - Verification
  - Risk assessment and interim controls
  - Reporting
  - Other units

24 CFR 35.1100-35.1140
M-Tenant Based Rental Assist.

- Visual Assessment for deteriorated paint during initial and periodic inspections
- Paint Stabilization of deteriorated paint surfaces and clearance
- Ongoing LBP Maintenance activities
- Additional requirements for units with EIBLL child
  - Verification
  - Risk assessment and interim controls
  - Information exchange with health department

24 CFR 35.1200-35.1225
Implementation Schedule

- Prohibited practices - November 15, 1999
- Regulation subparts
  - All effective on September 15, 2000
  - Some have transitional requirements
- Project-Based Rental Assist. - Subpart H
  - Deadline for risk assessments is Sept 17, 2001 (pre-1960) or Sept 15, 2003 (1960-77)
  - Transitional reqts in effect Sept 15, 2000
- Multifamily Property - Subpart I
  - Inspection/risk assessment by Dec 15, 2000
- Earlier implementation permissible
Lead Safe Housing Rule

Questions

- HUD e-mail: lead_regulations@hud.gov
- HUD voice mail: (202) 755-1785 x 104

The regulation can be obtained from OHHLHC Web Site

- www.hud.gov/offices/offices/lead
Implementation Assistance

- HUD Lead Hazard Control Grant Program Grantees
- Operating in over 200 cities
- Low-income private housing
- Contractor certification
- A community resource
Lead Information Resources

- National Lead Information Center
  - Copies of the regulation
  - 1-800-424-LEAD

- Lead professionals, training providers and HUD-sponsored Lead Safe Work Practices training listings
  - www.leadlisting.org
  - 1-888-LEADLIST

- HUD - www.hud.gov/offices/lead
- EPA - www.epa.gov/opptintr/lead
Other Federal Agencies with local resources

- Centers for Disease Control and Prevention
  - Childhood Lead Poisoning Prevention grantees nationwide

- Environmental Protection Agency
  - Local lead hazard awareness grantees
  - Regional staff
Users are urged to obtain a copy of the regulation (1-800-424-LEAD) to ensure an understanding of the requirements.