

ATTACHMENT TO NOTICE PIH 2000-23 (HA)

TITLE 24--HOUSING AND URBAN DEVELOPMENT

CHAPTER IX--OFFICE OF ASSISTANT SECRETARY FOR PUBLIC AND INDIAN  
HOUSING,  
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

PART 982--SECTION 8 TENANT-BASED ASSISTANCE: UNIFIED RULE FOR  
TENANT-BASED ASSISTANCE UNDER THE SECTION 8 RENTAL CERTIFICATE  
PROGRAM AND THE SECTION 8 RENTAL VOUCHER PROGRAM--Table of  
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Subpart I-- Dwelling Unit: Housing Quality Standards, Subsidy  
Standards,

Inspection and Maintenance

Sec. 982.401 Housing quality standards (HQS).

Source: 60 FR 34695, July 3, 1995, unless otherwise noted.

(j) Lead-based paint performance requirement--(1) Purpose and  
applicability. (i) The purpose of paragraph (j) of this section  
is to

implement section 302 of the Lead-Based Paint Poisoning  
Prevention Act,

42 U.S.C. 4822, by establishing procedures to eliminate as far  
as

practicable the hazards of lead-based paint poisoning for units  
assisted

under this part. Paragraph (j) of this section is issued under  
24 CFR

35.24 (b)(4) and supersedes, for all housing to which it  
applies, the

requirements of subpart C of 24 CFR part 35.

(ii) The requirements of paragraph (j) of this section do  
not apply

to 0-bedroom units, units that are certified by a qualified  
inspector to

be free of lead-based paint, or units designated exclusively for  
elderly. The requirements of subpart A of 24 CFR part 35 apply  
to all

units constructed prior to 1978 covered by a HAP contract under  
part

982.

(2) Definitions.

Chewable surface. Protruding painted surfaces up to five  
feet from

the floor or ground that are readily accessible to children under six years of age; for example, protruding corners, window sills and frames, doors and frames, and other protruding woodwork.

Component. An element of a residential structure identified by type and location, such as a bedroom wall, an exterior window sill, a baseboard in a living room, a kitchen floor, an interior window sill in a bathroom, a porch floor, stair treads in a common stairwell, or an exterior wall.

Defective paint surface. A surface on which the paint is cracking, scaling, chipping, peeling, or loose.

Elevated blood lead level (EBL). Excessive absorption of lead. Excessive absorption is a confirmed concentration of lead in whole blood of 20 ug/dl (micrograms of lead per deciliter) for a single test or of 15-19 ug/dl in two consecutive tests 3-4 months apart.

HEPA means a high efficiency particle accumulator as used in lead abatement vacuum cleaners.

Lead-based paint. A paint surface, whether or not defective, identified as having a lead content greater than or equal to 1 milligram per centimeter squared ( $\text{mg}/\text{cm}^2$ ), or 0.5 percent by weight or 5000 parts per million (PPM).

(3) Requirements for pre-1978 units with children under 6.  
(i) If a dwelling unit constructed before 1978 is occupied by a family that includes a child under the age of six years, the initial and each periodic inspection (as required under this part), must include a visual inspection for defective paint surfaces. If defective paint surfaces are found, such surfaces must be treated in accordance with paragraph (j)(6) of this section.

(ii) The HA may exempt from such treatment defective paint surfaces that are found in a report by a qualified lead-based paint inspector not

to be lead-based paint, as defined in paragraph (j)(2) of this section.

For purposes of this section, a qualified lead-based paint inspector is a State or local health or housing agency, a lead-based paint inspector certified or regulated by a State or local health or housing agency, or an organization recognized by HUD.

(iii) Treatment of defective paint surfaces required under this section must be completed within 30 calendar days of HA notification to the owner. When weather conditions prevent treatment of the defective paint conditions on exterior surfaces within the 30 day period, treatment as required by paragraph (j)(6) of this section may be delayed for a reasonable time.

(iv) The requirements in this paragraph (j)(3) apply to:

(A) All painted interior surfaces within the unit (including ceilings but excluding furniture);

(B) The entrance and hallway providing access to a unit in a multi-unit building; and

(C) Exterior surfaces up to five feet from the floor or ground that are readily accessible to children under six years of age (including walls, stairs, decks, porches, railings, windows and doors, but excluding outbuildings such as garages and sheds).

(4) Additional requirements for pre-1978 units with children under 6

with an EBL. (i) In addition to the requirements of paragraph (j)(3) of this section, for a dwelling unit constructed before 1978 that is

occupied by a family with a child under the age of six years with an identified EBL condition, the initial and each periodic inspection (as required under this part) must include a test for lead-based paint on chewable surfaces. Testing is not required if previous testing of chewable surfaces is negative for lead-based paint or if the chewable surfaces have already been treated.

(ii) Testing must be conducted by a State or local health or housing

agency, an inspector certified or regulated by a State or local health or housing agency, or an organization recognized by HUD. Lead content must be tested by using an X-ray fluorescence analyzer (XRF) or by laboratory analysis of paint samples. Where lead-based paint on chewable surfaces is identified, treatment of the paint surface in accordance with paragraph (j)(6) of this section is required, and treatment shall be completed within the time limits in paragraph (j)(3) of this section.

(iii) The requirements in paragraph (j)(4) of this section apply to all protruding painted surfaces up to five feet from the floor or ground that are readily accessible to children under six years of age:

(A) Within the unit;

(B) The entrance and hallway providing access to a unit in a multi-unit building; and

(C) Exterior surfaces (including walls, stairs, decks, porches, railings, windows and doors, but excluding outbuildings such as garages and sheds).

(5) Treatment of chewable surfaces without testing. In lieu of the procedures set forth in paragraph (j)(4) of this section, the HA may, at its discretion, waive the testing requirement and require the owner to treat all interior and exterior chewable surfaces in accordance with the methods set out in paragraph (j)(6) of this section.

(6) Treatment methods and requirements. Treatment of defective paint surfaces and chewable surfaces must consist of covering or removal of the paint in accordance with the following requirements:

(i) A defective paint surface shall be treated if the total area of defective paint on a component is:

(A) More than 10 square feet on an exterior wall;

(B) More than 2 square feet on an interior or exterior component with a large surface area, excluding exterior walls and including, but

not limited to, ceilings, floors, doors, and interior walls; or

(C) More than 10 percent of the total surface area on an interior or exterior component with a small surface area, including, but not limited to, window sills, baseboards and trim.

(ii) Acceptable methods of treatment are: removal by wet scraping, wet sanding, chemical stripping on or off site, replacing painted components, scraping with infra-red or coil type heat gun with temperatures below 1100 degrees, HEPA vacuum sanding, HEPA vacuum needle gun, contained hydroblasting or high pressure wash with HEPA vacuum, and abrasive sandblasting with HEPA vacuum. Surfaces must be covered with durable materials with joints and edges sealed and caulked as needed to prevent the escape of lead contaminated dust.

(iii) Prohibited methods of removal are: open flame burning or torching; machine sanding or grinding without a HEPA exhaust; uncontained hydroblasting or high pressure wash; and dry scraping except around electrical outlets or except when treating defective paint spots no more than two square feet in any one interior room or space (hallway, pantry, etc.) or totalling no more than twenty square feet on exterior surfaces.

(iv) During exterior treatment soil and playground equipment must be protected from contamination.

(v) All treatment procedures must be concluded with a thorough cleaning of all surfaces in the room or area of treatment to remove fine dust particles. Cleanup must be accomplished by wet washing surfaces with a lead solubilizing detergent such as trisodium phosphate or an equivalent solution.

(vi) Waste and debris must be disposed of in accordance with all applicable Federal, state and local laws.

(7) Tenant protection. The owner must take appropriate action to protect residents and their belongings from hazards associated with treatment procedures. Residents must not enter spaces undergoing

treatment until cleanup is completed. Personal belongings that are in work areas must be relocated or otherwise protected from contamination.

(8) Owner information responsibilities. Prior to execution of the HAP contract, the owner must inform the HA and the family of any knowledge of the presence of lead-based paint on the surfaces of the residential unit.

(9) HA data collection and recordkeeping responsibilities.

(i) The HA must attempt to obtain annually from local health agencies the names and addresses of children with identified EBLs and must annually match this information with the names and addresses of participants under this part. If a match occurs, the HA must determine whether local health officials have tested the unit for lead-based paint. If the unit has lead-based paint the HA must require the owner to treat the lead-based paint. If the owner does not complete the corrective actions required by this section, the family must be issued a certificate or voucher to move.

(ii) The HA must keep a copy of each inspection report for at least three years. If a dwelling unit requires testing, or if the dwelling unit requires treatment of chewable surfaces based on the testing, the HA must keep the test results indefinitely and, if applicable, the owner certification of treatment. The records must indicate which chewable surfaces in the dwelling units have been tested and which chewable surfaces in the units have been treated. If records establish that certain chewable surfaces were tested or tested and treated in accordance with the standards prescribed in this section, such chewable surfaces do not have to be tested or treated at any subsequent time.

60 FR 34695, July 3, 1995, as amended at 61 FR 27163, May 30,  
1996; 63  
FR 23861, Apr. 30, 1998]