



LEAD SAFE HOUSING RULE REQUIREMENTS

Lead-based paint requirements exist to protect vulnerable families from potential health hazards. To prevent lead-poisoning in young children, COC grantees must comply with the Lead-Based Paint Poisoning Prevention Act of 1973 and its applicable regulations found at 24 CFR 35.

The following lists the requirements and provides a guide to make certain all agencies with COC projects are in compliance with this rule.

- 1. Provision of pamphlet.** All households should receive a copy of “Protect Your Family from Lead in the Home” pamphlet and an acknowledgment of this should be in the client file, signed and dated.
- 2. Disclosure requirements.** For all properties constructed prior to 1978, HUD’s disclosure form for rental properties will need to be completed disclosing the presence of known and unknown lead-based paint. This form must be completed by the property owner or landlord.

https://portal.hud.gov/hudportal/documents/huddoc?id=DOC_12345.pdf

Both the disclosure form and pamphlet are available at:

<http://www.hud.gov/offices/lead/enforcement/disclosure.cfm>

3. Visual Assessment and Exemption

The first step, before providing any assistance, is to determine whether the lead-based paint requirements are triggered. Please answer the following questions:

1. Was the property constructed before 1978? YES NO
Proper documentation of the age of the unit must be in the client file. Guidance on how to attain this information is in the “Resources” section at the end of this document.
2. Is there, or will there be, a child under the age of six (6) living in the unit. YES NO

If the answer to both of these questions is “yes”, please continue on with further lead-based paint requirements. **If the answer to one or both is “no”, please sign and date below and place in the client file. No further action is required.**

Signature of program staff

Date

Name of Participant: _____

Address: _____

IF the answer to both questions above are “yes” you are required to conduct a visual assessment of the property. There is an exception to this rule. Please fill out the following exemption form to determine if a visual assessment does not need to be conducted.



This form is to assess residential properties assisted with COC program funds to evaluate applicability of the Lead Safe Housing Rule. If the response to any question is “yes”, the property is exempt from the requirements of 24 CFR part 35. *Please conduct this review for every unit and place in participant file.*

Property owner and address: _____

Exemptions from all requirements of 24 CFR part 35

1. Was construction of the property completed on or after January 1, 1978? YES NO
2. Is this a zero-bedroom or SRO dwelling unit? YES NO
3. Is this housing for the elderly or a residential property designated exclusively for persons with disabilities? YES NO
4. Has this property previously been inspected by a certified lead-based paint inspector and found not to have lead-based paint?
 - The date of the original paint inspection was _____. An optional paint inspection conducted on _____ confirmed this prior finding.
5. Has all lead-based paint in the property been identified and removed, and has clearance been achieved as cited below?
 - Clearance was achieved prior to September 15, 2000, and the work was done in accordance with 40CFR Part 745.227(b).
 - Clearance was achieved after September 15, 2000, and the work was done in accordance with 24CFR Part 35.1320, 1325 and 1340.
6. Will a currently vacant unit remain vacant until it is demolished? YES NO
7. Is any part of the property not used for human habitation?
 - In cases of mixed-use properties, if spaces such as hallways, entryways, stairways or corridors are shared the property shall not be exempt.
8. Will any rehab exclude disturbing painted surfaces? YES NO



9. Are emergency actions immediately necessary to safeguard against imminent danger to human life, health or safety, or, to protect the property from further structural damage? (e.g. after natural disaster or fire) YES NO

10. Will the unit be occupied for less than 100 days under emergency leasing assistance to an eligible household? YES NO

Signature and date of program staff conducting assessment and exemption form.

Additional exemption criteria

- ❖ Where abatement of lead-based paint hazards or lead-based paint is required by this part and the property is listed or has been determined to be eligible for listing in the National Register of Historic Places or contributing to a National Register Historic District, the designated party may, if requested by the State Historic Preservation Office, conduct interim controls in accordance with Sec. 35.1330 instead of abatement. If interim controls are conducted, ongoing lead-based paint maintenance and reevaluation shall be conducted as required by the applicable subpart of this part in accordance with Sec. 35.1355.

If the unit falls under this criteria, please reference the following for further explanation and guidance.

<https://www.hudexchange.info/resources/documents/Historic-Properties-and-the-Lead-Safe-Housing-Rule.pdf>



If the assessment process reveals that a unit is not exempt, the lead-based paint requirements apply only to units with children under age six. The following steps must then be taken to be in compliance with this regulation.

1. **Conduct visual assessment.** Inform the client and property owner of the lead-based paint requirements and schedule the visual assessment.
 - a. A visual assessment must be conducted prior to providing any financial assistance to the unit, and on an annual basis thereafter (as long as assistance is provided). Visual assessments must be conducted by a HUD-Certified Visual Assessor. It is important to note that a HUD-Certified Visual Assessor is not equivalent to a Certified Clearance Examiner. Anyone may become a HUD-Certified Visual Assessor by successfully completing a 20-minute online training on HUD's website at: <http://www.hud.gov/offices/lead/training/visualassessment/h00101.htm>. The training teaches individuals how to identify deteriorated paint and how deteriorated paint must be treated.

2. **Identify risks and compare to "de minimis" level.** During a visual assessment, the assessor must determine the level of any identified problems with paint surfaces and compare it to the "de minimis" level. Under the Lead act, the de minimus level is as follows:
 - a. 20 square feet on exterior surfaces;
 - b. 2 square feet in any one interior room or space; or
 - c. 10 percent of the total surface area on an interior or exterior component with a small surface area, like window sills, baseboards, and trim.All deteriorated paint identified during the visual assessment must be repaired. However, if the area of paint to be stabilized exceeds the de minimis level, the use of lead safe work practices and clearance is required. If deteriorating paint exists but the area of paint to be stabilized does not exceed this level, then safe work practices and clearance are not required. If deteriorating paint is not identified, the unit can be cleared for assistance.

3. **Make assistance determination.** If a visual assessment reveals problems with paint surfaces, program staff cannot approve the unit for assistance until the deteriorating paint has been repaired. At this point, program staff must make a decision: work with the property owner/manager to complete needed paint stabilization activities and clearance or work with the household to locate a different (lead-safe) unit.

4. **Confirm all identified deteriorated paint has been stabilized.** Program staff should work with property owners/managers to ensure that all deteriorated paint identified



during the visual assessment has been stabilized. If the area of paint to be stabilized does not exceed the de minimus level, a clearance exam is not required. In these cases, the HPRP program staff should confirm that the identified deteriorated paint has been repaired and document the case file.

If the area of paint to be stabilized exceeds the de minimus level, program staff should ensure that the clearance inspection is conducted by an independent certified lead professional. (A certified lead professional may go by various titles, including a certified paint inspector, risk assessor, or sampling/clearance technician.) Note, the clearance inspection cannot be conducted by the same firm that is repairing the deteriorated paint. Local community development, housing, or health departments are often able to provide this testing.

Locating a Certified Lead Professional

To locate a certified lead professional in your area:

- Call your state government (health department, lead poison prevention program, or housing authority).
- Call the National Lead Information Center at 1-800-424-LEAD (5323).
- Go to the US Environmental Protection Agency website at <http://cfpub.epa.gov/flpp/> and click on "certified abatement/inspection firms."

5. **Response to a child with elevated blood leads levels.** In cases where it is brought to the attention of program staff that a child under the age of six living in a COC-assisted unit is found to have elevated blood lead levels, the response process established at 24 CFR 35.1225 takes effect, which includes a risk assessment and interim controls and information exchange with the health department.
6. **Conduct ongoing lead-based paint monitoring.** Program staff must conduct a visual assessment of the stability of painted surfaces on an annual basis during the assistance period.

In the event additional requirements for lead-based paint safety are triggered, it is recommended to contact the Milwaukee HUD Field office. The contact information can be found at: <https://portal.hud.gov/hudportal/HUD?src=/states/wisconsin/offices>



Resources

Determining the age of a unit

Program staff should use formal public records, such as tax assessment records, to establish the age of a unit. These records are typically maintained by the state or county and will include the year built or age of the property. In most areas, these records are available online. If you are uncertain where to find this information, a quick internet search should help you locate the data you need. In the search field, try combining your county name with one of the following phrases:

- “property tax records”
- “property tax database”
- “real property sales”

For example, if you enter “DC property tax records,” the first search result is a public database that can be used to determine the age of a property located within the District of Columbia. Once you have found it, remember to bookmark the page for future reference!

Remember to print out a copy of the screenshot for the case file. If you have trouble finding this information online, contact your local Office of Tax and Revenue for assistance. If not available online, the information is public and can be requested from the local authorities. (Note, the taxing authority and the assessment entity may be separate governmental entities and office names vary by locality.)

Additional Resources regarding Lead-Based Paint

The Lead Safe Housing Rule as well as a HUD training module to help recipients of CPD administered funds effectively implement the requirements of the Lead Safe Housing Rule in their programs can be accessed at

<http://www.hud.gov/offices/cpd/affordablehousing/training/web/leadsafe/>