
CHAPTER 11
ENVIRONMENTAL CONSIDERATIONS

11-1 Introduction. This Chapter furnishes the policies and procedures covering environmental considerations that may impact MIP and HUD-owned projects.

11-2 Lead-Based Paint.

A. Regulations. The regulations at 24 CFR Part 35, Subpart E and 24 CFR 200.825 set forth the procedures for the elimination of lead-based paint hazards in multifamily HUD-owned projects intended for residential habitation. Although MIP projects are covered in 24 CFR Part 35, Subpart C, the more aggressive Subpart E will be employed to cover these projects.

B. Exclusions from Lead-Based Paint Testing and Abatement. The following projects/units are excluded from testing and abatement:

- * 1. Structures built after 1978; *
- 2. Projects intended for the elderly or the disabled (except for units housing children under seven years of age); and
- 3. 0-bedroom (efficiency) units.

C. Inspection, Testing and Abatement Planning. For the conditions described in D. below, the GTR/GTM must assure that lead-based paint inspection, testing and abatement are:

- 1. Included in the Management Plan for each project not excluded.
- 2. Addressed in the Comprehensive Repair Plan.

D. Conditions Requiring Inspection, Testing and/or Abatement. Inspection, testing and abatement requirements differ for:

- 1. Units occupied by a child under seven years of age who has an elevated blood-lead level (EBL).

An EBL is an excessive absorption of lead as defined in 24 CFR 200.805;

2. Defective paint surfaces.

Defective paint surfaces are surfaces that have paint that is cracking, scaling, chipping, peeling, or loose. Defective paint surfaces contribute to the presence of paint dust, which, if lead-based, is also a health hazard; and

3. Chewable paint surfaces.

Chewable paint surfaces are all chewable protruding painted surfaces up to five feet from the floor or ground, which are readily accessible to children under seven years of age, e.g., protruding corners, window sills and frames, doors and frames, and other protruding woodwork.

E. Inspection, Testing and Abatement Requirements. The following lead-based paint inspection, testing and abatement must be performed by HUD. However, if abatement can not be completed because a sale or foreclosure is imminent - the remainder of the abatement can be included as a requirement of the Foreclosure Sale of an MIP or sale of a HUD-Owned Project, as required: *

1. Elevated Blood Levels. If test results indicate that a child under seven years of age living in a unit in a HUD-owned or MIP property has an elevated blood-lead level (EBL), the DHM must assure that either the HUD contractor or the PM's subcontractor either:

- a. Promptly tests all painted surfaces in the unit occupied by the child. If the test is positive for the presence of lead-based paint, the unit must be abated; or
- b. If the unit is not tested, promptly proceeds with abatement of all painted surfaces in the unit occupied by the child.

2. Defective Paint Surfaces and Chewable Paint Surfaces. During MIP or HUD ownership, all units and common areas of each non-excluded project must be inspected for defective paint surfaces and chewable paint surfaces, and a Certification (APPENDIX 11-1) must be completed. This inspection should be completed in conjunction with the *

Comprehensive Repair Survey pursuant to this Handbook.

- a. Defective paint surfaces and chewable paint surfaces must either be abated, or tested for lead-based paint and abated if found to be positive.
 - (1) The DHM may elect to abate all defective and chewable paint surfaces without testing for lead-based paint, if such abatement is more cost effective than testing.
 - (2) If the DHM elects not to abate all paint surfaces, all defective paint surfaces and a random sampling of chewable paint surfaces must be tested. If paint surfaces are found to contain lead-based paint, the surfaces must be abated. In addition, the types of chewable paint surfaces found to have lead-based paint must be abated throughout the project.
 - (3) If no lead-based paint surfaces are found, no abatement is necessary.
 - b. If lead-based paint surfaces are found, an estimate of cost for abatement should be included in the Repair Plan, in accordance with the repair procedures in this Handbook.
 - c. Lead-based paint surfaces must be abated by HUD unless sale or foreclosure (for MIP projects) is imminent, i.e:
 - (1) If the remaining time before sales closing allows for abatement of defective paint surfaces, the GTR/GTM must assure that surfaces are abated.
 - (2) If all abatement cannot be completed before closing, the DHM shall abate as many surfaces as is reasonably possible. The remainder of the abatement shall be described and included in the Contract of Sale as a required repair.
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F. Random Sampling, Testing and Abatement Specifications.

1. Random sampling consists of testing at least the number of units stated in 24 CFR 200.820(c)(1)(i), together with a sample from applicable surfaces of common areas used by children under seven years of age.
 2. Testing.
 - a. Lead content shall be tested using a portable X-ray fluorescence analyzer (XRF) or laboratory analysis of paint samples.
 - b. Test readings of 1.0 milligram of lead per square centimeter or higher are considered positive for the presence of lead-based paint. If testing is conducted by laboratory analysis of paint samples and it is not practicable to obtain samples of known area, a concentration of 0.5 percent by weight, or 5000 ppm, is considered positive.
 - c. Testing must be performed by a State or local health or housing agency or by an inspector certified or regulated by the State or local health or housing agency, who will provide certification and test results to HUD.
 3. Abatement of defective lead-based paint surfaces and chewable lead-based paint surfaces.
 - a. Surfaces may be abated by covering or removing of the paint or by replacing the painted component.
 - b. The covering of lead-based paint surfaces may be accomplished by such means as adding a layer of wallboard to the wall surface. Depending on the wall condition, wall coverings which are permanently attached may be used. Covering or replacing trim surfaces is also permitted.
 - c. Paint removal may be accomplished by such methods as scraping, heat treatment (infrared or coil type heat guns) or chemicals.
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Machine sanding and use of propane torches (open-flame methods) are not permitted.

- d. Washing and repainting without thorough removal or covering does not constitute adequate abatement. In the case of defective paint spots, scraping and repainting the defective area is considered adequate abatement.
- * e. More detailed abatement guidance is provided in APPENDIX 11-2. *
- G. After abatement of all surfaces, the PM must certify to the GTR/GTM that the unit was inspected to assure proper abatement and work completion.
- H. HUD or the purchaser must take appropriate action to protect the health and safety of residents and workers from hazards which may be associated with testing and abatement procedures since paint dust and loose chips are created during the abatement process. The extent and method of abatement undertaken by either HUD or the purchaser and the time necessary to complete the abatement must be considered when determining the type of protection to be provided. APPENDIX 11-2 provides guidance on protection and clean-up. *
- I. In all instances where abatement is necessary, debris must be disposed of in accordance with applicable Federal, state or local requirements.
- * J. Tenant Notification. The Lead Based Paint Poisoning and Prevention Act (LBPPPA) of 1970 and subsequent amendments address the prevalent issue of lead-based paint in the nation's aging housing stock. The LBPPPA along with its implementing HUD regulations found in 24 CFR Part 35 require that tenants of HUD insured and subsidized housing constructed prior to 1978, be notified of the possible hazards of lead-based paint (LPB), the symptoms and treatment of lead-based paint poisoning, and the precautions which can be taken (including maintenance and removal) in an attempt to minimize lead-based paint poisoning.

In compliance with the requirements of the law, HUD's Office of Lead-Based Paint and Poisoning Prevention has developed a Notification Brochure to inform tenants of the required information. Entitled "Lead-Based Paint: *

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* A Threat to your Children," this brochure discusses a wide range of topics related to LBP such as how to avoid being poisoned and measures tenants can take to ensure minimal risk. In addition, the brochure provides an acknowledgement form which the tenant should sign stating they have received a copy of the brochure.

1. Applicability. Applicable to all properties constructed prior to 1978, which currently fall under any of the three categories below:
 - a) Covered by HUD mortgage insurance; OR
 - b) HUD-held (including 202 Direct Loans and Purchase Money Mortgages); OR
 - c) Covered by a contract for Housing Assistance Payments.

2. Exceptions: If a property is designed as Housing for the elderly (e.g. Section 202, Section 221(d)(3) or Section 236 Elderly) or handicapped, then owners are not required to notify tenants unless a child under the age of 7 resides in the unit or is expected to reside in a unit. Zero bedroom units are also exempt from the notification requirements.

If the mortgage is only insured under any of the following Sections of the Act the owner is exempt from the notification requirements: Sections 231, 232, 241, of 242 of the National Housing Act.

Refer to APPENDIX 11-2 for additional guidance *

11-3 Asbestos.

- A. For all MIP and HUD-owned projects, non-destructive inspection for the presence of asbestos containing material (ACM) must be performed within 60 days of entry into MIP or HUD-owned status. This will allow time for any required testing to be completed and included in the Comprehensive Repair Survey, as stated below.

* HUD must comply with EPA, OSHA and State regulations when ACM is disturbed. When asbestos is removed from an MIP or HUD-owned property, permits must be obtained if required by state and local regulations. *

B. Inspection, Testing and Abatement Planning.

1. The Comprehensive Repair Survey must include the results of:
 - a. Inspection for the presence of ACM;
 - b. Testing of suspect areas, i.e. areas that inspection has indicated may contain ACM or may be the cause of airborne asbestos; and
 - c. When ACM has been found in a condition that indicates asbestos has been released into the air, asbestos air sampling.
- * 2. The Comprehensive Repair Plan must address plans for abatement (as listed in paragraph 11.3.C.) if ACM is found to be present. *

C. Abatement.

1. Abatement of ACM consists of:
 - a. Encapsulation; or
 - b. Removal, only where:
 - (1) encapsulation is not possible, or
 - (2) removal is more cost effective.
2. Where airborne asbestos exists in levels above that found in the ambient air, the source of the airborne asbestos must be determined and abated.
3. Damaged or crumbling ACM must be abated.
4. When performing repairs or demolition, where ACM will be disturbed or exposed, the ACM must be abated.
5. Floor tile containing asbestos should not be removed unless removal is more cost effective than encapsulation. Asbestos floor tile should normally be encapsulated by covering with sheet wood, e.g., particle board, hardboard or plywood, then with tile cement and non-asbestos floor tile or other acceptable floor covering.

- * D. Abatement and disposal of ACM must be performed only by city, county or state licensed/certified asbestos *

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removal contractors and must be in compliance with OSHA and EPA requirements.

Floor tile containing asbestos is not considered hazardous waste and need not be disposed of in accordance with the above requirements.

- E. When ACM is present, PM and DHM must assure that residents and maintenance personnel are aware of the existence of the ACM, maintenance personnel are trained in the proper performance of future maintenance responsibilities, and all areas with visible ACM are inspected periodically.
- F. When asbestos abatement is being undertaken, residents who reside in or must use affected areas must be temporarily relocated, preferably within the building or project. Thorough cleaning of the impacted area, and, if required, further encapsulation or removal should be performed before any resident is returned to the impacted areas.

11-4 Radon. HUD has not fully developed a policy on the treatment, if any, of radon gas. In the interim:

- A. All Comprehensive Repair Surveys should include a determination of the presence of radon.
- B. When radon is present in quantities above the current EPA guideline, the Director, MFPD Division must be consulted for guidance on its handling.

11-5 Natural Gas Pipeline Safety Act.

- A. Compliance Requirements. Gas mains and service lines used to distribute gas within a HUD-owned and MIP project are subject to the Pipeline Safety Act (PSA) if they are owned or operated by a person or entity other than HUD, such as a public utility. Compliance with the PSA is the responsibility of the owner or operator of the gas pipeline system in the project.
- B. Voluntary Compliance. If the mains and service lines are owned by the project, HUD, as owner, is technically exempt from PSA. In order to avoid undue financial

hardship to a future purchaser, who will be required to comply with the PSA, HUD policy is to voluntarily comply with provisions of the PSA and the regulations thereunder with respect to those projects which involve

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the operation of a gas pipeline system owned by HUD.

DHMs must contact the RHD to determine what actions, if any, must be taken to comply with this policy prior to the sale of the project.

11-6 Polychlorinated Biphenyls (PCBs). PCB is a toxic substance formerly used in electrical equipment. HUD managed projects are subject to EPA's procedures concerning PCBs. Use of PCBs is prohibited by EPA and must be removed by HUD when found in residential project electrical equipment.

- A. Testing for and removal of PCBs must be contained in the PM's Management Plan and the Comprehensive Repair Plan.
- B. The local electric utility company can inspect the transformers in HUD managed projects upon request by the PM and inform the PM and/or HUD of any evidence of the presence of PCBs.
- C. When PCBs are found, the DHM must assure that the PM is made aware of the presence of PCBs and that the PM has the equipment containing the PCBs removed and replaced. If the PCB containing equipment is owned by the utility company, that company is responsible for its removal.

11-7 Above Ground Storage (AST) and Underground Storage (UST) Tanks.

- A. For projects that have or had commercial tenants who typically use(d) storage tanks, the Comprehensive Repair Survey must determine the presence of storage tanks. Storage tanks used for heating the project are exempt from this procedure.
- B. The GTR/GTM should assure that the PM's Management Plan and the Comprehensive Project Repair Plan state that if one or more non-heating related USTs are found, or if a non-heating related AST is present and is not enclosed in an accessible concrete structure, the PM is to follow, with HUD approval, state codes and EPA procedures for reporting, testing, replacement, etc.

11-8 Historic Preservation.

- A. Historic Preservation requirements apply only to project exteriors. The DHM should proceed with repairs/renovation of all project interiors as directed

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elsewhere in this Handbook.

- B. In-kind repairs/renovation to project exteriors do not affect the project's standing as a Historic Place.

"In-kind repairs" are repairs that do not affect the project's exterior appearance, e.g., replacing a six-pane window with a six-pane window of similar size and shape, replacing brick with brick of the same size and color.

If all external repairs are in-kind, the DHM should proceed with repairs as directed elsewhere in this Handbook.

- C. If exterior repairs are required in a time frame that will not allow review as stated in D. below, repairs must be limited to in-kind repairs.
- D. If a project's exterior is to be remodeled, i.e., renovated beyond in-kind repairs to look different than the original exterior:
1. The DHM must:
 - a. Determine whether the project is listed on the National Register of Historic Places (Register); and
 - b. Determine whether the project is located in a Historic District and is adjacent to any property listed in the Register.
 2. If the DHM determines that either 1.a. or 1.b. apply, the State Historic Preservation Officer (SHPO) must be provided an opportunity to comment on the proposed remodeling before such remodeling begins.
 3. If the DHM and the SHPO can not come to agreement on the remodeling plans, the DHM must contact the

Field or Regional Office's Environmental Officer and request assistance and guidance. The DHM must obtain the Environmental Officer's concurrence before beginning the remodeling.

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