

Interpretive Guidance on Lead-Based Paint for Tax Credit Assistance Program



I. Introduction

The [American Recovery and Reinvestment Act of 2009](#) (Recovery Act; [Public Law 111-5](#), enacted February 17, 2009) established the [Tax Credit Assistance Program \(TCAP\)](#). The Act also states that, “in administering funds under this heading, the Secretary may waive any provision of any statute or regulation ... except for ... requirements related to ... the environment...” Federal lead-based paint requirements are environmental requirements, therefore, HUD’s lead safety statutes and regulations apply to TCAP. This interpretive guidance describes how these lead safety requirements are implemented under the TCAP, and is intended to be useful to jurisdictions, residential property owners, rehabilitation firms, their consultants, and residents of housing assisted under TCAP.

With about 220,000 American children under age 6 suffering from elevated blood lead levels (as defined by the Centers for Disease Control and Prevention (CDC)), childhood lead poisoning remains the largest avoidable environmental health problem in the Nation. For centuries, the negative impacts of exposure to lead have been recognized by the medical community. Since the 1890s, the importance of addressing exposure to lead from household paint has been recognized. Lead hazard control measures related to residential paint and the dust and soil it can contaminate were developed in the 20th century to prevent the long-lasting physical and neurological problems associated with lead poisoning, including protecting children in homes with lead-based painted surfaces, their parents, and the repair, renovation, rehabilitation, demolition and painting workers who work on their homes, as well as the families and children of those workers, among others.

In 1992, the Residential Lead-Based Paint Hazard Reduction Act of 1992 ([Title X](#); Pub. L. 102-550) was enacted, to update and streamline approaches to addressing lead-based paint hazards. Under Title X, HUD issued two regulations, the [Lead Safe Housing Rule](#) (LSHR) and the [Lead Disclosure Rule](#), (the latter rule was issued jointly with the Environmental Protection Agency ([EPA](#))). In addition, EPA has issued additional lead safety rules, as have the Occupational Safety and Health Administration ([OSHA](#)), many State governments, and some local governments. These agencies are balancing the need for cost-effective action with the duty to protect children, families, and workers. One result of these actions has been to reduce liability and insurance costs associated with work involving lead-based paint. For more information on these issues, see the Lead Safe Housing Rule training module for the HUD Office of Community Planning and Development’s programs, at www.hud.gov/offices/cpd/affordablehousing/training/web/leadsafe/.

II. Applicability of Lead-Based Paint Laws and Regulations to TCAP

Title X of the 1992 Housing and Community Development Act mandated that HUD take action to address lead-based paint in pre-1978 housing receiving Federal assistance, which is in general, most housing built before 1978 (called “pre-1978” housing). HUD published its final consolidated rule, 24 CFR 35, subparts B through R, Lead-Based Paint Poisoning Prevention in Certain Residential Structures, known as the [Lead Safe Housing Rule](#). The housing covered by Title X is called “target housing.” Some “pre-1978” housing is [exempt](#) from the LSHR, which is described at 24 CFR 35.115(a). For example, projects exclusively for the elderly or disabled, where no child under six is expected to reside (the term “expected” includes pregnant residents), and 0-bedroom units, are exempt from statutory and regulatory lead-based paint requirements, as well as housing determined not to have lead-based paint, or vacant housing being demolished.

Title X requires sellers and landlords of target housing to disclose general information on the hazards of lead exposure (the “Lead Warning Statement”) and specific information about lead-based paint hazards to prospective buyers and tenants in the particular home (the individual housing unit and common areas). To implement Title X, HUD and the U.S. EPA jointly issued the [Lead Disclosure Rule](#), published at 24 CFR 35, subpart A, and 40 CFR 745, subpart H. **The Lead Disclosure Rule applies to TCAP housing that is target housing regardless of the source of funding in the project.**

For more information on LSHR and HUD’s [interpretive guidance on the LSHR](#), please see HUD’s Lead Safe Housing Rule website page, www.hud.gov/offices/lead/enforcement/lshr.cfm. Similarly, HUD-EPA interpretive guidance on the [Lead Disclosure Rule](#) is available on HUD’s website as well as [EPA’s](#) website.

III. Precedent for Phased-in Approach for the LSHR under TCAP

When HUD issued the LSHR, the Department recognized that it was impracticable to apply these new, more stringent regulations to rehabilitation projects which had already been funded and underwritten or which were already under construction as of the effective date of the final rule. Consequently, HUD promulgated regulations at 24 CFR 35.900(b) that established standards to differentiate between those projects which would be subject to the new regulations and those projects which could not comply with the new regulations without causing major disruptions in financing, construction, and expeditious use of program funds. For TCAP, HUD recognizes that similar issues of practicability exist. The LSHR rule will apply to TCAP grantees as of the date HUD executes a grant agreement with the TCAP grantee. The projects eligible for TCAP funds are projects which received or will receive a Low Income Housing Tax Credit (LIHTC) award between October 1, 2006 and September 30, 2009. HUD understands that full compliance with the LSHR may not have been required at the time these projects were awarded LIHTCs, that construction contracts may have already been executed and that construction may be imminent or already underway in many of the projects for which owners

are seeking TCAP funds. Therefore in recognition of the impracticability of complying with requirements that were not applicable to a project at the time construction contracts were executed, HUD is interpreting the LSHR to establish standards that differentiate between TCAP projects that are in the “pre-contract” phase of the development, which will be subject to all LSHR requirements and TCAP projects which are in the “post- contract” execution phase of development, for which only certain LSHR requirements apply. The difference in requirements is explained in Units IV and V below of this guide.

For TCAP grantees and project owners, understanding the status of the project is key to understanding the requirements that apply to that particular project. The chart below illustrates key concepts and corresponding LSHR requirements that apply.

Summary of the LSHR Requirements that apply to TCAP

	Which LSHR requirements apply?			
	Exempt from LSHR	Pre-Contract Requirements (Refer to Unit IV)	Post Contract Requirements (Refer to Unit V)	Lead Disclosure Rule (Subpart A)
Projects constructed after 1977	x			
*Pre-1978 projects that <u>do not</u> have an executed construction contract at the time that HUD and the grantee executed a TCAP grant agreement		x		x
*Pre-1978 projects that <u>do</u> have an executed construction contract at the time that HUD and the grantee executed a TCAP grant agreement			x	x
Project exclusively for the elderly or disabled, where no child under six is expected to reside (the term “expected” includes pregnant residents), and 0-bedroom units	x			
Vacant projects that will be demolished	x			

*Note: If the LSHR applies to the project, the average Federal rehabilitation assistance per unit will determine which requirements of the LSHR Subpart J will apply. The amount is the lesser of the:

- Average Federal assistance (total Federal funds) per housing unit, or
- Average non-LBP hazard control rehabilitation hard costs per housing unit.

For projects in the pre-contract execution phase, see information in Subpart J under Unit IV below.

For projects in the post-contract execution phase, see information in Subpart J under Unit V below.

IV. Requirements for Projects in the Pre-Contract Execution Phase of Development

If an eligible TCAP project (pre-1978) **has not** executed a construction contract by the date that HUD executes the grant agreement with the TCAP grantee, it is considered to be in the “pre-contract execution” phase of development and must comply with the following requirements of 24 CFR Part 35:

- [Subpart A](#)-Disclosure of Known Lead-Based Paint Hazards Upon Sale or Lease of Residential Property
- [Subpart B](#)- General Lead-Based Paint Requirements and Definitions for All Programs
- [Subpart J](#)- Rehabilitation
- [Subpart K](#)- Acquisition, Leasing Support Services, or Operation
- [Subpart R](#)- Methods and Standards for Lead-Based Paint Hazard Evaluation and Hazard Reduction Activities

TCAP Grantees Requirements- Grantees are responsible for ensuring that all TCAP projects comply with lead-based paint requirements listed in this guidance. To ensure compliance with lead-based paint requirements, grantees must execute a legally binding written agreement with each project owner. For more information see Unit VI- Compliance of this guide.

TCAP Project Owner Requirements- The project owners will execute a written agreement with the TCAP grantee and agree to comply with all requirements associated with receiving TCAP funds. The lead-based paint requirements listed in this guidance will be applicable as of the date that the grant agreement between HUD and the TCAP grantee is executed. For projects which involve acquisition only (i.e., no rehabilitation will occur), owners must comply with subpart A, B, K and R. For projects which will involve acquisition and rehabilitation, or just rehabilitation, owners must comply with subparts A, B, J and R.

Below are some highlighted requirements; you should review the regulation itself and HUD’s [LSHR Interpretive Guidance](#) for more details:

Subpart B- General Lead-Based Paint Requirements and Definitions for All Programs

- Always applies
- Of particular interest is the definition of hard costs, summarized here:
 - In general, hard costs of rehabilitation means costs:
 - To correct substandard conditions or meet local rehabilitation standards;
 - To make essential improvements, and repair or replace major housing systems in danger of failure; and
 - To make non-essential improvements, including additions and alterations; but
 - Not administrative costs (e.g., overhead for administering a

rehabilitation program, processing fees, etc.).

- Hard costs are determined without regard to the sources of funds, be they Federal or non-Federal, public or private.
- Regarding categorization under the LSHR's rehabilitation requirements, excluded from hard costs are costs of LBP hazard evaluation and hazard reduction activities: site preparation, occupant protection, relocation, interim controls, abatement, clearance, and waste handling, to comply with the LSHR.

Subpart J- Rehabilitation

- § 35.905: Definitions and other general requirements.
- § 35.910(a): Notices to occupants.
- § 35.915: Calculating Federal rehabilitation assistance. The required types of lead evaluation and control depend on the amount of Federal rehabilitation assistance per housing unit. That amount is the lesser of the:
 - Average Federal assistance (total Federal funds) per housing unit, or
 - Average non-LBP hazard control rehabilitation hard costs per housing unit.Details are provided in this unit, and in items J3 through J6 of the [interpretive guidance on the LSHR](#). See also the discussion above regarding hard costs.
- § 35.925: Examples of determining applicable requirements.
- § 35.930: Evaluation and hazard reduction requirements, which fall into three categories that depend on the amount of Federal rehabilitation assistance per housing unit:
 - § 35.930(b): Up to and including \$5,000: Paint testing of work surfaces, repair disturbed paint, lead-safe work practices, clearance, notification
 - § 35.930(c): More than \$5,000 and up to and including \$25,000: Paint testing of work surfaces, repair disturbed paint, risk assessment for LBP hazards in unit, common areas and exterior, and interim control of LBP hazards, lead-safe work practices, clearance, notification
 - § 35.930(d): More than \$25,000: Paint testing of work surfaces, repair disturbed paint, risk assessment for LBP hazards in unit, common areas and exterior, and abatement of interior LBP hazards, interim controls of exterior LBP hazards, lead-safe work practices, clearance, notification.
- § 35.935: Ongoing lead-based paint maintenance activities. See § 35.1355(a), below.

Subpart K- Acquisition, Leasing Support Services, or Operation

- § 35.1005: Definitions and other general requirements.
- § 35.1010(a): Notices to occupants.
- § 35.1015: Visual assessment, paint stabilization, and maintenance:
 - § 35.1015(a): Visual assessment to identify deteriorated paint.
 - § 35.1015(b): Paint stabilization of each deteriorated paint surface, and clearance before occupancy.
 - § 35.1015(c): Ongoing lead-based paint maintenance; see § 35.1355(a), below.
 - § 35.1015(d): Notices to occupants.
 - § 35.1020: Funding for evaluation and hazard reduction.

Subpart R- Methods and Standards for Lead-based Paint Hazard Evaluation and Hazard Reduction Activities

The specific provisions of this subpart apply when referenced by the program subparts, for the TCAP, these are subparts J or K.

- § 35.1305: Definitions and other general requirements.
- § 35.1310: References.
- § 35.1320: Lead-based paint inspections and risk assessments.
- § 35.1325: Abatement.
- § 35.1330: Interim controls.
- § 35.1340: Clearance.
- § 35.1345: Occupant protection and worksite preparation.
- § 35.1350: Safe work practices.
- § 35.1355: Ongoing lead-based paint maintenance and reevaluation activities.
 - Only § 35.1355(a), Maintenance, applies to the TCAP.
 - LBP maintenance activities need not be conducted if a LBP inspection indicates that no LBP is present on the property, or a clearance report indicates that all LBP has been removed. Otherwise, conduct the procedures below.
 - At unit turnover and every twelve months, conduct a visual assessment for deteriorated paint, bare soil, and the failure of any lead hazard reduction measures.
 - Stabilize deteriorated paint (unless testing shows it is not LBP), and use standard treatments or interim controls on bare soil (unless testing shows it is not a soil-lead hazard).
 - Use lead-safe work practices for any maintenance or renovation work that disturbs paint that may be lead-based paint.
 - Correct any failed encapsulation or enclosure of LBP or LBP hazards by repair, abatement or interim controls.

- Conduct clearance testing of the worksite after repair, abatement or interim controls.
- Provided each dwelling unit with a written notice asking occupants to report deteriorated paint and, if applicable, failure of encapsulation or enclosure, along with the name, address and telephone number of the person whom occupants should contact. Correct the problem within 30 days.

Summary of Lead-Based Paint Requirements by Activity

	Pre-Contract (Acquisition Only*) Subject to Subpart B, K, and R	Pre-Contract (Acquisition & Rehabilitation*) Subject to Subpart B, J, and R		
Categories	Acquisition, Leasing, Support Services, or Operation (Subpart K)	Rehabilitation (Subpart J)		
		≤ \$5,000	\$5,000 - \$25,000	> \$25,000
Approach to Lead Hazard Evaluation and Reduction	Identify and stabilize deteriorated paint	Do no harm	Identify and control lead hazards	Identify and abate lead hazards
Notification	Yes	Yes	Yes	Yes
Lead Hazard Evaluation/Assessment	Visual assessment	Paint Testing (of surfaces to be disturbed)	Paint testing and risk assessment	Paint testing and risk assessment
Lead Hazard Reduction	Paint stabilization Lead-safe work practices Clearance	Repair surfaces disturbed during rehabilitation Lead-safe work practices Clearance	Interim controls Lead-safe work practices Clearance	Abatement (Interim Controls on exterior surfaces not disturbed by rehabilitation) Lead-safe work practices Clearance
Ongoing Lead-Based Paint Maintenance	Yes (if ongoing relationship)	Yes	Yes	Yes
Alternatives	Test deteriorated paint (vs. presuming it is lead-based paint)	Presume lead-based paint (vs. testing for it)	Presume lead-based paint and/or hazards (vs. testing for it) Use standard treatments	Presume lead-based paint and/or hazards (vs. testing for it) Abate all applicable surfaces
	All projects are subject to the Lead Disclosure Rule, Subpart A			

V. Requirements for Projects in the Post-Contract Execution Phase of Development

If an eligible TCAP project (pre-1978) **has** an executed construction contract by the date that HUD executes the grant agreement with the TCAP grantee, it is considered to be in the “post-contract execution” phase of development and must comply with the following requirements of 24 CFR Part 35:

- [Subpart A](#)-Disclosure of Known Lead-Based Paint Hazards Upon Sale or Lease of Residential Property
- [Subpart B](#)- General Lead-Based Paint Requirements and Definitions for All Programs
- [Subpart J](#)- Rehabilitation
- [Subpart K](#)- Acquisition, Leasing Support Services, or Operation
- [Subpart R](#)- Methods and Standards for Lead-Based Paint Hazard Evaluation and Hazard Reduction Activities

TCAP Grantee Requirements- Grantees are responsible for ensuring that all TCAP projects comply with lead-based paint requirements listed in this guidance. To ensure compliance with lead-based paint requirements, grantees must execute a legally binding written agreement with each project owner. The TCAP grantee must require documentation of an executed construction contract from project owners in order to apply the requirements listed below. For more information see Unit VI- Compliance in this guide.

TCAP Project Owner Requirements- The project owners will execute a written agreement with the TCAP grantee and agree to comply with all requirements associated with receiving TCAP funds. The lead-based paint requirements listed in this guidance will be applicable as of the date that the grant agreement between HUD and the TCAP grantee is executed. For projects which involve acquisition only (i.e., no rehabilitation will occur), owners must comply with subparts A, B and R, and certain provisions of subpart K. For projects which will involve acquisition and rehabilitation, or just rehabilitation, owners must comply with subparts A, B, and R, and certain provisions of subpart J.

What follows is a summary of how the requirements will apply; you should review the regulation itself and the interpretive guidance for more details:

Subpart B- General Lead-Based Paint Requirements and Definitions for All Programs

- Always applies
- See Unit IV description above

Subpart J- Rehabilitation (Selected Requirements)

- § 35.905: Definitions and other general requirements.
- § 35.910(a): Notices.
- § 35.930(b): Certain provisions of this subsection on residential property receiving an average of up to and including \$5000 per unit in Federal rehabilitation assistance . As noted above, only certain requirements apply in recognition of the impracticability of complying with requirements (such as paint testing or presumption of the presence of LBP, under § 35.930(b)(1)) that may not have been applicable to a project at the time construction contracts were executed. The Federal rehabilitation assistance is not calculated for these post-contract execution phase projects in accordance with § 35.915, because uniform hazard control requirements apply, regardless of the assistance amount.
 - § 35.930 (b)(3), clearance of the worksite in accordance with § 35.1340, is required.
 - For these projects, the worksite is the property, including the units, common areas and painted exteriors.
 - If the clearance examination fails, then lead safe work practices in accordance with § 35.930(b)(2) and § 35.1350 must be implemented during the re-cleaning or further hazard reduction of the surfaces that had any failed clearance samples, followed by retesting (and possible repetition of this work-and-clear cycle) until the clearance level is met.
 - Clearance is not required if rehabilitation did not disturb painted surfaces of a total area more than that set forth in § 35.1350(d).
 - (1) 20 square feet (2 square meters) on exterior surfaces;
 - (2) 2 square feet (0.2 square meters) in any one interior room or space; or
 - (3) 10 percent of the total surface area on an interior or exterior type of component with a small surface area. Examples include window sills, baseboards, and trim.
- § 35.935: Ongoing lead-based paint maintenance activities. See discussion in Unit IV, above.

Subpart K- Acquisition, Leasing Support Services, or Operation

- § 35.1005: Definitions and other general requirements.
- § 35.1010(a): Notices.
- § 35.1015: Visual assessment, paint stabilization, and maintenance.
 - § 35.1015(b): Clearance, which must be done in accordance with

§ 35.1330(a). If the clearance examination fails, then lead safe work practices in accordance with § 35.1015(a) and § 35.1350 must be implemented during the re-cleaning or further hazard reduction of the surfaces that had any failed clearance samples, followed by retesting (and possible repetition of this work-and-clear cycle) until the clearance level is met.

- § 35.1015(c): Ongoing lead-based paint maintenance. See § 35.1355(a), above, in Unit IV above.
- § 35.1015(d): Notices.
- § 35.1020: Funding for evaluation and hazard reduction.

Subpart R- Methods and Standards for Lead-based Paint Hazard Evaluation and Hazard Reduction Activities

- § 35.1305: Definitions and other general requirements.
- § 35.1310: References.
- § 35.1320: Lead-based paint inspections and risk assessments.
- § 35.1325: Abatement.
- § 35.1330: Interim controls.
- § 35.1340: Clearance.
- § 35.1345: Occupant protection and worksite preparation.
- § 35.1350: Safe work practices.
- § 35.1355: Ongoing lead-based paint maintenance and reevaluation activities
 - § 35.1355(a): Only § 35.1355(a), Maintenance, applies to the TCAP. See § 35.1355(a), above, in Unit IV.

Summary of Lead-Based Paint Requirements by Activity

	Post-Contract (Acquisition Only) Subject to Subpart B, K, and R	Post-Contract (Acquisition & Rehabilitation) Subject to Subpart B, J, and R
Categories	Acquisition, Leasing, Support Services, or Operation (Subpart K)	Selected Requirements (Subpart J)
		All projects will use § 35.930(b) (≤ \$5,000) as the Federal rehabilitation assistance per unit regardless of the actual amount
Approach to Lead Hazard Evaluation and Reduction	Identify and stabilize deteriorated paint	Do no harm
Notification	Yes	Yes
Lead Hazard Evaluation/Assessment	Visual assessment	Paint Testing (of surfaces to be disturbed)
Lead Hazard Reduction	Paint stabilization Safe work practices Clearance	Clearance If the clearance examination fails, then use lead safe work practices for re-cleaning or further hazard reduction of the surfaces
Ongoing Lead-Based Paint Maintenance	Yes (if ongoing relationship)	Yes
Alternatives	Test deteriorated paint Use safe work practices only on surfaces	Presume lead-based paint
	All projects are subject to the Lead Disclosure Rule, Subpart A	

VI. Compliance

TCAP Grantees- Grantees are State Housing Credit Agencies that will execute a grant agreement with HUD in order to accept their TCAP allocation. Grantees are responsible for ensuring that all TCAP funded projects comply with lead-based paint requirements. Grantees must execute a legally-binding written agreement with each project owner. The TCAP written agreement must set forth all of the lead-based paint requirements applicable to the funding and must make these requirements are enforceable through the recordation of a restriction that is binding on all owners and successors. Documentation of compliance with all applicable LBP requirements must be maintained by the project owner and made available to the grantee or HUD for monitoring purposes. As part of its enforcement responsibilities, the grantee must ensure that a TCAP project has adequate funding, from TCAP or other sources, to pay costs associated with lead evaluation and reduction in accordance with § 35.1020. In the case where projects were in the post-contract execution phase of development at the time the TCAP grant agreement was signed, the grantee must require documentation of an executed construction contract from project owners in order to apply the requirements referenced in Unit V of this guide.

TCAP Project Owners- The project owner is the entity that has legal title to the housing receiving Federal assistance, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes, and nonprofit organizations. Projects will be considered to be in the “pre-contract execution” phase of development as of the date a grant agreement is executed between HUD and the TCAP grantee, and all LSHR requirements, as well as the Lead Disclosure Rule, subpart A will apply, as described in Unit IV of this interpretive guidance, unless the project owners furnish documentation of a construction contract executed before the date a grant agreement is executed between HUD and the TCAP grantee, in which case the requirements described in Unit V of this interpretive guidance apply.

Required Trainings and Certifications of Firms and Workers

1. If the rehabilitation assistance is over \$25,000 per unit, contractor firms must be certified as abatement firms, and workers must be certified as abatement workers. The abatement firm and worker certification requirements are at HUD’s 24 CFR 35.1325, for both, and at EPA’s 40 CFR 745.226(c) and (f), respectively; or
2. If the assistance is \$25,000 per unit or less, workers must be trained in a HUD-accepted lead safe work practices course (see www.hud.gov/offices/lead/training), if the work is completed before April 22, 2010 (or other State-specified date). The HUD lead safe work practices training requirement is at 24 CFR 35.1330(a)(4). For work conducted on or after the applicable date, the firm must be a certified renovation firm and the workers must be certified renovation workers. The EPA renovation, repair, and painting certification requirements for firms and individuals are at 40 CFR 745.81(a)(2) and (3), respectively. The certified renovator training requirement is at 40 CFR 745.90(a).

For more information on required training, please see [HUD’s website](#), the [EPA’s website](#) or your State’s website as described above. It is advisable for grantees to assist project owners with identifying funds to assist with training/certification efforts, if necessary.

VII. HUD Enforcement

The HUD Office of Community Planning and Development (CPD) is responsible for ensuring that TCAP funds are expended in accordance with the requirements of the Recovery Act. The HUD Office of Healthy Homes and Lead Hazard Control provides information and guidance to assist CPD and other HUD programs and their participants to comply with the Lead Safe Housing Rule and the Lead Disclosure Rule. The Lead Safe Housing Rule requires HUD-assisted and certain other Federally-assisted owners of target housing or other “designated parties” to evaluate, and reduce lead based paint hazards, and notify the occupants of the results of the evaluation and hazard reduction. To ensure compliance, HUD conducts remote and on-site inspections of property and lease records. HUD also conducts targeted investigations and responds to tips and complaints from the public.

Starting April 22, 2010 (or other date established by the EPA or the state), the EPA's [Renovation, Remodeling and Painting \(RRP\) Rule](#) (or an EPA-authorized State rule) will apply to non-abatement renovation, remodeling and painting projects in target housing, including those conducted under the TCAP. EPA, or the State, will enforce the RRP rule. Among other requirements, the RRP Rule will require certification of renovation firms, certification of renovators (the project supervisor and, optionally, other workers on the project). For a summary of how the RRP Rule will affect projects conducted under the TCAP in accordance with the LSHR, see the summary, [EPA Certified Renovation Firms and Certified Renovators - Additional Requirements of HUD's Lead Safe Housing Rule](#). For more information on the RRP Rule, go to the EPA's [Renovation, Repair and Painting web page](#), or call the EPA-HUD-CDC National Lead Information Clearinghouse at 800-424-LEAD.

VIII. HUD Recommendations on Lead-Based Paint

Even in situations where they are not required, HUD recommends the following:

1. Paint Test- At a minimum, a project owner should perform a paint test on the paint surfaces to be disturbed or replaced during rehabilitation activities, or, if not, the owner should presume that all these painted surfaces are coated with lead-based-paint. If testing is done, it may be conducted by collecting paint chips and having them analyzed by a laboratory recognized for paint-lead analysis by the EPA, or by X-ray fluorescence analyzer, or by a certified lead-based paint inspector.
2. Lead Safe Work Practices- Owners of projects in the post-contract execution phase of development must use lead safe work practices, in accordance with § 35.1350, when performing any maintenance or renovation work that disturbs paint that may be lead-based paint, either known or presumed. Note that, while the LSHR has an exemption from lead safe work practices for very small disturbances of LBP (the limits are given at 24 CFR 35.1350(d)), HUD encourages their use even on projects with these "de minimis" disturbances.
3. Reevaluate Every Two Years- HUD encourages project owners to have a risk assessor reevaluate projects/units every two years for the presence of deteriorated lead-based paint, the failure of any lead hazard control measures, and to dust-lead hazards and soil-lead hazards, and to conduct interim controls of the dust-lead and soil-lead hazards, in addition to the required controls of the deteriorated paint and failed control measures found in the reevaluation.
4. Read the LSHR and the LSHR Interpretive Guidance- It is strongly recommended that both TCAP grantees and project owners review the LSHR and its Interpretive Guidance in order to become familiar with the requirements.