

# LEAD BASED PAINT FACT SHEET

## **Lead Disclosure Rules Issued by EPA, HUD**

Final rules requiring the disclosure of known lead-based paint or lead-based paint hazards at the sale or leasing of residential housing were issued in 1996 jointly by the US Environmental Protection Agency (EPA) and the Department of Housing and Urban Development (HUD).

The rules require that sellers and lessors of most residential housing built before 1978 disclose the presence of known lead-based paint (LBP) and/or lead-based paint hazards in the housing; they must provide purchasers and lessees with any available records or reports pertaining to the presence of LBP or LBP hazards; and they must provide purchasers and lessees with a federally-approved lead hazard information pamphlet.

Also, sellers must provide purchasers with a 10-day opportunity to conduct a risk assessment or inspection for the presence of lead-based paint or LBP hazards before the purchaser is obligated under any purchase contract; sales and leasing contracts must include certain disclosure and acknowledgment language; and agents must ensure compliance with these requirements.

The requirements apply to all transactions to sell or lease target housing (including subleases).

"Target housing" means housing constructed prior to 1978 except zero-bedroom dwellings and housing for the elderly or persons with disabilities (unless a child younger than six years resides or is expected to reside in the housing).

In 1999, HUD issued a Final New Regulation for Lead-Based Paint Hazards in Federally-owned Housing and Housing Receiving Federal Assistance. This regulation consolidated all HUD rules into one regulation.

## **Lead Training and Work Practice Standards Published By EPA**

Also in 1996, the EPA published final rules that aim to ensure that individuals conducting lead-based paint activities in target housing and child-occupied facilities are properly trained and certified, that training programs providing instruction in such activities are accredited and that these activities are conducted according to reliable, effective and safe work practice standards.

By 1999, all inspector, risk assessor, supervisor, project designer, and abatement worker courses and refresher courses must be accredited by the EPA or an EPA approved state.

Abatement is defined any measure or set of measures designed to permanently eliminate lead-based paint hazards, and all associated preparation, cleanup, disposal, and post-abatement clearance testing activities. It does not include renovation, remodeling, landscaping or other activities when they are not designed to permanently eliminate LBP hazards, but instead are designed to repair, restore, or remodel a given structure or dwelling,

even though these activities may incidentally result in a reduction or elimination of lead-based paint hazards.

Although inspections are not mandated by the rules, when performed inspections must be conducted only by EPA-certified inspectors or risk assessors. Prescribed sampling procedures are to be followed. An inspection report, including the testing methods, the specific locations of each component tested, and the results of the inspection are required.

In January 2001, the EPA issued a Final Rule establishing levels for paint-lead hazards, dust-lead hazards, and soil-lead hazards. In addition, this regulation revised some of the work practice standards for lead-based paint activities.

## **EPA Requirements for Renovation, Repair and Painting (RRP)**

Common renovation activities like sanding, cutting, and demolition can create hazardous lead dust and chips by disturbing lead-based paint, which can be harmful to adults and children.

To protect against this risk, on April 22, 2008, EPA issued a rule requiring the use of lead-safe practices and other actions aimed at preventing lead poisoning. Under the rule, beginning April 22, 2010, contractors performing renovation, repair and painting projects that disturb lead-based paint in homes, child care facilities, and schools built before 1978 must be certified and must follow specific work practices to prevent lead contamination.

EPA requires that firms performing renovation, repair, and painting projects that disturb lead-based paint in pre-1978 homes, child care facilities and schools be certified by EPA and that they use certified renovators who are trained by EPA-approved training providers to follow lead-safe work practices. Individuals can become certified renovators by taking an eight-hour training course from an EPA- approved training provider.

Contractors must use lead-safe work practices and follow these three simple procedures:

- Contain the work area.
- Minimize dust.
- Clean up thoroughly.

## **Overview of OSHA's Lead Construction Industry Standard**

In 1993, The Occupational Safety and Health Administration (OSHA) amended the standards for occupational health and environmental controls by adding section 1926.62- "Lead Exposure in Construction."

### **Scope**

Employers engaged in construction, alteration, or repair work, including paintingg and decorating, where an employee may be occupationally exposed to lead are covered by the Lead Exposure in Construction standard. It is significant that the OSHA rule may apply to a situation not covered by HUD rules concerning lead-based paint. For example, if paint is found to contain less than 1 milligram of lead per square centimeter of a surface, then

HUD rules would not apply, though the Lead Exposure in Construction standard may apply. OSHA finds no reliable connection between concentrations as measured on painted surfaces and air lead levels that may result from construction work affecting painted surfaces

### **Exposure Assessment**

Each employer who has a work place or operation covered by the standard is to initially determine if any employee may be exposed to lead at or above an action level.

Until the exposure assessment is completed, the employer is to provide worker protection in the form of respiratory protection, protective clothing, change areas, hand washing facilities, biological monitoring and training. The level of respiratory protection that is to be provided while awaiting the initial determination of exposure is a function of the type of work that is being performed.

### **OSHA to Emphasize Lead Standard**

In 1996, OSHA initiated a national Special Emphasis Program for programmed health inspections of construction operations where lead exposures may occur.

Citing documented elevated blood lead levels in construction workers in recent years, and the fact that local emphasis programs have been developed to address the lead hazard in the construction industry, OSHA has determined that an "increased uniform enforcement presence is warranted at work sites where [lead] exposures occur."

Compliance personnel are instructed by the directive to be on the lookout for construction activities where there is a potential for lead exposure. These include- residential remodeling, commercial and institutional remodeling, housing lead abatement projects, underground storage tank demolition, stained glass window removal and repair, petroleum tank repainting, indoor and outdoor industrial maintenance and renovation, water tank repainting and demolition, and highway and railroad bridge demolition and repainting.

### **Ohio Regulations**

In 1994, Ohio passed rules requiring licensure of persons performing lead abatement, lead inspections and risk assessments in structures. A structure is defined as any house, apartment or building used as an individuals private residence or commonly used as a place of education or child day-care center for children under six years of age. It should be noted that this is more expansion than EPA/HUD's Target housing definition. In addition, Ohio interprets abatement to include renovation and remodeling if the presence of lead is known.

In 2002, the Ohio Department of Health (ODH) entered into interagency agreements with several housing authorities to allow the use of one-day trained, non-licensed, renovator/remodelers for the performance of renovation activities. The special agreements require the use of safe work practices, prior notification of projects and payment of project fees to cover the cost of ODH spot project monitoring. The use of Sampling Technicians for clearance is allowed and required under these agreements.

**Effective April 4, 2004, Ohio revised their regulations. Ohio no longer interprets abatement to include remodeling and renovation. Additional training requirements and disciplines were added to the regulations: Clearance technician, Lead-safe**

**renovator, and Essential maintenance practices. Expanded clearance criteria were also added.**

**Renovations in Ohio are required to follow the EPA Requirements for Renovation, Repair and Painting (RRP) Rule and in addition the renovator is required to take an approved Ohio Lead Safe Renovator course.**

## **Kentucky Regulations**

Finally in 1997, Kentucky passed their rules requiring licensure for abatement activities in Target housing only.

**Effective February 2002, Kentucky updated their regulations. Many of these changes relate to training program requirements. A Lead Dust Sampling Technician discipline was added. Although Kentucky doesn't regulate non-abatement (interim controls or standard treatments) activities, the use of a licensed Lead Dust Sampling Technician, at a minimum, is required for any clearance of these non-abatement activities. Project Designers are required for projects exceeding nine units.**

**Renovations in Kentucky are required to follow the EPA Requirements for Renovation, Repair and Painting (RRP) Rule.**

## **Indiana Regulations**

### **Indiana Lead Abatement Notification and Monitoring**

Indiana law states that any companies or individuals who perform lead abatement on targeted housing (houses or child occupied facilities built before 1978) must:

- be licensed by ISDH as an abatement contractor,
- provide written notification to the ISDH of each abatement project,
- conduct a pre-abatement lead inspection or lead hazard screen,
- conduct abatement activities using appropriately licensed individuals,
- conduct the abatement activities using lead safe work practices, and
- pass a post-abatement clearance procedure.

### **Non-abatement Activity Requirements**

Indiana law requires the use of Lead Safe Work Practices in a number of work situations in which lead-based paint is likely to be hazardous. Although the requirements do not apply to every situation, the ISDH strongly recommends that, unless testing has concluded there is no lead paint present, anyone working on a pre-1978 home or child occupied facility follow Lead Safe Work Practices to avoid dangerous lead hazards.

Nonabatement activities include all work with lead-based paint that is short of full abatement.

Along with covering other lead-based paint activities (e.g. inspection), the rule requires the use of lead-safe work practices whenever remodeling, renovation and maintenance activities

on rental property built before 1960 is going to disturb a minimum area of lead paint, as defined by the rule.

The requirements do not apply if someone is working on their own home, unless it is a home that they are renting out, or the home is occupied by a child with a confirmed elevated blood lead level. The requirements do not apply to housing that has been determined to be free of lead paint through a qualified lead inspection. If a lead inspection has not been completed, the rule assumes that all paint in a pre-1978 house is leaded.

**Renovations in Indiana are required to follow the EPA Requirements for Renovation, Repair and Painting (RRP) Rule**