



**Minnesota Housing
Lead Based Paint Guidebook
For Applicable Homes Division Programs**

November 16, 2017



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Introduction

Mission Statement

Minnesota Housing finances and advances affordable housing opportunities for low and moderate income Minnesotans to enhance quality of life and foster strong communities.

Background

Federal Lead Based Paint Regulations, contained in Title 24 of the Code of Federal Regulations, Part 35 (24 CFR Part 35), require that all properties constructed prior to 1978 shall, to the greatest extent practicable, be free of lead based paint hazards.

It is the policy of Minnesota Housing that state-funded Rehabilitation shall generally, with some modifications, follow the federal requirements for identifying and correcting Lead-Based Paint Hazards, as described in applicable subparts of 24 CFR Part 35.

This “Minnesota Housing Lead Based Paint Guidebook For Applicable Homes Division Programs” informs Administrators of the modified requirements for dealing with Lead-Based Paint when a property receives no federal funds that are subject to 24 CFR part 35 in conjunction with MHFA financing.

If the property will also receive Federal funds for acquisition or Rehabilitation that are subject to 24 CFR Part 35 in conjunction with MHFA financing, then the Administrator should follow the requirements of 24 CFR Part 35 that apply to the federal funds without modification.

Chapter 1 – Disclosure of Known Lead-Based Paint Hazards Upon Sale of Residential Property

1.01 Purpose

This chapter adopts 24 CFR Part 35 Subpart A, the regulation implementing the provisions of 42 U.S.C. 4852d, which imposes certain requirements on the sale of Target Housing. Under this chapter, a Seller of Target Housing shall disclose to the Purchaser:

- The presence of any known Lead-Based Paint and/or Lead-Based Paint Hazards;
- Provide available records and reports;
- Provide the Purchaser with a Lead Hazard Information Pamphlet;
- Give Purchasers a 10-day opportunity to conduct a Risk Assessment or Inspection; and,
- Attach specific disclosure and warning language to the sales contract before the Purchaser is obligated under a contract to purchase Target Housing.

1.02 Scope and Applicability

This chapter applies to all transactions to sell Target Housing, with the exception of the sale of Target Housing at Foreclosure.

1.03 Effective Dates

The requirements in this Guidebook took effect on December 16, 2004.

1.04 Definitions

The following definitions apply to *this chapter*.

The Act means the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. 4852d.

Agent means any party who enters into a contract with a Seller including any party who enters into a contract with a representative of the Seller, for the purpose of selling Target Housing. This term does not apply to Purchasers or any Purchaser's representative who receives all compensation from the Purchaser.

Available means in the possession of or reasonably obtainable by the Seller at the time of the disclosure.

Common Area means a portion of a building generally accessible to all residents/users including, but not limited to, hallways, stairways, laundry and recreational rooms, playgrounds, community centers, and boundary fences.

Contract For The Purchase And Sale Of Residential Real Property means any contract or agreement in which one party agrees to purchase an interest in real property on which there is situated one or more Residential Dwellings used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of one or more persons.

EPA means the Environmental Protection Agency.

Evaluation means a Risk Assessment and/or Inspection.

Foreclosure means any of the various methods, statutory or otherwise, known in different jurisdictions, of enforcing payment of a debt, by the taking and selling of real property.

Housing For The Elderly means retirement communities or similar types of housing reserved for households composed of one or more persons 62 years of age or more at the time of initial occupancy.

Inspection means:

- A surface-by-surface investigation to determine the presence of Lead-Based Paint as provided in section 302(c) of the Lead-Based Paint Poisoning and Prevention Act [42 U.S.C. 4822], and
- The provision of a report explaining the results of the investigation.

Lead-Based Paint means paint or other surface coatings that contain lead equal to or in excess of 1.0 milligram per square centimeter or 0.5 percent by weight.

Lead-Based Paint Free Housing means Target Housing that has been found to be free of paint or other surface coatings that contain lead equal to or in excess of 1.0 milligram per square centimeter or 0.5 percent by weight.

Lead-Based Paint Hazard means any condition that causes exposure to lead from lead-contaminated dust, lead-contaminated soil, or lead-contaminated paint that is deteriorated or present in accessible surfaces, Friction Surfaces, or Impact Surfaces that would result in adverse human health effects.

Owner means any entity that has legal title to Target Housing, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian Tribes, and nonprofit organizations, except where a Mortgagee holds legal title to property serving as collateral for a mortgage loan, in which case the Owner would be the Mortgagor.

Purchaser means an entity that enters into an agreement to purchase an interest in Target Housing, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian Tribes, and nonprofit organizations.

Reduction means measures designed to reduce or eliminate human exposure to Lead-Based Paint Hazards through methods including Interim Controls and Abatement.

Residential Dwelling means:

- A single-family dwelling, including attached structures such as porches and stoops; or
- A single-family Dwelling Unit in a structure that contains more than one separate Residential Dwelling Unit, and in which each such unit is used or occupied, or intended to be used or occupied, in whole or in part, as the residence of one or more persons.

Risk Assessment means an on-site investigation to determine and report the existence, nature, severity, and location of Lead-Based Paint Hazards in Residential Dwellings, including:

- Information gathering regarding the age and history of the housing and occupancy by children under age 6;
- Visual Inspection;

- Limited wipe sampling or other environmental sampling techniques;
- Other activity as may be appropriate; and
- Provision of a report explaining the results of the investigation.

Seller means any entity that transfers legal title to Target Housing, in whole or in part, in return for consideration, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian Tribes, and nonprofit organizations. The term *Seller* also includes:

- An entity that transfers shares in a cooperatively owned project, in return for consideration; and
- An entity that transfers its interest in leasehold, in jurisdictions or circumstances where it is legally permissible to separate the fee title from the title to the improvement, in return for consideration.

Target Housing means any housing constructed prior to 1978, except Housing For The Elderly or persons with disabilities (unless any child who is less than 6 years of age resides or is Expected To Reside in such housing) or any 0-Bedroom Dwelling.

TSCA means the Toxic Substances Control Act, 15 U.S.C. 2601.

0-Bedroom Dwelling means any Residential Dwelling in which the living area is not separated from the sleeping area. The term includes efficiencies, studio apartments, dormitory housing, military barracks, and rentals of individual rooms in Residential Dwellings.

1.05 Disclosure Requirements for Sellers

- The following activities shall be completed before the Purchaser is obligated under any contract to purchase Target Housing that is not otherwise an exempt transaction pursuant to section 1.02. Nothing in this section implies a positive obligation on the Seller to conduct any Evaluation or Reduction activities.
 - The Seller shall provide the Purchaser with an EPA-approved lead hazard information pamphlet. Such pamphlets include the EPA document entitled Protect Your Family From Lead in Your Home (EPA -747-K-94-001) or an equivalent pamphlet that has been approved for use in that State by EPA.
 - The Seller shall disclose to the Purchaser the presence of any known Lead-Based Paint and/or Lead-Based Paint Hazards in the Target Housing being sold. The Seller shall also disclose any additional information available concerning the known Lead-Based Paint and/or Lead-Based Paint Hazards, such as the basis for the determination that Lead-Based Paint and/or Lead-Based Paint Hazards exist, the location of the Lead-Based Paint and/or Lead-Based Paint Hazards, and the condition of the painted surfaces.
 - The Seller shall disclose to each Agent the presence of any known Lead-Based Paint and/or Lead-Based Paint Hazards in the Target Housing being sold and the existence of any available records or reports pertaining to Lead-Based Paint and/or Lead-Based Paint Hazards. The Seller shall also disclose any additional information available concerning the known Lead-Based Paint and/or Lead-Based Paint Hazards, such as the basis for the determination that Lead-Based Paint and/or Lead-Based Paint Hazards exist, the location of the Lead-Based Paint and/or Lead-Based Paint Hazards, and the condition of the painted surfaces.

- The Seller shall provide the Purchaser with any records or reports available to the Seller pertaining to Lead-Based Paint and/or Lead-Based Paint Hazards in the Target Housing being sold. This requirement includes records and reports regarding Common Areas. This requirement also includes records and reports regarding other Residential Dwellings in multifamily Target Housing, provided that such information is part of an Evaluation or Reduction of Lead-Based Paint and/or Lead-Based Paint Hazards in the Target Housing as a whole.
- If any of the disclosure activities identified in this section occurs after the Purchaser has provided an offer to purchase the housing, the Seller shall complete the required disclosure activities prior to accepting the Purchaser's offer and allow the Purchaser an opportunity to review the information and possibly amend the offer.

1.06 Opportunity to Conduct an Evaluation

Before a Purchaser is obligated under any contract to purchase Target Housing, the Seller shall permit the Purchaser a 10-day period (unless the parties mutually agree, in writing, upon a different period of time) to conduct a Risk Assessment or Inspection for the presence of Lead-Based Paint and/or Lead-Based Paint Hazards.

Notwithstanding the first paragraph of this section, a Purchaser may waive the opportunity to conduct the Risk Assessment or Inspection by so indicating in writing.

1.07 Certification/Acknowledgment of Disclosure

- *Seller requirements* - Each contract to sell Target Housing shall include an attachment containing the following elements, in the language of the contract (e.g., English, Spanish):
 - A Lead Warning Statement consisting of the following language:
 - Every Purchaser of any interest in residential real property on which a Residential Dwelling was built prior to 1978 is notified that such property may present exposure to lead from Lead-Based Paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The Seller of any interest in residential real property is required to provide the buyer with any information on Lead-Based Paint Hazards from Risk Assessments or Inspections in the Seller's possession and notify the buyer of any known Lead-Based Paint Hazards. A Risk Assessment or Inspection for possible Lead-Based Paint Hazards is recommended prior to purchase.
 - A statement by the Seller disclosing the presence of known Lead-Based Paint and/or Lead-Based Paint Hazards in the Target Housing being sold or indicating no knowledge of the presence of Lead-Based Paint and/or Lead-Based Paint Hazards. The Seller shall also provide any additional information available concerning the known Lead-Based Paint and/or Lead-Based Paint Hazards, such as the basis for the determination that Lead-Based Paint and/or Lead-Based Paint Hazards exist, the location of the Lead-Based Paint and/or Lead-Based Paint Hazards, and the condition of the painted surfaces.
- A list of any records or reports available to the Seller pertaining to Lead-Based Paint and/or Lead-Based Paint Hazards in the housing that have been provided to the Purchaser. If no such records or reports are available, the Seller shall so indicate.
 - A statement by the Purchaser affirming receipt of the information set out in this section and the lead hazard information pamphlet required under section 15 U.S.C. 2696.

- A statement by the Purchaser that he/she has either:
 - Received the opportunity to conduct the Risk Assessment or Inspection required by section 1.06; or
 - Waived the opportunity.
- When any Agent is involved in the transaction to sell Target Housing on behalf of the Seller, a statement that:
 - The Agent has informed the Seller of the Seller's obligations under 42 U.S.C. 4852d; and
 - The Agent is aware of his/her duty to ensure compliance with the requirements of this chapter.
- The signatures of the Sellers, Agents, and Purchasers, certifying to the accuracy of their statements, to the best of their knowledge, along with the dates of signature.
- **Retention of certification and acknowledgment information**
 - The Seller, and any Agent, shall retain a copy of the completed attachment required in this section for no less than one year after title is conveyed to the purchaser unless documentation requirements of a particular Minnesota Housing program requires a longer records retention schedule.
 - This recordkeeping requirement is not intended to place any limitations on civil suits under the Act, or to otherwise affect a Purchaser's rights under the civil penalty provisions of 42 U.S.C. 4852d(b)(3).
- The Seller, or Agent shall not be responsible for the failure of a Purchaser's legal representative (where such representative receives all compensation from the Purchaser) to transmit disclosure materials to the Purchaser, provided that all required parties have completed and signed the necessary certification and acknowledgment language required under this section.

1.08 Agent Responsibilities

- Each Agent shall ensure compliance with all requirements of this chapter. To ensure compliance, the Agent shall:
 - Inform the Seller of his/her obligations under section 1.05, section 1.06 and section 1.07.
 - Ensure that the Seller has performed all Activities required under section 1.05, section 1.06 and section 1.07, or personally ensure compliance with the requirements of section 1.05, section 1.06 and section 1.07.
- If the Agent has complied with this section, the Agent shall not be liable for the failure to disclose to a Purchaser the presence of Lead-Based Paint and/or Lead-Based Paint Hazards known by a Seller but not disclosed to the Agent.

1.09 Enforcement

- Any person who knowingly fails to comply with any provision of this chapter shall be subject to civil monetary penalties in accordance with the provisions of 42 U.S.C. 3545 and 24 CFR part 30.
- The Secretary is authorized to take such Action as may be necessary to enjoin any violation of this chapter in the appropriate Federal district court.
- Any person who knowingly violates the provisions of this chapter shall be jointly and severally liable to the Purchaser in an amount equal to 3 times the amount of damages incurred by such individual.

- In any civil Action brought for damages pursuant to 42 U.S.C. 4852d(b)(3), the appropriate court may award court costs to the party commencing such Action, together with reasonable attorney fees and any expert witness fees, if that party prevails.
- Failure or refusal to comply with section 1.05 (disclosure requirements for Sellers), section 1.06 (opportunity to conduct an Evaluation), section 1.07 (certification and acknowledgment of disclosure), or section 1.08 (Agent responsibilities) is a violation of 42 U.S.C. 4852d(b)(5) and of TSCA section 409 (15 U.S.C. 2689).
- Violators may be subject to civil and criminal sanctions pursuant to TSCA section 16 (15 U.S.C. 2615) for each violation. For purposes of enforcing this chapter, the penalty for each violation applicable under 15 U.S.C. 2615 shall be not more than \$10,000.

1.10 Impact on State and Local Requirements

Nothing in this chapter shall be construed to conflict with 24 CFR Part 35 Subpart A. Nothing in this chapter shall relieve a Seller or Agent from any responsibility for compliance with State or local laws, ordinances, codes, or regulations governing notice or disclosure of known Lead-Based Paint and/or Lead-Based Paint Hazards.

Chapter 2 - General Lead-Based Paint Requirements and Definitions for All Programs

2.01 Purpose/Applicability

The requirements of chapter 2, 3 and 4 implement modified provisions of the Lead-Based Paint Poisoning Prevention Act, as amended (42 U.S.C. 4821 et seq.), and the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851 et seq.) when using Minnesota Housing Assistance that are not also funded with Federal funds. If Federal funds are used in conjunction with Minnesota Housing Assistance, the provisions of 24 CFR Part 35 shall apply in their entirety and as they appear in the Code of Federal Regulations.

2.02 Definitions

Abatement means any set of measures designed to Permanently eliminate Lead-Based Paint or Lead-Based Paint Hazards (see definition of "Permanent"). Abatement includes:

- The removal of Lead-Based Paint and Dust-Lead Hazards, the Permanent Enclosure or Encapsulation of Lead-Based Paint, the Replacement of Components or fixtures painted with Lead-Based Paint, and the removal or Permanent covering of Soil-Lead Hazards; and
- All preparation, cleanup, disposal, and post Abatement clearance testing activities associated with such measures.

Act means the Lead-Based Paint Poisoning Prevention Act, as amended, 42 U.S.C. 4822 et seq.

Bare Soil means soil or sand not covered by grass, sod, other live ground covers, wood chips, gravel, artificial turf, or similar covering.

Certified means licensed to perform such Activities as Risk Assessment, Lead-Based Paint Inspection, or Abatement supervision, either by a State or Indian Tribe with a Lead-Based Paint certification program authorized by the Environmental Protection Agency (EPA), or by the EPA, in accordance with 40 CFR part 745, subparts L or Q.

Chewable Surface means an interior or exterior surface painted with Lead-Based Paint that a young child can mouth or chew. A Chewable Surface is the same as an "accessible surface" as defined in 42 U.S.C. 4851b(2)). Hard metal Substrates and other materials that cannot be dented by the bite of a young child are not considered chewable.

Clearance Examination means an activity conducted following lead-based paint Hazard Reduction Activities to determine that the Hazard Reduction Activities are complete and that no Soil-Lead Hazards or settled Dust-Lead Hazards, as defined in this part, exist in the Dwelling Unit or Worksite. The clearance process includes a Visual Assessment and collection and analysis of environmental samples. Dust-lead standards for clearance are found at Sec. 35.1320.

Common Area means a portion of a Residential Property that is available for use by Occupants of more than one Dwelling Unit. Such an area may include, but is not limited to, hallways, stairways, laundry and recreational rooms, playgrounds, community centers, on-site day care facilities, garages and boundary fences.

Component means an architectural element of a Dwelling Unit or Common Area 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, and stair treads in a common stairwell, or an exterior wall.

Composite Sample means a collection of more than one sample of the same medium (e.g., dust, soil or paint) from the same type of surface (e.g., floor, Interior Window Sill, or Window Trough), such that multiple samples can be analyzed as a single sample.

Containment means the physical measures taken to ensure that dust and debris created or released during Lead-Based Paint Hazard Reduction are not spread, blown or tracked from inside to outside of the Worksite.

Deteriorated Paint means any interior or exterior paint or other coating that is peeling, chipping, chalking or cracking, or any paint or coating located on an interior or exterior surface or fixture that is otherwise damaged or separated from the Substrate.

Dry Sanding means sanding without moisture and includes both hand and machine sanding.

Dust-Lead Hazard means surface dust that contains a dust-lead loading (area concentration of lead) equal to or exceeding the levels promulgated by the EPA at 40 CFR 745.65 or, if such levels are not in effect, the standards for Dust-Lead Hazards in section 4.05.

Dwelling Unit means a:

- Single-family home, including attached structures such as porches and stoops; or,
- Housing unit in a structure that contains more than 1 separate housing unit, and in which each such unit is used or occupied, or intended to be used or occupied, in whole or in part, as the home or separate living quarters of 1 or more persons.

Encapsulation means the application of a covering or coating that Acts as a barrier between the Lead-Based Paint and the environment. For its durability, *Encapsulation* relies on adhesion between the encapsulant and the painted surface and on the integrity of the existing bonds between paint layers and between the paint and the Substrate. *Encapsulation* may be used as a method of Abatement if it is designed and performed so as to be Permanent (see definition of "Permanent").

Enclosure means the use of rigid, durable construction materials that are mechanically fastened to the Substrate in order to Act as a barrier between Lead-Based Paint and the environment. Enclosure may be used as a method of Abatement if it is designed to be Permanent (see definition of "Permanent").

Environmental Intervention Blood Lead Level means a confirmed concentration of lead in whole blood equal to or greater than 20 µg/dL (micrograms of lead per deciliter) for a single test or 15-19 µg/dL in two tests taken at least 3 months apart.

Evaluation means a Risk Assessment, a Lead Hazard Screen, a lead- based paint Inspection, Paint Testing, or a combination of these to determine the presence of Lead-Based Paint Hazards or Lead-Based Paint.

Expected To Reside means there is actual knowledge that a child will reside in a Dwelling Unit reserved for the elderly or designated exclusively for persons with disabilities. If a resident woman is known to be pregnant, there is Actual knowledge that a child will reside in the Dwelling Unit.

Friction Surface means an interior or exterior surface that is subject to abrasion or friction, including, but not limited to, certain window, floor, and stair surfaces.

g means gram, *mg* means milligram (thousandth of a gram), and μg means microgram (millionth of a gram).

Hazard Reduction means measures designed to reduce or eliminate human exposure to Lead-Based Paint Hazards through methods including Interim Controls or Abatement or a combination of the two.

HEPA Vacuum means a vacuum cleaner device with an included high- efficiency particulate air (HEPA) filter through which the contaminated air flows, operated in accordance with the instructions of its manufacturer. A HEPA filter is one that captures at least 99.97 percent of airborne particles of at least 0.3 micrometers in diameter.

Housing For The Elderly means retirement communities or similar types of housing reserved for households composed of one or more persons 62 years of age or more.

HUD means the United States Department of Housing and Urban Development.
HUD-owned property means Residential Property owned or managed by HUD, or for which HUD is a trustee or conservator.

Impact Surface means an interior or exterior surface that is subject to damage by repeated sudden force, such as certain parts of door frames.

Indian Tribe means a tribe as defined in the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.)

Inspection (See Lead-Based Paint Inspection).

Interim Controls means a set of measures designed to reduce temporarily human exposure or likely exposure to Lead-Based Paint Hazards. Interim Controls include, but are not limited to, repairs, painting, temporary Containment, specialized cleaning, clearance, ongoing Lead-Based Paint maintenance activities, and the establishment and operation of management and resident education programs.

Interior Window Sill means the portion of the horizontal window ledge that protrudes into the interior of the room, adjacent to the window sash when the window is closed. The Interior Window Sill is sometimes referred to as the window stool.

Lead-Based Paint means paint or other surface coatings that contain lead equal to or exceeding 1.0 milligram per square centimeter or 0.5 percent by weight or 5,000 parts per million (ppm) by weight.

Lead-Based Paint Hazard means any condition that causes exposure to lead from Dust-Lead Hazards, Soil-Lead Hazards, or Lead-Based Paint that is deteriorated or present in Chewable Surfaces, Friction Surfaces, or Impact Surfaces, and that would result in adverse human health effects.

Lead-Based Paint Inspection means a surface-by-surface investigation to determine the presence of Lead-Based Paint and the provision of a report explaining the results of the investigation.

Lead Hazard Screen means a limited Risk Assessment Activity that involves Paint Testing and dust sampling and analysis as described in 40 CFR 745.227(c) and soil sampling and analysis as described in 40 CFR 745.227(d).

Minnesota Housing Assistance means non-federal funds provided by Minnesota Housing through applicable Minnesota Housing programs for the acquisition and/or rehabilitation of single family housing.

Mortgagee means a lender of a mortgage loan.

Mortgagor means a borrower of a mortgage loan.

Multifamily Property means a Residential Property containing five or more Dwelling Units.

Occupant means a person who inhabits a Dwelling Unit.

Owner means a person, firm, corporation, nonprofit organization, partnership, government, guardian, conservator, receiver, trustee, executor, or other judicial officer, or other entity which, alone or with others, owns, holds, or controls the freehold or leasehold title or part of the title to property, with or without actually possessing it. The definition includes a vendee who possesses the title, but does not include a Mortgagee or an Owner of a reversionary interest under a ground rent lease.

Paint Stabilization means repairing any physical defect in the Substrate of a painted surface that is causing paint deterioration, removing loose paint and other material from the surface to be treated, and applying a new protective coating or paint.

Paint Testing means the process of determining, by a Certified lead-based paint inspector or risk assessor, the presence or the absence of Lead-Based Paint on Deteriorated Paint surfaces or painted surfaces to be disturbed or replaced.

Paint Removal means a method of Abatement that permanently eliminates Lead-Based Paint from surfaces.

Painted Surface To Be Disturbed means a paint surface that is to be scraped, sanded, cut, penetrated or otherwise affected by Rehabilitation work in a manner that could potentially create a Lead-Based Paint Hazard by generating dust, fumes, or paint chips.

Permanent means an expected design life of at least 20 years.

Play Area means an area of frequent soil contact by children of less than 6 years of age, as indicated by the presence of play equipment (e.g. sandboxes, swing sets, sliding boards, etc.) or toys or other children's possessions, observations of play patterns, or information provided by parents, residents or property Owners.

Public Health Department means a State, tribal, county or municipal Public Health Department or the Indian Health Service.

Reevaluation means a Visual Assessment of painted surfaces and limited dust and soil sampling conducted periodically following lead-based paint Hazard Reduction where Lead-Based Paint is still present.

Rehabilitation means the improvement of an existing structure through alterations, incidental additions or enhancements. Rehabilitation includes repairs necessary to correct the results of deferred maintenance, the

Replacement of principal fixtures and Components, improvements to increase the efficient use of energy, and installation of security devices.

Replacement means a strategy of Abatement that entails the removal of building Components that have surfaces coated with Lead-Based Paint and the installation of new Components free of Lead-Based Paint.

Residential Property means a Dwelling Unit, Common Areas, building exterior surfaces, and any surrounding land, including outbuildings, fences and play equipment affixed to the land, belonging to an Owner and available for use by residents, but not including land used for agricultural, commercial, industrial or other non-residential purposes, and not including paint on the pavement of parking lots, garages, or roadways.

Risk Assessment means:

- An on-site investigation to determine the existence, nature, severity, and location of Lead-Based Paint Hazards; and
- The provision of a report by the individual or firm conducting the Risk Assessment explaining the results of the investigation and options for reducing Lead-Based Paint Hazards.

Single Family Property means a Residential Property containing one through four Dwelling Units.

Single Room Occupancy (SRO) housing means housing consisting of Zero-Bedroom Dwelling Units that may contain food preparation or sanitary facilities or both (see Zero-Bedroom Dwelling).

Soil-Lead Hazard means Bare Soil on Residential Property that contains lead equal to or exceeding levels promulgated by the EPA at 40 CFR 745.65 or, if such levels are not in effect, the standards for Soil-Lead Hazards in section 4.05.

Sponsor means Mortgagor (borrower).

Standard Treatments means a series of Hazard Reduction measures designed to reduce all Lead-Based Paint Hazards in a Dwelling Unit without the benefit of a Risk Assessment or other Evaluation.

Substrate means the material directly beneath the painted surface out of which the Components are constructed, including wood, drywall, plaster, concrete, brick or metal.

Target Housing means any housing constructed prior to 1978, except Housing For The Elderly or persons with disabilities (unless a child of less than 6 years of age resides or is Expected To Reside in such Housing For The Elderly or persons with disabilities) or any zero- bedroom dwelling. In the case of jurisdictions which banned the sale or use of Lead-Based Paint prior to 1978, HUD may designate an earlier date.

A *Visual Assessment* alone is not considered an Evaluation. Visual Assessment means looking for, as applicable:

- Deteriorated Paint;
- Visible surface dust, debris and residue as part of a Risk Assessment or Clearance Examination; or
- The completion or failure of a Hazard Reduction measure.

Wet Sanding or Wet Scraping means a process of removing loose paint in which the painted surface to be sanded or scraped is kept wet to minimize the dispersal of paint chips and airborne dust.

Window Trough means the area between the Interior Window Sill (stool) and the storm window frame. If there is no storm window, the Window Trough is the area that receives both the upper and lower window sashes when they are both lowered.

Worksite means an interior or exterior area where Lead-Based Paint Hazard Reduction Activity takes place. There may be more than one Worksite in a Dwelling Unit or at a Residential Property.

Zero-Bedroom Dwelling means any Residential Dwelling in which the living areas are not separated from the sleeping area. The term includes efficiencies, studio apartments, dormitory or Single Room Occupancy housing, military barracks, and rentals of individual rooms in Residential Dwellings (see Single Room Occupancy (SRO)).

2.03 Exemptions

- A Residential Property for which construction was completed on or after January 1, 1978, or, in the case of jurisdictions which banned the sale or residential use of lead-containing paint prior to 1978, an earlier date as designated via waiver from HUD.
- A Zero-Bedroom Dwelling Unit, including a Single Room Occupancy (SRO) Dwelling Unit.
- Housing For The Elderly, or a Residential Property designated exclusively for persons with disabilities; except this exemption shall not apply if a, section 4.06 and/or section 4.07 on or after September 15, 2000. This exemption does not apply to Residential Property where Enclosure or Encapsulation has been used as a method of Abatement.
- An unoccupied Dwelling Unit or Residential Property that is to be demolished, provided the Dwelling Unit or property will remain unoccupied until demolition.
- A property or part of a property that is not used and will not be used for human residential habitation, except that spaces such as entryways, hallways, corridors, passageways or stairways serving both residential and nonresidential uses in a mixed-use property shall not be exempt.
- Any Rehabilitation that does not disturb a painted surface.
- For emergency Actions immediately necessary to safeguard against imminent danger to human life, health or safety, or to protect property from further structural damage (such as when a property has been damaged by a natural disaster, fire, or structural collapse), Occupants shall be protected from exposure to lead in dust and debris generated by such emergency Actions to the extent practicable, and the requirements of chapters 2, 3 and 4 shall not apply. This exemption applies only to repairs necessary to respond to the emergency. The requirements of chapters 2, 3 and 4 shall apply to any work undertaken subsequent to, or above and beyond, such emergency Actions.
- Performance of an Evaluation or Lead-Based Paint Hazard Reduction or Lead-Based Paint Abatement on an exterior painted surface as required under this part may be delayed for a reasonable time during a period when weather conditions are unsuitable for conventional construction Activities.
- Where Abatement of Lead-Based Paint Hazards or Lead-Based Paint is required 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 Administrator may, if requested by the State Historic Preservation Office, conduct Interim Controls in accordance with section 4.07 instead of

Abatement. child less than age 6 resides or is Expected To Reside in the Dwelling Unit (see definitions of "Housing For The Elderly" and "Expected To Reside" in chapter 1).

- Residential Property found not to have Lead-Based Paint by a Lead-Based Paint Inspection conducted in accordance with section 4.05(a). Results of additional test(s) by a Certified Lead-Based Paint inspector may be used to confirm or refute a prior finding.
- Residential Property in which all Lead-Based Paint has been identified, removed, and clearance has been achieved in accordance with 40 CFR 745.227(b)(e) before September 15, 2000, or in accordance with section 4.05

2.04 Options

- *Standard Treatments.* Where Interim Controls are required, the Administrator has the option to presume that Lead-Based Paint or Lead-Based Paint Hazards or both are present throughout the Residential Property. In such a case, Evaluation is not required. Standard Treatments shall then be conducted in accordance with section 4.08 on all applicable surfaces, including soil. Standard Treatments are completed only when clearance is achieved in accordance with section 4.09.
- *Abatement.* Where Abatement is required, the Administrator may presume that Lead-Based Paint or Lead-Based Paint Hazards or both are present throughout the Residential Property. In such a case, Evaluation is not required. Abatement shall then be conducted on all applicable surfaces, including soil, in accordance with section 4.06 and completed when clearance is achieved in accordance with section 4.09.
- *Lead Hazard Screen.* Where a Risk Assessment is required, the Administrator may choose first to conduct a Lead Hazard Screen in accordance with section 4.05(b). If the results of the Lead Hazard Screen indicate the need for a full Risk Assessment (e.g., if the environmental measurements exceed levels established for Lead Hazard Screens in section 4.05(b)(2)), a complete Risk Assessment shall be conducted. Environmental samples collected for the Lead Hazard Screen may be used in the Risk Assessment. If the results of the Lead Hazard Screen do not indicate the need for a follow-up Risk Assessment, a Risk Assessment is not required.
- *Paint Testing.* Where Paint Stabilization or Interim Controls of Deteriorated Paint surfaces are required by this rule, the Administrator has the option to conduct Paint Testing of all surfaces with non-intact paint. If Paint Testing indicates the absence of Lead-Based Paint on a specific surface, Paint Stabilization or Interim Controls are not required on that surface.

2.05 Notice of Evaluation/Hazard Reduction Activities

The following activities shall be conducted if notice is required.

- *Notice of Evaluation or presumption.* When Evaluation is undertaken and Lead-Based Paint or Lead-Based Paint Hazards are found to be present, or if a presumption is made that Lead-Based Paint or lead-based paint hazards are present in accordance with the options described in section 2.05, the Administrator shall provide a notice to Occupants within 15 calendar days of the date when the Administrator receives the report or makes the presumption. A Visual Assessment alone is not considered an Evaluation for the purposes of this part. If only a Visual Assessment alone is required by this part, and no Evaluation is performed, a notice of Evaluation or presumption is not required.
 - The notice of the Evaluation shall include:
 - A summary of the nature, dates, scope and results of the Evaluation;

- A contact name, address and telephone number for more information, and to obtain access to the Actual Evaluation report; and
- The date of the notice.
- The notice of presumption shall include:
 - The nature and scope of the presumption;
 - A contact name, address and telephone number for more information; and
 - The date of the notice.

Notice of Hazard Reduction Activity. When Hazard Reduction Activities are undertaken, each Administrator shall:

- Provide a notice to Occupants no more than 15 calendar days after the Hazard Reduction Activities (including Paint Stabilization) have been completed. Notice of Hazard Reduction shall include, but not be limited to:
 - A summary of the nature, dates, scope and results (including clearance), of the Hazard Reduction Activities.
 - A contact name, address, and telephone number for more information;
 - Available information on the location of any remaining lead- based paint in the rooms, spaces or areas where Hazard Reduction Activities were conducted, on a surface-by-surface basis; and
 - The date of the notice.
- Update the notice, based on Reevaluation of the Residential Property and as any additional Hazard Reduction work is conducted.
- Provision of a notice of Hazard Reduction is not required if a Clearance Examination is not required.

Availability of notices of Evaluation, presumption, and Hazard Reduction Activities.

- The notices of Evaluation, presumption, and Hazard Reduction shall be of a size and type that is easily read by Occupants.
- To the extent practicable, each notice shall be made available, upon request, in a format accessible to persons with disabilities (e.g., Braille, large type, computer disk, audio tape).
- Each notice shall be provided in the Occupants' primary language or in the language of the Occupants' contract.
- The Administrator shall provide each notice to the Occupants by:
 - Posting and maintaining it in centrally located Common Areas and distributing it to any Dwelling Unit if necessary because the head of household is a person with a known disability; or
 - Distributing it to each occupied Dwelling Unit affected by the Evaluation, presumption, or Hazard Reduction Activity or serviced by Common Areas in which an Evaluation, presumption or Hazard Reduction has taken place.

2.06 Lead Hazard Information Pamphlet

If provision of a lead hazard information pamphlet is required, the Administrator shall provide to each occupied Dwelling Unit the lead hazard information pamphlet developed by EPA, HUD and the Consumer Product Safety Commission pursuant to section 406 of the Toxic Substances Control Act (15 U.S.C. 2686), or an EPA-approved alternative.

2.07 Use of Paint Containing Lead

- *New use prohibition.* The use of paint containing more than 0.06 percent dry weight of lead on any interior or exterior surface in housing receiving Minnesota Housing assistance is prohibited.
- *Pre-1978 prohibition.* In the case of a jurisdiction which banned the sale or residential use of lead-containing paint before 1978, HUD may designate an earlier date.

2.08 Prohibited methods of Paint Removal

- The following methods shall not be used to remove paint that is, or may be, Lead-Based Paint:
 - Open flame burning or torching.
 - Machine sanding or grinding without a high-efficiency particulate air (HEPA) local exhaust control.
 - Abrasive blasting or sandblasting without HEPA local exhaust control.
 - Heat guns operating above 1100 degrees Fahrenheit or charring the paint.
 - Dry Sanding or dry scraping, except dry scraping in conjunction with heat guns or within 1.0 ft. (0.30 m.) of electrical outlets, or when treating defective paint spots totaling no more than 2 sq. ft. (0.2 sq. m.) in any one interior room or space, or totaling no more than 20 sq. ft. (2.0 sq. m.) on exterior surfaces.
 - Paint stripping in a poorly ventilated space using a volatile stripper that is a hazardous substance in accordance with regulations of the Consumer Product Safety Commission at 16 CFR 1500.3, and/or a hazardous chemical in accordance with the Occupational Safety and Health Administration regulations at 29 CFR 1910.1200 or 1926.59, as applicable to the work.

2.09 Compliance with Federal Laws and Authorities

All Lead-Based Paint activities, including waste disposal, shall be performed in accordance with applicable Federal laws and authorities. For example, such activities may be subject to the applicable environmental review requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Toxic Substances Control Act, Title IV (15 U.S.C. 2860 et seq.), and other environmental laws and authorities (see, e.g., laws and authorities listed in Sec. 50.4 of this title).

2.10 Compliance with Other State, Tribal, and Local Laws

Nothing in this chapter is intended to relieve any Administrator of any responsibility for compliance with State, tribal or local laws, ordinances, codes or regulations governing Evaluation and Hazard Reduction. If a State, tribal or local law, ordinance, code or regulation defines Lead-Based Paint differently than the Federal definition, the more protective definition (i.e., the lower level) shall be followed in that State, tribal or local jurisdiction.

2.11 Minimum Requirements

- Nothing in this chapter is intended to preclude an Administrator or Occupant from conducting additional Evaluation or Hazard Reduction measures beyond the minimum requirements established. For example, if Visual Assessment is required, the Administrator may choose to perform a Risk Assessment. Similarly, if Interim Controls are required, an Administrator or Occupant may choose to implement Abatement.

To the extent that assistance is used in conjunction with one or more HUD programs, the Administrator shall follow 24 CFR Part 35 and its applicable subparts B, C, D, and F through M and use the most protective requirements.

2.12 Prior Evaluation/Hazard Reduction

If an Evaluation or Hazard Reduction was conducted at a Residential Property or Dwelling Unit before the property or Dwelling Unit became subject to this chapter, such an Evaluation, Hazard Reduction or Abatement meets the requirements of this chapter and need not be repeated under the following conditions:

- *Lead-Based Paint Inspection.*
 - A Lead-Based Paint Inspection conducted before March 1, 2000, meets the requirements if:
 - At the time of the Inspection the Lead-Based Paint inspector was approved by a State or Indian Tribe to perform Lead-Based Paint Inspections. It is not necessary that the State or tribal approval program had EPA authorization at the time of the Inspection.
 - Notwithstanding paragraph (a)(1)(i) of this section, the Inspection was conducted and accepted as valid by Minnesota Housing in fulfillment of the Lead-Based Paint Inspection requirement.
 - A Lead-Based Paint Inspection conducted on or after March 1, 2000, must have been conducted by a Certified Lead-Based Paint inspector.
- *Risk Assessment.*
 - A Risk Assessment must be no more than 12 months old to be considered current.
 - A Risk Assessment conducted before March 1, 2000, meets the requirements of this chapter if, at the time of the Risk Assessment, the risk assessor was approved by a state or Indian Tribe to perform Risk Assessments. It is not necessary that the state or tribal approval program had EPA authorization at the time of the Risk Assessment.
 - A Risk Assessment conducted on or after March 1, 2000, must have been conducted by a Certified risk assessor.
 - Paragraph (b) of this section does not apply in a case where a Risk Assessment is required in response to the identification of a child with an Environmental Intervention Blood Lead Level.
- *Interim Controls.*

If a Residential Property requires Interim Controls, the Interim Controls that have been conducted meet the requirements of this chapter if clearance was achieved after such controls were implemented.

- *Abatement.*
 - An Abatement conducted before March 1, 2000, meets the requirements of this part if:
 - At the time of the Abatement the Abatement supervisor was approved by a State or Indian Tribe to perform Lead-Based Paint Abatement. It is not necessary that the State or tribal approval program had EPA authorization at the time of the Abatement.
 - Notwithstanding paragraph (d)(1)(i) of this section, it was conducted and accepted by Minnesota Housing in fulfillment of the lead-based paint Abatement requirement.
 - An Abatement conducted on or after March 1, 2000, must have been conducted under the supervision of a Certified Lead-Based Paint Abatement supervisor.

2.13 Noncompliance with Requirements of Chap 2, 3, & 4

Monitoring and enforcement. An Administrator who fails to comply with any requirement of chapters 2, 3, and 4 may be terminated from participation in Minnesota Housing programs and may be subject to other penalties authorized by law.

A property Owner who informs a potential Purchaser or Occupant of Lead-Based Paint or possible Lead-Based Paint Hazards in a Residential Property or Dwelling Unit, in accordance with chapter 1, is not relieved of the requirements to evaluate and reduce Lead-Based Paint Hazards in accordance with chapter 2, 3 and 4 as applicable.

2.14 Records

The Administrator, as specified in chapter 2, 3 and 4, shall keep a copy of each notice, Evaluation, and clearance or Abatement report required by chapter 2, 3 and 4 for at least three years or the life of the loan or contract for deed, whichever is longer, unless documentation requirements of a particular Minnesota Housing program requires a longer records retention schedule.

Chapter 3 - Rehabilitation

3.01 Purpose/Applicability

The purpose of this chapter is to establish procedures to eliminate as far as practicable Lead-Based Paint Hazards in Owner-occupied, Residential Property that is acquired and/or rehabilitated using Minnesota Housing funds.

3.02 Definitions/General Requirements

Definitions and other general requirements that apply to this chapter are found in chapter 2.

3.03 Notices/Pamphlet

- *Notices.* In cases where Evaluation or Hazard Reduction or both are undertaken as part of state funded Rehabilitation, the Administrator shall provide a notice to Occupants in accordance with section 2.05. A Visual Assessment alone is not considered an Evaluation for the purposes of this chapter.
- *Lead hazard information pamphlet.* The Administrator shall provide the lead hazard information pamphlet in accordance with section 2.06.

3.04 Evaluation/Hazard Reduction Requirements

- *Paint Testing.* The Administrator shall either perform Paint Testing on the painted surfaces to be disturbed or replaced during Rehabilitation activities, or presume that all these painted surfaces are coated with Lead-Based Paint.
- *Residential Property receiving an average of up to and including \$5,000 per unit in Minnesota Housing assistance.* Each Administrator shall:
 - Conduct Paint Testing or presume the presence of Lead-Based Paint, in accordance with paragraph (a) of this section. If Paint Testing indicates that the painted surfaces are not coated with lead-based paint, safe work practices and clearance are not required.
 - Implement safe work practices during Rehabilitation work in accordance with section 4.11 and repair any paint that is disturbed.
 - After completion of any Rehabilitation disturbing painted surfaces, perform a Clearance Examination of the Worksite(s) in accordance with section 4.09. Clearance is not required if Rehabilitation did not disturb painted surfaces of a total area more than that set forth in section 4.11.
 - *Residential Property receiving an average of more than \$5,000 in Minnesota Housing assistance.* Each Administrator shall:
 - Conduct Paint Testing or presume the presence of Lead-Based Paint, in accordance with Paint Testing above.
 - Perform a Risk Assessment in the Dwelling Units receiving Minnesota Housing Assistance, in Common Areas servicing those units, and exterior painted surfaces, in accordance with section 4.05, before Rehabilitation begins.
 - Perform Interim Controls in accordance with section 4.07 of all Lead-Based Paint Hazards identified.
 - Implement safe work practices during Rehabilitation work in accordance with section 4.11 and repair any paint that is disturbed and is known or presumed to be Lead-Based Paint.

Chapter 4 – Methods/Standards for Lead-Based Paint Hazard Evaluation/Hazard Reduction Activities

4.01 Purpose/Applicability

The purpose of this chapter is to provide standards and methods for Evaluation and Hazard Reduction Activities required in chapters 2 and 3.

4.02 Definitions/General Requirements

Definitions and other general requirements that apply to this chapter are found in chapter 2.

4.03 References

Further guidance information regarding Evaluation and Hazard Reduction Activities described in this subpart is found in the following:

- The HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing (Guidelines);
- The EPA Guidance on Residential Lead-Based Paint, Lead- Contaminated Dust, and Lead Contaminated Soil;
- Guidance, methods or protocols issued by States and Indian Tribes that have been authorized by EPA under 40 CFR 745.324 to administer and enforce Lead-Based Paint programs.

4.04 Collection/Laboratory Analysis of Samples

All paint chip, dust, or soil samples shall be collected and analyzed in accordance with standards established either by a State or Indian Tribe under a program authorized by EPA in accordance with 40 CFR part 745, subpart Q, or by the EPA in accordance with 40 CFR 745.227, and as further provided in this chapter.

4.05 Lead-Based Paint Inspections/Risk Assessments

- *Lead-Based Paint Inspections and Paint Testing.* Lead-Based Paint Inspections shall be performed in accordance with methods and standards established either by a State or Tribal program authorized by the EPA under 40 CFR 745.324, or by the EPA at 40 CFR 745.227(b) and (h). Paint Testing to determine the presence or absence of Lead-Based Paint on Deteriorated Paint surfaces or surfaces to be disturbed or replaced shall be performed by a Certified Lead-Based Paint inspector or risk assessor.
- *Risk Assessments, Lead-Hazard Screens.*
 - Risk Assessments and Lead-Hazard Screens shall be performed in accordance with methods and standards established either by a state or tribal program authorized by the EPA, or by the EPA at 40 CFR 745.227(c), (d), and (h) and paragraph (b)(2) of this section.
 - Risk assessors shall use standards for determining Dust-Lead Hazards and Soil-Lead Hazards that are at least as protective as those promulgated by the EPA at 40 CFR 745.227(h) or, if such standards are not in effect, the following levels for dust or soil:
 - *Dust.* A Dust-Lead Hazard is surface dust that contains a mass- per-area concentration (loading) of lead, based on wipe samples, equal to or exceeding the applicable level in the following table:

Interim Dust Lead Standards

Evaluation Method	Surface Floors, $\mu\text{g}/\text{ft}^2$ (mg/m^2)	Interior Window Sills, $\mu\text{g}/\text{ft}^2$ (mg/m^2)	Window Troughs, $\mu\text{g}/\text{ft}^2$ (mg/m^2)
Lead Hazard Screen.....	25 (0.27)	125 (1.4)	Not applicable
Risk Assessment.....	40 (0.43)	250 (2.7)	Not Applicable
Reevaluation.....	40 (0.43)	250 (2.7)	Not Applicable
Clearance.....	40 (0.43)	250 (2.7)	800 (8.6).

- Soil.
 - ◆ A Soil-Lead Hazard for Play Areas frequented by children under six years of age is Bare Soil with lead equal to or exceeding 400 parts per million (micrograms per gram).
 - ◆ For the rest of the yard, a Soil-Lead Hazard is Bare Soil that totals more than 9 square feet (0.8 square meters) per property with lead equal to or exceeding an average of 1,200 parts per million (micrograms per gram).
- Lead-Hazard screens shall be performed in accordance with the methods and standards established either by a state or Tribal program authorized by the EPA, or by the EPA at 40 CFR 745.227(c), and paragraphs (b)(1) and (b)(2) of this section. If the Lead-Hazard Screen indicates the need for a follow-up Risk Assessment (e.g., if dust-lead measurements exceed the levels established for Lead-Hazard Screens in paragraph (b)(2)(i) of this section), a Risk Assessment shall be conducted in accordance with paragraphs (b)(1) and (b)(2) of this section. Dust, soil, and paint samples collected for the lead-hazard screen may be used in the Risk Assessment. If the Lead Hazard Screen does not indicate the need for a follow-up Risk Assessment, no further Risk Assessment is required.
- It is strongly recommended, but not required, that Lead-Based Paint inspectors, risk assessors, and sampling technicians provide a plain-language summary of the results to Occupants in compliance with section 2.05.

4.06 Abatement

If Abatement is undertaken it shall be performed in accordance with methods and standards established either by a State or Indian Tribe under a program authorized by EPA, or by EPA at 40 CFR 745.227(e), and shall be completed by achieving clearance in accordance with section 4.09. Abatement of an intact, factory-applied prime coating on metal surfaces is not required unless the surface is a Friction Surface.

4.07 Interim Controls

Interim Controls of Lead-Based Paint Hazards identified in a Risk Assessment shall be conducted in accordance with the provisions of this section. Interim Control measures include Paint Stabilization of Deteriorated Paint, treatments for friction and Impact Surfaces where levels of lead dust are above the levels specified in section 4.05, dust control, and lead-contaminated soil control. As provided by section 2.12, Interim Controls may be performed in combination with, or be replaced by, Abatement methods.

- *General requirements*
 - Only those Interim Control methods identified as acceptable methods in a current Risk Assessment report shall be used to control identified hazards.
 - Occupants of Dwelling Units where Interim Controls are being performed shall be protected during the course of the work in accordance with section 4.10.

- Clearance testing shall be performed at the conclusion of Interim Control activities in accordance with section 4.09.
- A person performing Interim Controls must be trained in accordance with the hazard communication standard for the construction industry issued by the Occupational Safety and Health Administration of the U.S. Department of Labor at 29 CFR 1926.59, and either be supervised by an individual Certified as a Lead-Based Paint Abatement supervisor or have completed successfully one of the following lead-safe work practices courses, except that this supervision or lead-safe work practices training requirement does not apply to work that disturbs painted surfaces less than the de minimis limits of section 4.11:
 - A Lead-Based Paint Abatement supervisor course accredited in accordance with 40 CFR 745.225;
 - A Lead-Based Paint Abatement worker course accredited in accordance with 40 CFR 745.225; or
 - Another course approved by HUD for this purpose after consultation with the EPA. A current list of approved courses is available on the Internet at <http://www.hud.gov/offices/lead>, or by mail or fax from the HUD Office of Healthy Homes and Lead Hazard Control at (202) 755-1785, extension 104 (this is not a toll-free number). Persons with hearing or speech impediments may access the above telephone number via phone or TTY by calling the toll-free Federal Information Relay Service at (800) 877-8339.
- *Paint Stabilization*
 - Interim Control treatments used to stabilize deteriorated Lead-Based Paint shall be performed in accordance with the requirements of this section. Interim Control treatments of intact, factory applied prime coatings on metal surfaces are not required. Finish coatings on such surfaces shall be treated by Interim Controls if those coatings contain Lead-Based Paint.
 - Any physical defect in the Substrate of a painted surface or Component that is causing deterioration of the surface or Component shall be repaired before treating the surface or Component. Examples of defective Substrate conditions include dry-rot, rust, moisture-related defects, crumbling plaster, and missing siding or other Components that are not securely fastened.
 - Before applying new paint, all loose paint and other loose material shall be removed from the surface to be treated. Acceptable methods for preparing the surface to be treated include Wet Scraping, Wet Sanding, and power sanding performed in conjunction with a HEPA filtered local exhaust attachment operated according to the manufacturer's instructions.
 - Dry Sanding or dry scraping is permitted only in accordance with section 2.09 (i.e., for electrical safety reasons or for specified minor amounts of work).
 - Paint Stabilization shall include the application of a new protective coating or paint. The surface Substrate shall be dry and protected from future moisture damage before applying a new protective coating or paint. All protective coatings and paints shall be applied in accordance with the manufacturer's recommendations.
 - Paint Stabilization shall incorporate the use of safe work practices in accordance with section 4.11.
- *Friction and Impact Surfaces*
 - Friction Surfaces are required to be treated only if:

- Lead dust levels on the nearest horizontal surface underneath the Friction Surface (e.g., the window sill, Window Trough, or floor) are equal to or greater than the standards specified in section 4.05;
- There is evidence that the paint surface is subject to abrasion; and
- Lead-Based Paint is known or presumed to be present on the Friction Surface.
- Impact Surfaces are required to be treated only if:
 - Paint on an Impact Surface is damaged or otherwise deteriorated;
 - The damaged paint is caused by impact from a related building Component (such as a door knob that knocks into a wall, or a door that knocks against its door frame); and
 - Lead-Based Paint is known or presumed to be present on the Impact Surface.
- Examples of building Components that may contain friction or Impact Surfaces include the following:
 - Window systems;
 - Doors;
 - Stair treads and risers;
 - Baseboards;
 - Drawers and cabinets; and
 - Porches, decks, interior floors, and any other painted surfaces that are abraded, rubbed, or impacted.
- Interim Control treatments for Friction Surfaces shall eliminate friction points or treat the Friction Surface so that paint is not subject to abrasion. Examples of acceptable treatments include rehanging and/or planning doors so that the door does not rub against the door frame, and installing window channel guides that reduce or eliminate abrasion of painted surfaces. Paint on stair treads and floors shall be protected with a durable cover or coating that will prevent abrasion of the painted surfaces. Examples of acceptable materials include carpeting, tile, and sheet flooring.
- Interim Control treatments for Impact Surfaces shall protect the paint from impact. Examples of acceptable treatments include treatments that eliminate impact with the paint surface, such as a door stop to prevent a door from striking a wall or baseboard.
- Interim Control for impact or Friction Surfaces does not include covering such a surface with a coating or other treatment, such as painting over the surface that does not protect Lead-Based Paint from impact or abrasion.
- *Chewable Surfaces*
 - Chewable Surfaces are required to be treated only if there is evidence of teeth marks, indicating that a child of less than six years of age has chewed on the painted surface, and Lead-Based Paint is known or presumed to be present on the surface.
 - Interim Control treatments for Chewable Surfaces shall make the Lead-Based Paint inaccessible for chewing by children of less than 6 years of age. Examples include Enclosures or coatings that cannot be penetrated by the teeth of such children.

- *Dust-Lead Hazard control*
 - Interim Control treatments used to control Dust-Lead Hazards shall be performed in accordance with the requirements of this section. Additional information on dust removal is found in the HUD Guidelines, particularly Chapter 11 (see section 4.03).
 - Dust control shall involve a thorough cleaning of all horizontal surfaces, such as Interior Window Sills, Window Troughs, floors, and stairs, but excluding ceilings. All horizontal surfaces, such as floors, stairs, window sills and Window Troughs, that are rough, pitted, or porous shall be covered with a smooth, cleanable covering or coating, such as metal coil stock, plastic, polyurethane, or linoleum.
 - Surfaces covered by a rug or carpeting shall be cleaned as follows:
 - The floor surface under a rug or carpeting shall be cleaned where feasible, including upon removal of the rug or carpeting, with a HEPA vacuum or other method of equivalent efficacy.
 - An unattached rug or an attached carpet that is to be removed, and padding associated with such rug or carpet, located in an area of the Dwelling Unit with Dust-Lead Hazards on the floor, shall be thoroughly vacuumed with a HEPA vacuum or other method of equivalent efficacy. Protective measures shall be used to prevent the spread of dust during removal of a rug, carpet or padding from the dwelling. For example, it shall be misted to reduce dust generation during removal. The item(s) being removed shall be wrapped or otherwise sealed before removal from the Worksite.
 - An attached carpet located in an area of the Dwelling Unit with Dust-Lead Hazards on the floor shall be thoroughly vacuumed with a HEPA vacuum or other method of equivalent efficacy if it is not to be removed.
- *Soil-Lead Hazards*
 - Interim Control treatments used to control Soil-Lead Hazards shall be performed in accordance with this section.
 - Soil with a lead concentration equal to or greater than 5,000 µg/g of lead shall be abated in accordance with 40 CFR 745.227(e).
 - Acceptable Interim Control methods for soil lead are impermanent surface coverings and land use controls.
 - Impermanent surface coverings may be used to treat lead- contaminated soil if applied in accordance with the following requirements. Examples of acceptable impermanent coverings include gravel, bark, sod, and artificial turf.
 - ◆ Impermanent surface coverings selected shall be designed to withstand the reasonably- expected traffic. For example, if the area to be treated is heavily traveled, neither grass nor sod shall be used.
 - ◆ When loose impermanent surface coverings such as bark or gravel are used, they shall be applied in a thickness not less than six inches deep.
 - ◆ The impermanent surface covering material shall not contain more than 400 µg/g of lead.
 - ◆ Adequate controls to prevent erosion shall be used in conjunction with impermanent surface coverings.

- Land use controls may be used to reduce exposure to Soil-Lead Hazards only if they effectively control access to areas with Soil-Lead Hazards. Examples of land use controls include: fencing, warning signs, and landscaping.
 - ◆ Land use controls shall be implemented only if residents have reasonable alternatives to using the area to be controlled.
 - ◆ If land use controls are used for a soil area that is subject to erosion, measures shall be taken to contain the soil and control dispersion of lead.

4.08 Standard Treatments

Standard Treatments shall be conducted in accordance with this section.

- *Paint Stabilization* - All Deteriorated Paint on exterior and interior surfaces located on the Residential Property shall be stabilized in accordance with section 4.07, or abated in accordance with section 4.06.
- *Smooth and cleanable horizontal surfaces* - All horizontal surfaces, such as uncarpeted floors, stairs, Interior Window Sills and Window Troughs, that are rough, pitted, or porous, shall be covered with a smooth, cleanable covering or coating, such as metal coil stock, plastic, polyurethane, or linoleum.
- *Correcting dust-generating conditions* - Conditions causing friction or impact of painted surfaces shall be corrected in accordance with section 4.07.
- *Bare residential soil* - Bare Soil shall be treated in accordance with the requirements of section 4.07, unless it is found not to be a Soil-Lead Hazard in accordance with section 4.05.
- *Safe work practices* - All Standard Treatments described in this section shall incorporate the use of safe work practices in accordance with section 4.11.
- *Clearance* - A Clearance Examination shall be performed in accordance with section 4.09 at the conclusion of any lead Hazard Reduction Activities.
- *Qualifications* - Individual performing Standard Treatments must meet the training and/or supervision requirements of section 4.07.

4.09 Clearance

Clearance Examinations as required by chapter 3 shall be performed in accordance with the provisions of this section.

- *Clearance following Abatement.* Clearance Examinations performed following Abatement of Lead-Based Paint or Lead-Based Paint Hazards shall be performed in accordance with 40 CFR 745.227(e) and this section. Such clearances shall be performed by a person Certified to perform Risk Assessments or Lead-Based Paint Inspections.
- *Clearance following Activities other than Abatement.* Clearance Examinations performed following Interim Controls, Paint Stabilization, Standard Treatments, ongoing Lead-Based Paint maintenance, or Rehabilitation shall be performed in accordance with the requirements of this section. Clearance is not required if the work being cleared does not disturb painted surfaces of a total area more than that set forth in section 4.11.
 - *Qualified personnel.* Clearance Examinations shall be performed by:
 - A Certified risk assessor;
 - A Certified Lead-Based Paint inspector;

- A person who has successfully completed a training course for sampling technicians (or a discipline of similar purpose and title) that is developed or accepted by EPA or a State or tribal program authorized by EPA pursuant to 40 CFR part 745, subpart Q, and that is given by a training provider accredited by EPA or a State or Indian Tribe for training in Lead-Based Paint Inspection or Risk Assessment, provided a Certified risk assessor or a Certified Lead-Based Paint inspector approves the work of the sampling technician and signs the report of the Clearance Examination; or
 - A technician licensed or Certified by EPA or a State or Indian Tribe to perform Clearance Examinations without the approval of a Certified risk assessor or Certified Lead-Based Paint inspector, provided that a Clearance Examination by such a licensed or Certified technician shall be performed only for a single-family property or individual Dwelling Units and associated Common Areas in a multi-unit property, and provided further that a Clearance Examination by such a licensed or Certified sampling technician shall not be performed using random sampling of Dwelling Units or Common Areas in multifamily properties, except that a Clearance Examination performed by such a licensed or Certified sampling technician is acceptable for any Residential Property if the Clearance Examination is approved and the report signed by a Certified risk assessor or a Certified Lead-Based Paint inspector.
- Required Activities
- Clearance Examinations shall include a Visual Assessment, dust sampling, submission of samples for analysis for lead in dust, interpretation of sampling results, and preparation of a report. Soil sampling is not required. Clearance Examinations shall be performed in Dwelling Units, Common Areas, and exterior areas in accordance with this section and the steps set forth at 40 CFR 745.227(e)(8). If clearance is being performed after Lead-Based Paint Hazard Reduction, Paint Stabilization, maintenance, or Rehabilitation that affected exterior surfaces but did not disturb interior painted surfaces or involve elimination of an interior Dust-Lead Hazard, interior clearance is not required if window, door, ventilation, and other openings are sealed during the exterior work. If clearance is being performed for more than 10 Dwelling Units of similar construction and maintenance, as in a Multifamily Property, random sampling for the purpose of clearance may be conducted in accordance with 40 CFR 745.227(e)(9).
 - The Visual Assessment shall be performed to determine if Deteriorated Paint surfaces and/or visible amounts of dust, debris, paint chips or other residue are still present. Both exterior and interior painted surfaces shall be examined for the presence of Deteriorated Paint. If Deteriorated Paint or visible dust, debris or residue are present in areas subject to dust sampling, they must be eliminated prior to the continuation of the Clearance Examination, except elimination of Deteriorated Paint is not required if it has been determined, through Paint Testing or a Lead-Based Paint Inspection, that the Deteriorated Paint is not Lead-Based Paint. If exterior painted surfaces have been disturbed by the Hazard Reduction, maintenance or Rehabilitation activity, the Visual Assessment shall include an assessment of the ground and any outdoor living areas close to the affected exterior painted surfaces. Visible dust or debris in living areas shall be cleaned up and visible paint chips on the ground shall be removed.
 - Dust samples shall be wipe samples and shall be taken on floors and, where practicable, Interior Window Sills and Window Troughs. Dust samples shall be collected and analyzed in accordance with section 4.04.
 - Clearance reports shall be prepared in accordance with paragraph (c) of this section.

- *Clearance report* - When clearance is required, the Administrator shall ensure that a clearance report is prepared that provides documentation of the Hazard Reduction or maintenance Activity as well as the Clearance Examination. When Abatement is performed, the report shall be an Abatement report in accordance with 40 CFR 745.227(e)(10). When another Hazard Reduction or maintenance Activity requiring a clearance report is performed, the report shall include the following information:
 - The address of the Residential Property and, if only part of a Multifamily Property is affected, the specific Dwelling Units and Common Areas affected.
 - The following information on the Clearance Examination:
 - The date(s) of the Clearance Examination;
 - The name, address, and signature of each person performing the Clearance Examination, including certification number;
 - The results of the Visual Assessment for the presence of Deteriorated Paint and visible dust, debris, residue or paint chips;
 - The results of the analysis of dust samples, in $\mu\text{g}/\text{sq. ft.}$, by location of sample; and
 - The name and address of each laboratory that conducted the analysis of the dust samples, including the identification number for each such laboratory recognized by EPA under section 405(b) of the Toxic Substances Control Act (15 U.S.C. 2685(b)).
 - The following information on the Hazard Reduction or maintenance Activity for which clearance was performed:
 - The start and completion dates of the Hazard Reduction or maintenance Activity;
 - The name and address of each firm or organization conducting the Hazard Reduction or maintenance Activity and the name of each supervisor assigned;
 - A detailed written description of the Hazard Reduction or maintenance Activity, including the methods used, locations of exterior surfaces, interior rooms, Common Areas, and/or Components where the Hazard Reduction Activity occurred, and any suggested monitoring of encapsulants or Enclosures; and
 - If soil hazards were reduced, a detailed description of the location(s) of the Hazard Reduction Activity and the method(s) used.
- *Standards* - The clearance standards in section 4.05 shall apply. If test results equal or exceed the standards, the Dwelling Unit, Worksite, or Common Area represented by the sample fails the Clearance Examination.
- *Clearance failure* - All surfaces represented by a failed clearance sample shall be cleaned again or treated by Hazard Reduction, and retested, until the applicable clearance level in section 4.05 is met.
- *Independence* - Clearance Examinations shall be performed by persons or entities independent of those performing Hazard Reduction or maintenance activities, unless the Administrator uses qualified in-house employees to conduct clearance. An in-house employee shall not conduct both a Hazard Reduction or maintenance activity and its Clearance Examination.
- *Worksite clearance* - Clearance of only the Worksite is permitted after work covered by section 3.04, section 4.07, or section 4.08, when Containment is used to ensure that dust and debris generated by the work is kept within the Worksite. Otherwise, clearance must be of the entire Dwelling Unit, Common

Area, or outbuilding, as applicable. When clearance is of an interior Worksite that is not an entire Dwelling Unit, Common Area, or outbuilding, dust samples shall be taken for this section as follows:

- Sample, from each of at least four rooms, hallways, stairwells, or Common Areas within the dust Containment area:
 - The floor (one sample); and
 - Windows (one interior sill sample and one trough sample, if present); and,
- Sample the floor in a room, hallway, stairwell, or Common Area connected to the dust Containment area, within five feet outside the area (one sample).

4.10 Occupant Protection/Worksite Preparation

This section establishes procedures for protecting Dwelling Unit Occupants and the environment from contamination from lead-contaminated or lead-containing materials during Hazard Reduction Activities.

- Occupant protection
 - Occupants shall not be permitted to enter the Worksite during Hazard Reduction Activities (unless they are employed in the conduct of these Activities at the Worksite), until after Hazard Reduction work has been completed and clearance, if required, has been achieved.
 - Occupants shall be temporarily relocated before and during Hazard Reduction Activities to a suitable, decent, safe, and similarly accessible Dwelling Unit that does not have Lead-Based Paint Hazards, except if:
 - Treatment will not disturb Lead-Based Paint, Dust-Lead Hazards or Soil-Lead Hazards;
 - Only the exterior of the Dwelling Unit is treated, and windows, doors, ventilation intakes and other openings in or near the Worksite are sealed during hazard control work and cleaned afterward, and entry free of Dust-Lead Hazards, Soil-Lead Hazards, and debris is provided;
 - Treatment of the interior will be completed within one period of 8-daytime hours, the Worksite is contained so as to prevent the release of leaded dust and debris into other areas, and treatment does not create other safety, health or environmental hazards (e.g., exposed live electrical wiring, release of toxic fumes, or on-site disposal of hazardous waste); or
 - Treatment of the interior will be completed within 5 calendar days, the Worksite is contained so as to prevent the release of leaded dust and debris into other areas, treatment does not create other safety, health or environmental hazards; and, at the end of work on each day, the Worksite and the area within at least 10 feet (3 meters) of the Containment area is cleaned to remove any visible dust or debris, and Occupants have safe access to sleeping areas, and bathroom and kitchen facilities.
 - The Dwelling Unit and the Worksite shall be secured against unauthorized entry, and Occupants' belongings protected from contamination by Dust-Lead Hazards and debris during Hazard Reduction Activities. Occupants' belongings in the Containment area shall be relocated to a safe and secure area outside the Containment area, or covered with an impermeable covering with all seams and edges taped or otherwise sealed.
- *Worksite preparation*
 - The Worksite shall be prepared to prevent the release of leaded dust, and contain Lead-Based Paint chips and other debris from Hazard Reduction Activities within the Worksite until they can be safely

removed. Practices that minimize the spread of leaded dust, paint chips, soil and debris shall be used during Worksite preparation.

- A warning sign shall be posted at each entry to a room where Hazard Reduction Activities are conducted when Occupants are present; or at each main and secondary entryway to a building from which Occupants have been relocated; or, for an exterior Hazard Reduction Activity, where it is easily read 20 feet (6 meters) from the edge of the Hazard Reduction Activity Worksite. Each warning sign shall be as described in 29 CFR 1926.62(m), except that it shall be posted irrespective of employees' lead exposure and, to the extent practicable, provided in the Occupants' primary language.

4.11 Safe Work Practices

- *Prohibited methods* - Methods of Paint Removal listed in section 2.09 shall not be used.
- *Occupant protection and Worksite preparation* - Occupants and their belongings shall be protected, and the Worksite prepared, in accordance with section 4.10. A person performing this work shall be trained on hazards and either be supervised or have completed successfully one of the specified courses, in accordance with section 4.07.
- *Specialized cleaning* - After Hazard Reduction Activities have been completed, the Worksite shall be cleaned using cleaning methods, products, and devices that are successful in cleaning up Dust-Lead Hazards, such as a HEPA vacuum or other method of equivalent efficacy, and lead-specific detergents or equivalent.
- *De Minimis levels* - Safe work practices are not required when maintenance or Hazard Reduction Activities do not disturb painted surfaces that total more than:
 - 20 square feet (2 square meters) on exterior surfaces;
 - 2 square feet (0.2 square meters) in any one interior room or space; or
 - 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.