

CHAPTER 17**LEAD HAZARD EVALUATION
AND ABATEMENT CODE****Authority**

N.J.S.A. 52:27D-124 and 52:27D-436.

Source and Effective Date

R.1995 d.381, effective July 17, 1995.
See: 27 N.J.R. 970(a), 27 N.J.R. 2715(a).

Executive Order No. 66(1978) Expiration Date

Chapter 17, Lead Hazard Evaluation and Abatement Code, expires on July 17, 2000.

Chapter Historical Note

Chapter 17, Retirement Community Full Disclosure Requirements, was filed and became effective June 1, 1970, as R.1970 d.61. See: 2 N.J.R. 38(b), 2 N.J.R. 53(b). An exempt emergency rule was filed and became effective April 22, 1976, as R.1976 d.126. See: 8 N.J.R. 270(b). Pursuant to Executive Order No. 66(1978), Chapter 17 was readopted with amendments, effective June 27, 1984, as R.1984 d.300. (Amendments effective July 16, 1984.) See: 16 N.J.R. 1137(b), 16 N.J.R. 1968(a). Chapter 17 was repealed, effective June 19, 1989, as R.1989 d.317. See: 21 N.J.R. 958(a), 21 N.J.R. 1669(a). Pursuant to the provisions of Executive Order No. 66(1978), Chapter 17 expired, and ceased to be effective, on June 1, 1989. Chapter 17, Lead Hazard Evaluation and Abatement Code, was adopted as New Rules by R.1995 d. 381, effective July 17, 1995. See: Source and Effective Date.

CHAPTER TABLE OF CONTENTS**SUBCHAPTER 1. GENERAL PROVISIONS**

- 5:17-1.1 Title; scope; intent
- 5:17-1.2 Definitions
- 5:17-1.3 Resource materials

SUBCHAPTER 2. CONTRACTOR CERTIFICATION

- 5:17-2.1 Certification required
- 5:17-2.2 Conflict of interest
- 5:17-2.3 Application for certification
- 5:17-2.4 Issuance of certification
- 5:17-2.5 Denial, suspension, imposition of conditions upon or revocation of certification
- 5:17-2.6 Civil penalties

SUBCHAPTER 3. EVALUATION AND TESTING

- 5:17-3.1 Contract documents—testing and evaluation
- 5:17-3.2 Testing/evaluation
- 5:17-3.3 Certification and standards
- 5:17-3.4 Test methods
- 5:17-3.5 Lead hazards

**SUBCHAPTER 4. PRE-ABATEMENT PREPARATION
AND OCCUPANT PROTECTION**

- 5:17-4.1 Specification and drawing
- 5:17-4.2 Abatement classification
- 5:17-4.3 Worksite levels
- 5:17-4.4 Air equipment

**SUBCHAPTER 5. LEAD HAZARD ABATEMENT—
GENERAL**

- 5:17-5.1 Duties of the contractor
- 5:17-5.2 Permits required
- 5:17-5.3 Variations
- 5:17-5.4 Occupancy during abatement

**SUBCHAPTER 6. PAINT REMOVAL; COMPONENT
REPLACEMENT; ENCLOSURE;
ENCAPSULATION**

- 5:17-6.1 Lead-based paint removal
- 5:17-6.2 Building component replacement
- 5:17-6.3 Enclosure methods
- 5:17-6.4 Encapsulation

SUBCHAPTER 7. SOIL

- 5:17-7.1 Soil interim controls or abatement

**SUBCHAPTER 8. ABATEMENT CLEANING (INTERIOR
AND EXTERIOR)**

- 5:17-8.1 Post abatement cleaning—interior work areas
- 5:17-8.2 Post abatement cleaning—exterior work areas

**SUBCHAPTER 9. FINAL INSPECTION AND
CLEARANCE TESTING**

- 5:17-9.1 Final inspection and clearance testing

SUBCHAPTER 10. WASTE DISPOSAL

- 5:17-10.1 Waste disposal

SUBCHAPTER 11. STEEL STRUCTURES (RESERVED)**SUBCHAPTER 1. GENERAL PROVISIONS****5:17-1.1 Title; scope; intent**

(a) This chapter, adopted pursuant to P.L. 1993, c.288, Lead-Based Paint Hazard Abatement and Lead-Based Paint Abatement Contractor Certification Act, shall be known and shall be cited throughout the rules as “N.J.A.C. 5:17” and, when referred to in this part of the rules, may be cited as “this chapter.”

(b) Unless otherwise specifically provided, all references to article or section numbers or to provisions not specifically identified by number, shall be construed to refer to such article, section, or provision of this chapter.

(c) This chapter controls the abatement of lead-based paint hazards and the certification of lead-based paint hazard evaluation or abatement contractors.

(d) This chapter seeks to provide and ensure public safety, health, and welfare insofar as they are affected by the identification and abatement of lead-based paint hazards. It is not intended to, nor shall it be construed to, conflict with or limit the applicability of the lead exposure in construction standards promulgated by the Occupational Safety and Health Administration (OSHA), 29 C.F.R. 1926.62.

(e) The removal, repair, encapsulation, or enclosure of the lead-based paint or lead-contaminated soil shall require a construction permit issued pursuant to the State Uniform Construction Code Act (N.J.S.A. 52:27D-119 et seq.). Any encapsulation or enclosure materials or methods shall conform to the construction requirements of the Uniform Construction Code (UCC) except that there shall be no requirement to increase the size of door or window openings.

(f) The Departments of Health and Labor, pursuant to P.L. 1993, c.288, and agreements between the Departments, shall share information about certifications and abatements pursuant to this Chapter.

1. In instances in which a child with an elevated blood lead level is identified pursuant to Chapter XIII of the State Sanitary Code (N.J.A.C. 8:51), that code shall control inspection, risk assessment and abatement of premises identified as contributing to the elevated blood lead level.

5:17-1.2 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

“ASTM” means the American Society for Testing and Materials.

“Business firm” means and includes any corporation, company, association, society, firm, partnership or joint stock company, or any sole proprietor, engaged in, advertising, or holding itself out to be in the business of lead evaluation or lead abatement.

“Commissioner” means the Commissioner of the Department of Community Affairs.

“Composite sampling” means an economical, but less specific, method of sampling for lead-based paint hazards by analyzing dust from several surfaces or soil from different locations together.

“Department” means the Department of Community Affairs.

“Encapsulant” means a coating or rigid material that relies on adhesion to a lead-based painted surface and is not mechanically fastened to the substrate.

“Encapsulation” means a process to make lead-based paint inaccessible by providing a barrier between the lead-based paint and the environment, where the primary means of attachment for the encapsulant is bonding of the product used to the surface covered either by the product itself or through the use of an adhesive.

“Enclosure” means the installation of a rigid, durable barrier that is mechanically attached to building components, with all edges and seams sealed with caulk or other sealant and having a design life of at least 20 years.

“HUD Guidelines” means the most recent version of the “Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing” prepared for the United States Department of Housing and Urban Development by the National Center for Lead-Safe Housing and available from the National Center, 10227 Wincopin Circle, Suite 205, Columbia, Maryland 21044.

“HEPA” means high efficiency particulate air.

“HEPA sander” means an electric sander equipped with a specially designed shroud or containment system where all exhaust air is passed through a HEPA filter.

“HEPA vacuum blasting” means abrasive blasting with a shroud under the vacuum that is attached to the blast head where all exhaust air is passed through a HEPA filter.

“HEPA vacuum needle gun” means a needle gun that removes paint by the force of metal needles rapidly pounding against the painted surface attached to a vacuum where all exhaust air is passed through a HEPA filter.

“Inspector/risk assessor” means a person certified by the New Jersey Department of Health as such.

“Lead abatement” means a process designed either to mitigate or to eliminate permanently lead-based paint hazards on a premises and includes, but is not limited to: the removal of lead-based paint and lead-contaminated dust; the containment or encapsulation of lead-based paint; the replacement of lead-painted surfaces or fixtures; the removal or covering of lead-contaminated soil; and all preparation, cleanup, disposal and post-abatement clearance testing activities associated with such measures.

“Lead abatement clearance certificate” means the certificate issued by the construction official pursuant to N.J.A.C. 5:23-2.23(m) at the end of a lead abatement project.

“Lead evaluation” means a surface-by-surface investigation to determine the presence and condition of lead-based paint and the provision of a report explaining the results of the investigation, including, but not limited to, hazards found and recommendations for abatement.

“Lead screening” means an abbreviated lead-based paint hazard evaluation which may be appropriate for buildings constructed before 1978 that are in good condition.

“Lead-based paint” means paint or other surface coating material that contains lead equal to or greater than 1.0 milligrams per centimeter squared or in excess of 0.5 percent by weight.

“Lead-based paint hazard” means any condition that causes exposure to lead from lead-contaminated dust or soil or lead-contaminated paint that is deteriorated or present in surfaces that would result in adverse human health effects.

“ μg ” means micrograms of lead per.

"N.J.A.C." means the New Jersey Administrative Code.

"N.L.L.A.P." means the U.S. Environmental Protection Agency National Lead Laboratory Accreditation Program.

"Owner" means building owner or his agent. In the case of evaluation and testing services, "owner" shall include the client of the evaluation firm if other than the owner.

"Patch test" means a field test procedure in which a small area of the existing lead-based paint film is prepared and the encapsulant product is applied or installed and cured in the manner intended for the large-scale job and then tested to determine adhesion and surface integrity.

"Plastic sheeting" means a minimum of six mil thick polyethylene (plastic) sheeting unless the text specifies otherwise.

"Surface" means an area such as an interior or exterior wall, ceiling, floor, door, door frame, window sill, window frame, porch, stair, handrail and spindle, or other abradable surface, soil, furniture, a carpet, a radiator or a water pipe.

"UCC" means the New Jersey Uniform Construction Code, N.J.A.C. 5:23.

"Window" means the entire window system, including the sash, the stop and parting beads, and the window jambs.

"Window well" means the window trough. It is also synonymous with window stool, defined in ASTM Standards E1605-94 as flat, horizontal molding fitted over the sill, on the window interior, between jambs, that comes in contact with the bottom rail of the (lower) operating sash and the window sill.

"XRF" means x-ray fluorescence, a radiological method of in-place testing for the presence of lead-based paint on surfaces.

5:17-1.3 Resource materials

Additional information on evaluating and abating lead hazards may be obtained from the following sources: American Society for Testing Materials, 1916 Race Street, Philadelphia, Pennsylvania 19103; The National Center for Lead-Safe Housing, 10227 Wincopin Circle, Suite 205, Columbia, Maryland 21044, (410) 992-0712; The National Institute of Building Sciences, 1201 L Street, NW, Suite 400, Washington, DC 20005-4024, (202) 289-7800; and the Steel Structures Painting Council, The Crane Building, 40 24th Street, 6th Floor, Pittsburgh, Pennsylvania 15222.

SUBCHAPTER 2. CONTRACTOR CERTIFICATION

5:17-2.1 Certification required

(a) Effective January 1, 1996, no individual, partnership, corporation or other business entity shall engage in either

the business of lead evaluation or the business of lead abatement, unless certified by the Department in accordance with section 15 of P.L. 1993, c.288 (N.J.S.A. 52:27D-428) and these rules.

(b) Any individual, corporation, partnership or other business entity seeking certification in accordance with these rules shall either be certified or shall employ individuals certified by the Department of Health in accordance with section 3 of P.L. 1993, c.288 (N.J.S.A. 26:2Q-3) (see N.J.A.C. 8:62) and shall designate a person, certified as a lead abatement supervisor by the Department of Health, at each job site to be responsible for ensuring compliance with the requirements of P.L. 1993, c.288 and of these rules.

(c) Contractor certification shall not be required for the following individuals or activities;

1. An owner undertaking work on his or her own premises using his or her own employees, provided that those employees are certified by the Department of Health;
2. A homeowner performing lead abatement work himself or herself on a dwelling unit that he or she owns and occupies as a primary place of residence; or
3. Any business firm engaging in painting, woodworking, structural renovation or other indoor or outdoor contracting services that may result in the disturbance of paint, provided that the firm does not hold itself out as certified by the Department or otherwise represent that it has specialized competency to perform lead evaluation or abatement work.

(d) A corporation, partnership or other business entity may be denied certification if any stockholder, director, officer, partner or other person having an economic interest in the organization shall have violated any of the provisions of these rules or been denied certification for cause. This provision shall also apply to any business organization having a parent or subsidiary relationship to any such business organization.

(e) Local health departments or other public agencies performing lead evaluations shall not be required to obtain contractor certification to perform evaluations within their jurisdictions.

5:17-2.2 Conflict of interest

(a) No business firm shall be certified to offer lead evaluation or lead abatement services if any person who is a proprietor, general partner, officer, director, employee, or shareholder or limited partner in the firm is employed as an official or inspector by any agency, public or private, enforcing the State Uniform Construction Code Act or, except as otherwise provided in paragraph(a)2 below, is employed by any public health department or agency in the State of New Jersey.

1. This section shall not apply to the ownership of stock or other investment instrument in any corporation listed on any national stock exchange.

2. Any other provision of this subsection to the contrary notwithstanding, a business firm may be certified to offer lead evaluation services only, despite the fact that a person who is a proprietor, general partner, officer, director, employee, or shareholder or limited partner in the firm is employed by a public health department or agency in the State of New Jersey. In any such case, the business firm shall not engage in the business of lead evaluation within the area of jurisdiction of the public health department or agency by which any such person is employed and shall not have any relationship to any individual or business firm performing lead abatement services.

(b) Any relationship between the individuals or business firm performing lead evaluation services and the individuals or business firm performing lead abatement services at a job site shall be disclosed to the owner in writing.

(c) Except as otherwise provided in paragraph (a)2 above, nothing contained in this section shall be deemed to prevent a business firm from offering both evaluation and abatement services provided that the disclosure required in (b) above is made for any job where that firm performs both evaluation and abatement.

5:17-2.3 Application for certification

(a) Every application for certification as either a lead evaluation contractor or a lead abatement contractor, or both, shall be made on the appropriate form prescribed by the Commissioner and shall be accompanied by a nonreturnable fee of \$1,500. In the case of firms seeking certification to perform both evaluation and abatement work, two fees shall be paid. The certification may be issued in, and the application fee paid in, six month increments. Certification for one six month period carries a fee of \$375.00.

(b) Every application for certification shall include the following:

1. The full name and address of the business. In the case of a corporation, the name entered on the application shall be the same as that registered with the Secretary of State. In all cases, the address entered on the application shall be the street number, street name, municipality, the post office serving the property, if different from the municipality, and the zip code, of the location of the primary office of the applicant's business organization. In no case shall the address be only the address of an agent or only a post office box. It shall, in all cases, be the address at which the proprietor, or the designated representative of the business organization who is certified by the Department of Health in accordance with section 3 of P.L. 1993, c.288 (N.J.S.A. 26:2Q-3) and is responsible for compliance with P.L. 1993, c.288 can usually be found;

2. The name and address of an agent upon whom service upon the business organization may be made within the State of New Jersey. The agent shall be either an individual who is a resident of the State of New Jersey or a corporation maintaining an office within the State of New Jersey;

3. The business organization's telephone number;

4. The business organization's Federal Taxpayer Identification Number and New Jersey Unemployment Insurance Number, if any;

5. The name, address and home telephone number, and date of birth of each person having at least a 10 percent ownership interest in the business organization;

6. Information concerning the experience of the applicant, and of the person certified by the Department of Health and designated as being responsible for compliance with P.L. 1993, c.288, in the State of New Jersey, including the number of years in the lead evaluation and/or lead abatement business and the municipalities in which such business has been carried on during the three years immediately preceding the date of application;

7. A list of the employees who will be involved in performing evaluation or abatement tasks, together with their New Jersey Department of Health Certification Number and the discipline(s) in which they are certified;

8. Any criminal convictions against the business or against any person having an interest in the business and the disposition thereof; and

9. Proof of insurance as follows: a minimum of \$1 million in commercial general liability coverage written on an occurrence basis without a sunset clause or provision by an entity admitted or otherwise approved to write policies in New Jersey by the New Jersey Department of Insurance and with an "A" or better rating from A.M. Best. Insurance coverage meeting this requirement shall be in effect during the entire time that a contractor remains certified and cannot be allowed to lapse.

i. For purposes of submitting the application for certification, a copy of the policy cover sheet showing the contractor name, the policy number, the effective dates, the amount of coverage and the name of the entity issuing the policy shall be accepted as proof of insurance.

ii. Existing insurance policies written by entities that have at least a "C plus" rating from A.M. Best shall be accepted as meeting this requirement; provided that, upon expiration of that policy or upon renewal of the contractor's certification, whichever occurs first, the contractor shall obtain insurance that meets the requirements in (b)9 above.

(c) Each applicant for certification shall disclose in the application any relationship with any other business organization engaged in lead evaluation and/or lead abatement or in the supply of goods, services or materials for lead evaluation or abatement or in any other work for which a permit is required pursuant to the Uniform Construction Code, N.J.A.C. 5:23, and shall further disclose all interests of any officer, partner, director, shareholder or employee in any other business organization engaged in lead evaluation and/or lead abatement or in the supply of goods, services or materials for lead evaluation or abatement or in any other work for which a permit is required pursuant to the Uniform Construction Code, N.J.A.C. 5:23.

Amended by R.1996 d.543, effective December 2, 1996.
See: 28 N.J.R. 3995(a), 28 N.J.R. 5069(a).

5:17-2.4 Issuance of certification

(a) Upon receipt of a completed application, the Department shall either issue the certification or deny it in accordance with these rules within 30 days.

(b) The certification shall remain valid, unless suspended or revoked in accordance with these rules, for a two year period ending with the expiration date indicated thereon. If the business is transferred to another legal entity, the contractor certification issued by the Department shall not be transferable.

1. The Department shall be notified in writing when any employee who is certified by the Department of Health and is designated as having responsibility for ensuring compliance with P.L. 1993, c.288 ceases to be associated with the business organization. In any such case, the certification shall expire and become invalid unless another person certified by the Department of Health is substituted and the Department of Community Affairs is so notified in writing within 10 days of the change.

2. Any other change in the information submitted to the Department with the application for certification shall be reported to the Department in writing within 30 days of the change.

(c) The certification shall specify whether the holder is certified as a lead evaluation contractor, a lead abatement contractor, or both.

(d) A certification may be renewed for additional two year periods. Applications for renewal shall be made upon forms provided by the Commissioner, shall be accompanied by a fee of \$1,500 and shall be subject to the same conditions as an original application.

1. Applications for recertification may be made during the 90 day period before the certification expiration date or the 90 day period after the certification expiration date; except that if a business firm applies after the certification expiration date, the firm shall not perform

any services for which certification is required until the certification is renewed. If a certification has expired for more than 90 days, the business firm shall be required to obtain a new certification.

(e) A copy of the certification shall be conspicuously displayed for public review in the office of a firm engaged in the business of abating lead-based paint hazards or conducting lead evaluations. Additionally, the certification number shall be displayed on all business vehicles and at all lead abatement or evaluation jobs in progress.

5:17-2.5 Denial, suspension, imposition of conditions upon or revocation of certification

(a) A certification may be denied, suspended, limited or revoked, depending on the nature and severity of the offense, if the certification holder or applicant, or an officer, partner, director, shareholder or employee of the certification holder or applicant, has at any time:

1. Willfully made a misstatement or omission of material fact in an application for certification or renewal of certification, or in providing other information required by the Department or by a local enforcing agency enforcing the State Uniform Construction Code;

2. Misrepresented qualifications for certification, or fraudulently obtained certification;

3. Willfully committed fraud in the business of lead evaluation or lead abatement or in any other business involving work subject to the Uniform Construction Code, N.J.A.C. 5:23;

4. Engaged in practices during lead abatement work contrary to safe procedures established therefor, or otherwise practiced lead evaluation or lead abatement in a grossly negligent manner;

5. Engaged in the business of lead evaluation and/or lead abatement without having certification from the Department to do so, or employed persons to perform lead evaluation or lead abatement work who were not then certified pursuant to section 3 of P.L. 1993, c.288 (N.J.S.A. 26:2Q-3) to perform such work;

6. Failed to comply with applicable permit and/or certificate requirements, or otherwise violated, or abetted another to violate, or hindered or delayed the Department in the enforcement of, the State Uniform Construction Code Act, as supplemented by sections 14 through 24 of P.L. 1993, c.288, including these rules adopted pursuant thereto; or

7. Refused to make a certification available when directed to do so by the Department, or otherwise violated, or abetted another to violate, any order of the Commissioner issued pursuant to the State Uniform Construction Code Act, as supplemented by sections 14 through 24 of P.L. 1993, c.288.

(b) Whenever the Department shall find cause to deny an application for certification, or to suspend or revoke a certification, it shall notify the applicant or certification holder of the reasons therefor, in writing, and shall provide an opportunity for a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, when a request for a hearing is filed within 15 days of the date of notice.

(c) Denial of, suspension of, imposition of conditions upon, revocation of, or refusal to renew a certification shall not limit the Department from pursuing against the applicant or certificate holder any other lawful remedy available to the Department.

(d) A business firm whose certification has been revoked shall be ineligible to apply for certification for three years from the date of revocation. This ineligibility shall extend to any other business firm having any proprietor, officer, director, general partner, or shareholder or limited partner with at least a 10 percent interest in common with the business firm whose certification was revoked.

(e) Pursuant to Section 24 of P.L. 1993, c.288, the Department of Community Affairs will delegate to the Department of Labor, through a Memorandum of Understanding to be entered into between the Departments, enforcement authority over business firms performing lead hazard abatement in buildings or structures that do not contain dwelling units. Interfering with the Department of Labor in the exercise of its enforcement authority under this agreement or failing to comply with any order issued by the Department of Labor under this agreement shall be deemed to be grounds for denial, suspension, imposition of conditions upon or revocation of certification as described in (a) above.

5:17-2.6 Civil penalties

(a) No person shall, either knowingly or purposely:

1. Obstruct, hinder, delay or interfere by force or otherwise with the Department in the exercise of any power or the discharge of any function or duty pursuant to the provisions of sections 14 through 24 of P.L. 1993, c.288;
2. Prepare, utter or render any false statement, report, document, plan or specification permitted or required pursuant to sections 14 through 24 of P.L. 1993, c.288; or
3. Refuse or fail to comply with a ruling, action, order or notice of the Commissioner pursuant to sections 14 through 24 of P.L. 1993, c.288.

(b) Any person who shall violate any provision of (a) above shall be subject to a civil penalty not exceeding \$1,000 for the first offense and not exceeding \$5,000 for each subsequent offense. If the violation is of a continuing nature, each day that it continues shall constitute an additional and separate violation.

(c) A person shall be deemed to have violated or caused to be violated the provisions of sections 14 through 24 of P.L. 1993, c.288 if an officer, agent or employee under his or her control has violated or caused to be violated any such provision. If any such person is a corporation, all officers, directors and shareholders having at least a 10 percent interest shall be jointly and individually liable for any violation by the corporation.

(d) Pursuant to Section 24 of P.L. 1993, c.288, the Department of Community Affairs will delegate to the Department of Labor, through a Memorandum of Understanding to be entered into between the Departments, enforcement authority over business firms performing lead hazard abatement in buildings or structures that do not contain dwelling units. Interfering with the Department of Labor in the exercise of its enforcement authority under this agreement shall be deemed to be a violation of (a) above and shall carry the same penalties as described in (b) and (c) above.

SUBCHAPTER 3. EVALUATION AND TESTING

5:17-3.1 Contract documents—testing and evaluation

(a) Prior to testing and evaluation, an inspector/risk assessor shall enter into a contract with the owner or client which explains:

1. The extent of the testing and evaluation, including, but not limited to, the method and number of samples to be taken;
2. Any special responsibilities or precautions which owners or occupants need to be aware of during testing;
3. The estimated duration and cost of the testing and evaluation;
4. Whether the services to be provided include testing for the presence of lead-based paint only or risk assessment. If the services to be provided include risk assessment, the contract shall specify the extent of any recommendations to be made at the completion of the testing/evaluation, including whether additional testing may be recommended. It shall be made clear to the owner that additional testing is not required by Federal law or the UCC.
5. A statement requiring the contractor to inform the owner or client, in the case of lead evaluation performed in connection with a lease or transfer of real estate subject to the Federal Requirements for Disclosure of Known Lead-Based Paint Hazards in Housing (24 C.F.R. Part 35 and 40 C.F.R. Part 745), if the results of the initial testing or screening are negative (no lead-based paint is detected).

iv. Barrier system: For first story, one layer of plastic sheeting on ground shall extend 10 feet out in all directions from all working surfaces. For each additional story to be abated, plastic sheeting shall extend an extra three feet. When the plastic sheeting is punctured to anchor ladders, the plastic sheeting at the feet of the ladder shall be taped so that debris does not fall below the plastic sheeting. When the ladder is moved, any punctures in the plastic sheeting shall be sealed with tape. For all other exterior plastic surfaces, protect plastic sheeting with boards to prevent puncture from falling debris, nails, etc. if necessary. The plastic sheeting shall be secured to the side of the building with tape or other anchoring system so that there are no gaps between the plastic sheeting and the building. The edges of the plastic sheeting shall be anchored in place. All windows in the dwelling shall be kept closed. The contractor shall advise the occupants of all neighboring buildings that windows within 20 feet and that face the work area should be kept closed;

v. Security: Erect temporary fencing or barrier tape at a 20 foot perimeter around entryway of building or less if distance to next building or sidewalk is less than 20 feet. Use a locked dumpster, covered truck, or locked room to store debris before disposal; and

vi. Signs: Post warning signs on the building and at a 20 foot perimeter around building or less if distance to next building or sidewalk is less.

(d) Preparation for window treatment or replacement shall be performed as follows:

1. Window replacement from the interior of the building:

i. Appropriate application: Any window treatment or replacement;

ii. Time limit: None;

iii. Resident location: Inside dwelling, but outside work area. Residents shall have secure passage to bathroom facilities and to emergency egress route(s). Alternatively, residents may leave the dwelling during the work;

iv. Barrier system: One layer of plastic sheeting on floor extending five feet out in all directions from window being treated/replaced. Two layers of plastic sheeting shall be taped to the outside wall covering the window opening. Plastic sheeting forming a primitive airlock flap shall be placed on all doorways. The primitive air lock shall be constructed using two sheets of plastic. The first one shall be taped to the floor and the two sides of the doorway. A slit, approximately six feet in length, shall be cut down the middle of the plastic sheeting. The slit shall not extend all the way to the top or all the way to the floor. The second sheet of plastic shall be taped across the top of the doorway so that it acts as a flap. The flap shall open into the work

area. Doors secured from inside the work area need not be sealed;

v. Warning signs: Required at entry to room, but not on building unless exterior work is also underway;

vi. Ventilation system: Turned off and all vents in room sealed with plastic sheeting. Negative pressure zones are not required, unless large supplies of fresh air must be admitted into the work area to control exposure to other hazardous substances, for example, solvent vapors; and

vii. Furniture: Removed from work area. Large items can be sealed with taped plastic sheeting and left in work area.

2. Window replacement from the exterior of the building:

i. Appropriate application: Any window treatment or replacement;

ii. Time limit: None;

iii. Resident location: Remain inside dwelling until project has been completed. Alternatively, residents may leave until all work has been completed;

iv. Barrier system: For windows on the first story, one layer of plastic sheeting on ground extending five feet out in all directions from window being treated/replaced. For windows on upper stories, the plastic sheeting shall be extended an additional three feet per story. Two layers of plastic sheeting shall be taped to the interior wall covering the window opening. When the plastic sheeting is punctured to anchor ladders, the plastic sheeting at the feet of the ladder shall be taped so that debris does not fall below the plastic sheeting. When the ladder is moved, any punctures in the plastic sheeting shall be sealed with tape. For all other exterior plastic surfaces, protect plastic sheeting with boards to prevent puncture from falling debris, nails, etc. if necessary. The plastic sheeting shall be secured to the side of the building with tape or other anchoring system so that there are no gaps between the plastic sheeting and the building. The edges of the plastic sheeting shall be anchored in place. All windows in the dwelling shall be kept closed. The contractor shall advise the occupants of all neighboring buildings that windows within 20 feet and facing the work area should be kept closed;

v. Security: Erect temporary fencing or barrier tape at a 20 foot perimeter around the building or less if distance to next building or sidewalk is less than 20 feet. Use a locked dumpster, covered truck, or locked room to store debris before disposal; and

vi. Signs: Post warning signs on the building and at a 20 foot perimeter around building or less if distance to next building or sidewalk is less.

(e) For all worksites, damaged or torn plastic sheeting or other barriers shall be promptly repaired or replaced.

(f) To establish a baseline soil lead level for all exterior worksites, preabatement composite soil samples, consisting of at least five sub-samples, shall be taken next to the foundation or from the dripline below any exterior surface to be abated, unless this information is available from a current risk assessment. With the owner's consent, analysis of preabatement soil samples may be delayed until postabatement soil samples have been collected, analyzed, and compared to clearance standards.

(g) Porches and other building elements that project into the space between the work area and the ground shall be covered with plastic sheeting.

(h) Exterior abatement shall not be conducted if wind speeds are greater than 20 miles per hour. Work shall stop and clean up shall occur before rain begins.

(i) Where exterior abatement is to be performed, playground equipment shall be removed from the work area and adjacent areas. Large items may be sealed with taped plastic sheeting. All movable items shall be moved to a 20 foot distance from the work area.

5:17-4.4 Air equipment

(a) Negative air, at a rate of 10 air exchanges per hour, shall be required only when dry sanding or abrasive blasting are used. Dry sanding or abrasive blasting shall be allowed only by variation granted pursuant to N.J.A.C. 5:17-5.3.

(b) Windows, doors, chimneys and other vents or openings shall be closed during abatement. If ventilation is required because of the needs of occupants, or because of chemical fumes, HEPA equipment to filter exhaust and supply clean outside air shall be used.

SUBCHAPTER 5. LEAD HAZARD ABATEMENT—GENERAL

5:17-5.1 Duties of the contractor

(a) The certified contractor shall be responsible for ensuring compliance with all applicable provisions of this chapter.

(b) Prior to beginning an abatement job, the contractor shall apply for a permit under the UCC and shall provide the owner and the occupants with a description of the scope of work and information about lead-based paint hazards.

1. Additionally, the contractor shall notify the Department of Community Affairs 10 working days prior to the anticipated start of work. This notification shall include the name and certification number of the contractor, the location where the work is to be performed, and a brief description of the scope of work. The notification shall be sent to the following address: Department of Community Affairs, Bureau of Code Services, CN 816, Trenton, NJ 08625.

(c) Following completion of the abatement job, the contractor shall certify to the owner, in writing, that all lead-based paint hazards that were part of the scope of work have been abated in accordance with the requirements of this chapter. Where the scope of work included encapsulation or enclosure, the contractor shall provide the owner with information regarding ongoing inspection and maintenance requirements and any other precautions necessary to maintain the integrity of the enclosure or encapsulant

1. A copy of this certification shall be filed with the local enforcing agency having jurisdiction under the UCC prior to the issuance of a lead abatement clearance certificate. The local enforcing agency shall also receive a copy of any information provided to the owner regarding enclosure or encapsulation performed and the location(s) of enclosures or encapsulants within the building.

2. In addition to the written certification to the owner, described above, the contractor shall retain a final report on each job which shall include: the start and completion dates of the abatement, the names and addresses of any other abatement firms working at the site including the names of the supervisors, the name, address and signature of each inspector/risk assessor conducting clearance testing, the date(s) and results of clearance testing, the name of each laboratory that conducted the analyses, a detailed written description of the abatement (the scope of work required in (b) above may be used to meet the requirement for a written description of the abatement provided that any deviations from the scope of work are described in the final report). A copy of this report shall be made available to the Department upon request.

(d) The contractor certification number shall be displayed at the job site. All employees involved in lead abatement at the job site shall be certified by the Department of Health and shall carry evidence of such certification.

(e) The contractor shall allow the Department access to the job site at any time while evaluation or abatement are ongoing, including preparation, clean-up, and testing. The contractor shall also make available to the Department, upon request, any documentation relevant to the job. The Department of Health and the Department of Labor shall be accorded the same access to job sites and documentation in administering their enforcement responsibilities.

(f) The contractor shall ensure that a supervisor certified by the New Jersey Department of Health is on the job site at all times that abatement work is being performed and that all evaluation or abatement tasks are performed only by individuals certified by the Department of Health to perform those tasks.

1. A supervisor is not required to be present at the job site for jobs designated as Interior worksite, preparation level 1 pursuant to N.J.A.C. 5:17-4.3(b)1 or Exterior worksite, preparation level 1 pursuant to N.J.A.C. 5:17-4.3(c)1 if adjacent properties are at least 20 feet from the work area. However, the contractor shall designate a supervisor to be responsible for such jobs and the supervisor shall be available to the workers at all times that the job is ongoing.

5:17-5.2 Permits required

(a) Effective January 1, 1996, a permit under the UCC shall be obtained for any work intended to abate lead hazards. Additionally, a permit under the UCC shall be obtained for any related construction work requiring a permit.

5:17-5.3 Variations

(a) Any variation from the requirements of this chapter shall be requested in writing only from the Department and shall be accompanied by a nonrefundable fee of \$120.00 paid by check or money order, payable to the "Treasurer, State of New Jersey."

(b) The request for variation shall include:

1. A statement of the requirements of the chapter from which a variation is sought;
2. A statement of the manner by which strict compliance with these provisions would result in practical difficulties; and
3. A statement of the alternative proposed which adequately protects the health, safety and welfare of the occupants or intended occupants and the public generally and which adequately prevents contamination of the environment.

(c) The Department shall grant or deny variations in writing within 20 working days of a complete request for variation. When a variation is approved, the owner shall provide a copy of the approval to the local enforcing agency having jurisdiction under the UCC.

5:17-5.4 Occupancy during abatement

(a) Occupancy during abatement shall be allowed only as described in this chapter. Where abatement work will be ongoing for more than one day, and the occupants will be returning at night, cleaning shall be performed as follows at the end of the workday:

1. For interior abatement jobs, HEPA vacuum, wet wash, and HEPA vacuum again treated surfaces and floors extending five feet in all directions from the treated surface. If occupants are to have access to the work area, the top layer of plastic shall be removed from the floor and discarded. For dust removal work alone, a HEPA vacuum and wet wash cycle is adequate. Floors in adjacent area(s) used as a pathway to the work area shall also be HEPA vacuumed and wet washed.

2. For exterior abatement jobs, the entrance to be used by occupants shall be made clear and free of any potential lead hazards or sources of contamination.

3. Lead-contaminated debris shall be stored outside the dwelling unit in a secure, locked area.

SUBCHAPTER 6. PAINT REMOVAL; COMPONENT REPLACEMENT; ENCLOSURE; ENCAPSULATION

5:17-6.1 Lead-based paint removal

(a) The following paint removal methods are prohibited:

1. Open flame burning or torching:
 - i. Using cutting torches to remove fire escapes, railings or other metal components coated with lead-based paint is also prohibited unless the paint is first removed four inches out from the area to be cut.
2. The use of heat guns operating above 1,100 degrees Fahrenheit;
3. Machine sanding or grinding without a HEPA-equipped exhaust tool;
4. Uncontained hydroblasting or high pressure washing;
5. Abrasive blasting or sandblasting without a HEPA vacuum-equipped exhaust tool;
6. The use of methylene chloride chemical paint removers; and
7. The use of dry scraping.
 - i. Exception to (a)7 above: Dry scraping is permitted if the surfaces are near electrical outlets or for scraping accompanying heat gun use. In either case, the area to be dry scraped shall not exceed two square feet.

(b) Heat guns not prohibited by (a)2 above shall not be used for areas exceeding two square feet. In addition to the other worksite preparation requirements of this chapter, the following shall be done prior to heat gun use:

1. A fully-charged ABC 20 pound (minimum) fire extinguisher shall be provided within 100 feet of each work area; and

2. It shall be verified that the existing electrical supply is adequate for the heat gun(s) or portable generators to power the heat gun(s) shall be provided.

(c) The applicable steps listed in (c)1 through 7 below shall be followed for the mechanical paint removal method chosen to abate lead hazards:

1. For use of HEPA sanding with a shroud, the shroud shall be in contact with the surface at all times;

2. For use of a HEPA vacuum power sander, the sandpaper shall be flat on the surface at all times;

3. For HEPA vacuum blasting, the blast head shall remain in contact with the surface at all times. HEPA vacuum blasting shall be used for metal, brick, concrete or other masonry surfaces only;

4. For HEPA vacuum needle gun, the shroud shall remain in contact with the surface at all times. HEPA vacuum needle guns shall be used for metal surfaces only.

5. For wet scraping, all loose and flaking paint shall be removed by working a few square feet at a time. The surface shall be lightly misted, then a paint scraper shall be used to remove loose material which shall be deposited on the plastic sheeting. Scrapers shall be kept razor sharp to minimize abrasion and gouging;

6. For offsite paint removal, building components shall be misted with water prior to removal. Treated components shall remain offsite or wrapped in plastic until any onsite dust-generating activities are concluded and clean up has taken place. Before reinstallation, treated components shall be cleaned utilizing the standard HEPA vacuum/wet wash/HEPA vacuum cycle to remove any residues. Components shall be completely dry and the pH shall be checked prior to repainting; and

7. For on-site paint removal, the chemical paint remover shall be applied following manufacturer's instructions:

i. Softened paint shall be removed using a scraper, putty knife, or wetted steel wool and the material removed shall be deposited in a water-tight and corrosion-proof container.

ii. Alkali neutralization and residue removal shall be performed following manufacturer's instructions or accepted practice;

iii. Following neutralization, all surfaces shall be scrubbed with a high phosphate detergent or its functional equivalent to remove visible residues. An original detergent container and/or the data sheet with information on the use of the product shall be available for inspection at the worksite; and

iv. For wood surfaces or components, the entire neutralization and cleaning process shall take place without allowing the surface to dry.

5:17-6.2 Building component replacement

(a) The following steps or a similar procedure that minimizes the disturbance of paint and the generation of dust shall be followed for all building component replacement intended to abate lead hazards:

1. Turn off and disconnect all electrical circuits present inside or near the component to be removed;

2. Lightly mist the component to be removed. Do not apply water to components containing electrical circuits;

3. Using a utility knife or other sharp instrument, carefully score all affected painted seams;

4. Remove any screws or other fasteners;

5. Using a flat pry instrument and a hammer, carefully pry the affected building component away from the surface to which it is attached. The pry bar should be inserted into the seam at the nail or other fastening device at one end of the component and prying pressure applied. This process should be repeated at each subsequent fastening location until the end of the component is reached and the component is freed;

i. Use a pry point pad or softener, if necessary, to minimize damage to adjoining substrates;

6. Carefully remove or bend back all nails (or other fastening devices) and wrap removed components and nails in plastic sheeting and seal with duct tape;

i. Exception to (a)6 above: Wrapping components in plastic is not required if the dwelling is vacant and the pathway to the truck or other waste containment site is lined with plastic;

7. HEPA vacuum any dust that may have accumulated behind the component removed;

8. New lead-free components shall not be brought into the work area until all dust-generating activity is complete and the dust has been cleaned up by at least one HEPA vacuuming;

9. If new lead-free components are to be applied to lead painted walls, ceilings, floors or any other lead-painted surface, regardless of whether it has been enclosed, caulk shall be applied to the perimeter of the back side of the replacement component to seal it before installation;

10. Replacement components shall be installed using standard carpentry practices; and

(c) Single surface samples, which shall consist of one sample in a single, hard, rinsable container, shall be required for all abatement projects.

1. Single surface sampling shall follow the methodology at N.J.A.C. 5:17-3.3(d) of this chapter.
2. Single surface sampling shall comply in number and location with Table 9.1 below.

(d) Composite clearance samples, which shall consist of no more than four subsamples in a single container, are allowed for abatement projects where similar lead hazard control treatments were used in multiple rooms of the same dwelling. Composite sampling shall be performed in accordance with N.J.A.C. 5:17-3.4(c).

(e) The following lead dust levels are acceptable for clearance:

1. Floors—100 µg/square foot;
2. Interior window sills—500 µg/square foot; and
3. Window wells, exterior concrete, rough surfaces—800 µg/square foot.

(f) For clearance of exterior abatement projects, soil samples shall be compared with samples taken prior to the abatement project. A statistical analysis, such as, but not

limited to, a paired student T-test, shall be used to determine if the post abatement soil lead level has increased at a statistically significant level (significant at the 95 percent confidence limit) from the preabatement soil lead level.

1. For soil abatement projects, lead in soil shall not exceed 400 µg/g.
2. Random soil sampling is permitted in a multi-family complex of 10 or more buildings with similar lead control activity.

(g) Random sampling is permitted in multifamily buildings with 10 or more dwelling units where the units are similarly configured and have had comparable lead control activity, performed at the same time and using the same abatement contractor. The units to be tested shall not be selected until all abatement activity and cleaning have been completed.

(h) Field spiked samples shall be submitted and analyzed in accordance with the requirements of N.J.A.C. 5:17-3.3(d).

(i) All clearance samples shall be analyzed at a laboratory participating in the NLLAP program or an equivalent independent national accreditation program.

TABLE 9.1
Recommended Minimum Number and Location of Clearance Dust Samples for All Abatement and Interim Control Work

Clearance Category	Category Description	Number and Location of Single-Surface Wipe Samples in Each Area *	Number and Location of Composite Wipe Samples
1	Interior treatments No containment within dwelling	Two dust samples from every room in dwelling (whether treated or untreated): <ul style="list-style-type: none"> • One interior window sill or window trough, alternating between rooms, • One floor AND <ul style="list-style-type: none"> • For common areas, one for every 2,000 ft² of a common area room floor (if present). 	Three composite samples for every batch of four rooms (whether treated or untreated): <ul style="list-style-type: none"> • One floor composite • One interior window sill composite • One window trough composite AND <ul style="list-style-type: none"> • For common areas, one floor subsample for every 2,000 ft² (if present); up to 8,000 ft² can be sampled for each composite.
2	Interior treatments With containment (plastic sheeting as airlock on doors between treated and untreated areas)	Same as Category 1, but only in every <i>treated</i> room AND, One floor sample outside the containment area but within 10 feet of the airlock to determine the effectiveness of the containment system. This extra single-surface sample is recommended in 20 percent of the treated dwellings in multifamily housing and <i>all</i> single-family homes. <ul style="list-style-type: none"> • For Common Areas, one floor sample for every 2,000 ft² and one floor sample outside containment. 	Same as Category 1, but only in every <i>treated</i> room AND, One floor sample outside the containment area but within 10 feet of the airlock to determine the effectiveness of the containment system. (This extra single-surface sample is recommended in 20 percent of the treated dwellings in multifamily housing and <i>all</i> single-family homes.) <ul style="list-style-type: none"> • For Common Areas, one floor subsample for every 2,000 ft² (up to 8,000 ft² for each composite) and one floor sample outside containment.
3	Exterior treatments	Two dust samples as follows: <ul style="list-style-type: none"> • At least one dust sample on a horizontal surface in part of the outdoor living area (e.g., a porch floor or entryway), and • One window trough sample on each floor where exterior work was performed. An additional trough sample should be collected from a few lower floors to determine if troughs below the area were contaminated by the work above. 	Two dust samples as follows: <ul style="list-style-type: none"> • One composite on a horizontal surface in part of the outdoor living area (e.g., a porch floor or entryway), and • One window trough composite for every 4 floors where exterior work was performed, including lower floors where exterior work was not done, if present.

Clearance Category	Category Description	Number and Location of Single-Surface Wipe Samples in Each Area *	Number and Location of Composite Wipe Samples
4	Soil Treatment	One sample from the entryway.	One sample from the entryway.

* A room includes a hallway or a stairway. If no window is present, collect just one floor sample. When a closet is treated, the room to which it is attached should be tested. A closet is not considered to be a separate room.

SOURCE: PRE-PUBLICATION COPY: Guidelines For The Evaluation And Control of Lead-Based Paint Hazards in Housing, The National Center for Lead-Safe Housing, February 1995.

SUBCHAPTER 10. WASTE DISPOSAL

5:17-10.1 Waste disposal

Waste disposal shall comply with regulations promulgated by the New Jersey Department of Environmental Protection. The contractor shall record the name of the waste hauler or the site(s) where the waste was taken if the contractor did not use a waste hauler.

SUBCHAPTER 11. STEEL STRUCTURES
(RESERVED)