

"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.

"HUD Guidelines" means the most recent version of the "Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing" prepared by the United States Department of Housing and Urban Development, Office of Healthy Homes and Lead Hazard Control and available from the U.S. Department of Housing and Urban Development (HUD), 451 7th Street, S.W., Washington, DC 20410 or by calling 1-800-245-2691. Copies may also be obtained from the HUD website at [www.hud.gov/offices/lead/guidelines/hudguidelines/index.cfm](http://www.hud.gov/offices/lead/guidelines/hudguidelines/index.cfm).

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

"Interim controls" means a set of measures designed to reduce temporarily human exposure or likely exposure to lead-based paint hazards, including specialized cleaning, repairs, maintenance, painting, temporary containment, ongoing monitoring of lead-based paint hazards or potential hazards, and the establishment and operation of management and resident education programs, or as the term is defined under 42 U.S.C. § 4851b.

"Lead abatement" means a set of measures designed to permanently eliminate lead-based paint hazards in accordance with standards established by the commissioner in compliance with standards promulgated by the appropriate Federal agencies. Such term includes:

1. The removal of lead-based paint and lead-contaminated dust, the permanent containment or encapsulation of lead-based paint, the replacement of lead-painted surfaces or fixtures, and the removal or covering of lead-contaminated soil; and
2. 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 of lead-based paint and the provision of a report explaining the results of the investigation.

"Lead hazard control work" means work to make housing lead-safe, or to mitigate through the use of interim controls as permitted under Federal law and as defined in 42 U.S.C. § 4851b, or to eliminate permanently lead-based hazards by abatement on a premises by a person certified to perform lead abatement work pursuant to sections 1 through 12 of

P.L. 1993, c.288 and sections 14 through 24 of P.L. 1993, c.288.

"Lead screening" means an abbreviated lead-based paint hazard evaluation performed in accordance with the requirements established by this chapter for such testing, including N.J.A.C. 5:17-3 Appendices 3-A and 3-B.

"Lead-based paint" means paint or other surface coating material that contains lead equal to or in excess of 1.0 milligrams per centimeter squared or in excess of 0.5 percent by weight, or such other level as may be established by Federal law.

"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.

"Lead-free" means having no lead-based paint on any surface within a dwelling unit, common area or building.

"Lead-hazard free" means the absence of 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.

"Lead-hazard free certificate" means a certificate that is issued by a certified firm upon completion of a risk assessment to confirm that housing is lead hazard free.

" $\mu\text{g}$ " 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.

"Superstructure" means a large steel or other industrial structure, such as a bridge or water tower, which contains no habitable space. It is synonymous with "industrial steel structure."

"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.

Amended by R.1997 d.302, effective July 21, 1997 (operative September 24, 1997).

See: 29 N.J.R. 2202(a), 29 N.J.R. 3242(b).

Added "Commercial building" and "Superstructure".

Amended by R.2001 d.328, effective September 17, 2001.

See: 33 N.J.R. 1807(a), 33 N.J.R. 3307(a).

Inserted "Child occupied facility" and "Clearance technician".

Amended by R.2005 d.144, effective May 16, 2005.

See: 36 N.J.R. 2106(a), 37 N.J.R. 1754(c).

Rewrote the section.

### 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.

1. For lead abatement jobs performed on superstructures where public bidding procedures are applicable, projects with an advertisement date that precedes September 24, 1997 may proceed without a certified lead abatement contractor.

(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;

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; or

4. A person with proof that he or she has completed a State-approved or HUD-sponsored training class to be a "clearance technician," when that person is taking a dust wipe sample in the work area following renovation, remodeling, repair or maintenance work; provided, however, that the activities that may be performed without evaluation contractor certification shall be limited to performing dust wipe sampling in the work area and providing a report with the results of the dust wipe analysis. A clearance technician is not qualified to perform evaluation, and is not qualified to perform clearance after a lead abatement, unless the clearance technician is employed by a certified evaluation contractor.

(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.

1. For lead hazard abatement performed in response to an evaluation done in connection with a lease or transfer of real estate subject to the Federal Requirements for Disclosure of Known Lead Based Paint and/or Lead Based Paint Hazards in Housing (24 C.F.R. Part 38 and 40 C.F.R. Part 745), the clearance testing shall be performed by the same contractor that performed the initial evaluation or by another evaluation contractor of the buyer's choice.

(b) All laboratories which process or evaluate samples shall be recognized under the USEPA National Lead Laboratory Accreditation Program (NLLAP) or an equivalent independent national accreditation program, to analyze lead in paint, dust and soil samples.

(c) The contractor shall allow the Department access to the job site at any time while evaluation is ongoing. The contractor shall also make available to the Department, upon request, any documentation relevant to the job. The Department of Health and Senior Services shall be accorded the same access to job sites and documentation in administering its enforcement responsibilities.

Amended by R.1996 d.543, effective December 2, 1996.

See: 28 N.J.R. 3995(a), 28 N.J.R. 5069(a).

Administrative correction.

See: 32 N.J.R. 834(a).

Amended by R.2005 d.144, effective May 16, 2005.

See: 36 N.J.R. 2106(a), 37 N.J.R. 1754(c).

Deleted (d).

#### 5:17-3.4 Additional testing requirements

(a) XRF testing shall be performed in compliance with the HUD Guidelines and with N.J.A.C. 7:28-4 using accepted manufacturers' recommended calibration techniques and substrate corrections.

(b) Dust wipe sampling shall be done as per the HUD Guidelines.

(c) Anodic stripping voltammetry (ASV) may be used to test surfaces in accordance with manufacturer's recommendations, ASTM standard E2051-01, and any applicable Federal protocols that may be developed.

(d) Carpet shall be tested by dust wipe, by vacuum sampling in accordance with the U.S. Environmental Protection Agency report "Residential Sampling for Lead: Protocols for Dust and Soil Sampling," March 29, 1995, incorporated herein by reference. The report may be ordered through the US EPA website [www.epa.gov/opptintr/lead/leadtpbf.htm](http://www.epa.gov/opptintr/lead/leadtpbf.htm).

(e) An inspector/risk assessor or an owner or occupant may use chemical spot tests for initial pre-tests; however, chemical spot tests shall not form the basis of any screening, testing or evaluation or abatement activity performed under this chapter.

(f) Any other test methods may be used if documentation is first submitted to the Department, and the Department, based on test data or acceptance by a Federal authority, approves the method for use.

Amended by R.2005 d.144, effective May 16, 2005.

See: 36 N.J.R. 2106(a), 37 N.J.R. 1754(c).

Rewrote the section.

#### 5:17-3.5 Lead hazards

(a) The following lead dust levels resulting from a lead screening shall indicate that a full evaluation shall be recommended in the report produced by the inspector/risk assessor:

1. Floor wipes in excess of 25  $\mu\text{g/square foot}$ ; or
2. Window sill wipes in excess of 125  $\mu\text{g/square foot}$ .

(b) The following lead dust levels shall indicate lead hazards:

1. Floors—equal to or greater than 40  $\mu\text{g/square foot}$ ;
2. Interior window sills—equal to or greater than 250  $\text{Mg/square foot}$ ;
3. Window wells—equal to or greater than 400  $\text{Mg/square foot}$ .

Amended by R.2001 d.328, effective September 17, 2001.

See: 33 N.J.R. 1807(a), 33 N.J.R. 3307(a).

Added (d) and (e).

Amended by R.2005 d.144, effective May 16, 2005.

See: 36 N.J.R. 2106(a), 37 N.J.R. 1754(c).

Rewrote the section.

#### 5:17-3.6 Reports and certificates

(a) Report: At the completion of all testing and evaluation, as per this subchapter, an inspector/risk assessor shall provide the owner with a complete report of all testing performed and all results.

1. The report shall include:
  - i. The date(s) of inspection;
  - ii. The address of the building(s) and unit numbers (if applicable);
  - iii. The date of construction of the building(s);
  - iv. The name, address and telephone number of the owner;
  - v. The name and signature of each inspector/risk assessor conducting testing (including the New Jersey Department of Health and Senior Services certification number);
  - vi. The name and signature of each clearance technician collecting samples;
  - vii. The name, address and telephone number of the firm employing the inspector/risk assessor(s) and clearance technician(s);

viii. The name and address of each laboratory conducting analysis of collected samples;

ix. Each testing device and/or sampling procedure employed and the serial number of any XRF device used;

x. The precise locations of all components and surfaces on components tested or sampled;

xi. All data collected using onsite testing devices; and

xii. The results of all tests performed.

2. A copy of this report shall be made available to the Department upon request.

(b) If, upon performance of an inspection of all painted surfaces in accordance with this chapter, a unit or building is determined to be lead-free, the certified lead evaluation firm shall issue a certification on a form prescribed by the Bureau to the owner and, upon request, to any enforcing agency having jurisdiction to enforce lead safety standards at the premises.

1. The certificate or report shall be signed and dated and shall identify the building, common area(s) or dwelling unit(s) to which it applies.

2. In order to be certified as lead free, the paint shall be tested for lead content through XRF testing, paint chip analysis or another method of testing the lead content of paint permitted pursuant to this chapter. All such testing shall be performed in accordance with the requirements of this chapter and the protocols established in the HUD Guidelines.

(c) If, upon performance of an inspection and risk assessment in accordance with this chapter, a unit or building is determined to be free of lead-based paint hazards, the certified lead evaluation firm shall issue a certification on a form prescribed by the Bureau to the owner and, upon request, to any enforcing agency having jurisdiction to enforce lead safety standards at the premises.

1. The certificate or report shall be signed and dated, shall identify the building, common area(s) and dwelling unit(s) to which it applies. The certificate or report also shall include a statement cautioning the owner regarding the need to perform on-going evaluation and maintenance to ensure that the painted surfaces remain in a hazard free condition.

(d) Recommendations: If providing recommendations was part of the contract between the inspector/risk assessor and the owner or if the provision of a plan for lead hazard control work is required pursuant to N.J.A.C. 5:10-6.6, 5:15-4.2, 5:27-4.10, 5:28-2.1 or any other applicable maintenance code, the inspector/risk assessor, based on the results, shall outline for the owner options for lead hazard control work to address any lead hazards or potential lead hazards found.

New Rule, R.2005 d.144, effective May 16, 2005.  
See: 36 N.J.R. 2106(a), 37 N.J.R. 1754(c).

### APPENDIX 3-A

#### LEAD SCREENING

(New Jersey Requirements Added in Italics)

Environmental Protection Agency

40 CFR 745.227(c), Work practice standards for conducting lead-based paint activities: target housing and child-occupied facilities, Lead hazard screen

745.227(c) Lead hazard screen

*(1) A lead hazard screen shall be conducted by a risk assessor certified pursuant to N.J.A.C. 5:17.*

(2) If conducted, a lead hazard screen shall be conducted as follows:

(i) Background information regarding the physical characteristics of the residential dwelling or child-occupied facility and occupant use patterns that may cause lead-based paint exposure to one or more children age six years and under shall be collected.

(ii) A visual inspection of the residential dwelling or child-occupied facility shall be conducted to:

(A) Determine if any deteriorated paint is present, and

(B) Locate at least two dust sampling locations.

(iii) If deteriorated paint is present, each surface with deteriorated paint, which is determined using documented methodologies, to be in poor condition and to have a distinct painting history, shall be tested for the presence of lead.

(iv) In residential dwellings, two composite dust samples shall be collected, one from the floors and the other from the windows, in rooms, hallways or stairwells where one or more children, age 6 and under, are most likely to come in contact with dust.

(v) In multi-family dwellings and child occupied facilities, in addition to the floor and window samples required in paragraph (c)(2)(iv) of this section, the risk assessor shall also collect composite dust samples from common areas where one or more children, age 6 and under, are most likely to come into contact with dust.

(3) Dust samples shall be collected and analyzed in the following manner:

(i) All dust samples shall be taken using documented methodologies that incorporate adequate quality control procedures.

(ii) *All collected dust samples shall be analyzed by persons certified pursuant to N.J.A.C. 5:17 and analyzed in accordance with N.J.A.C. 5:17-3, Evaluation and Testing.*

(4) Paint shall be sampled in the following manner:

(i) The analysis of paint to determine the presence of lead shall be conducted using documented methodologies which incorporate adequate quality control procedures; and/or

(ii) *All collected paint chip samples shall be analyzed by persons certified pursuant to N.J.A.C. 5:17 and analyzed in accordance with N.J.A.C. 5:17-3, Evaluation and Testing.*

(5) The risk assessor shall prepare a lead hazard screen report, which shall include the following information:

(i) The information required in a risk assessment report as specified in *Appendix 3-B*, including paragraphs (d)(11)(i) through (d)(11)(xiv), and excluding paragraphs (d)(11)(xv) through (d)(11)(xviii) of this section. Additionally, any background information collected pursuant to paragraph (c)(2)(i) of this section shall be included in the risk assessment report.

New Rule, R.2005 d.144, effective May 16, 2005.  
See: 36 N.J.R. 2106(a), 37 N.J.R. 1754(c).

### APPENDIX 3-B

#### RISK ASSESSMENT

(New Jersey Requirements Added in Italics)

40 CFR 745.227(d), Work practice standards for conducting lead-based paint activities: target housing and child-occupied facilities, Risk assessment

745.227(d) Risk assessment

(1) *A risk assessment shall be conducted only by a person certified pursuant to N.J.A.C. 5:17.*

(2) A visual inspection for risk assessment of the residential dwelling or child-occupied facility shall be undertaken to locate the existence of deteriorated paint, assess the extent and causes of the deterioration, and other potential lead-based paint hazards.

(3) Background information regarding the physical characteristics of the residential dwelling or child-occupied facility and occupant use patterns that may cause lead-based paint exposure to one or more children age 6 years and under shall be collected.

(4) The following surfaces which are determined, using documented methodologies, to have a distinct painting history, shall be tested for the presence of lead:

(i) Each friction surface or impact surface with visibly deteriorated paint; and

(ii) All other surfaces with visibly deteriorated paint.

(5) In residential dwellings, dust samples (either composite or single-surface samples) from the interior window sill(s) and floor shall be collected and analyzed for lead concentration in all living areas where one or more children, age 6 and under, are most likely to come into contact with dust.

(6) For multi-family dwellings and child-occupied facilities, the samples required in paragraph (d)(4) of this section shall be taken. In addition, interior window sill and floor dust samples (either composite or single-surface samples) shall be collected and analyzed for lead concentration in the following locations:

(i) Common areas adjacent to the sampled residential dwelling or child-occupied facility; and

(ii) Other common areas in the building where the risk assessor determines that one or more children, age six and under, are likely to come into contact with dust.

(7) For child-occupied facilities, interior window sill and floor dust samples (either composite or single-surface samples) shall be collected and analyzed for lead concentration in each room, hallway or stairwell utilized by one or more children, age 6 and under, and in other common areas in the child-occupied facility where one or more children, age 6 and under, are likely to come into contact with dust.

(8) Soil samples shall be collected and analyzed for lead concentrations in the following locations:

(i) Exterior play areas where bare soil is present;

(ii) The rest of the yard (i.e., nonplay areas) where bare soil is present; and

(iii) Dripline/foundation areas where bare soil is present.

(9) Any paint, dust, or soil sampling or testing shall be conducted using documented methodologies that incorporate adequate quality control procedures.

(10) *Any collected paint chip, dust, or soil samples shall be analyzed by persons certified pursuant to N.J.A.C. 5:17 and analyzed in accordance with N.J.A.C. 5:17-3, Evaluation and Testing.*

(11) The certified risk assessor shall prepare a risk assessment report which shall include the following information:

(i) Date of assessment.

(ii) Address of each building.

(iii) Date of construction of buildings.

(iv) Apartment number (if applicable).

(v) Name, address, and telephone number of each owner of each building.

(vi) Name, signature, and certification of the certified risk assessor conducting the assessment.

(vii) Name, address, and telephone number of the certified firm employing each certified risk assessor.

(viii) Name, address, and telephone number of each recognized laboratory conducting analysis of collected samples.

(ix) Results of the visual inspection.

(x) Testing methods and sampling procedure for paint analysis employed.

(xi) Specific locations of each painted component tested for the presence of lead.

(xii) All data collected from on-site testing, including quality control data and, if used, the serial number of any XRF device.

(xiii) All results of laboratory analysis on collected paint, soil, and dust samples.

(xiv) Any other sampling results.

(xv) Any background information collected pursuant to paragraph (d)(3) of this section.

(xvi) To the extent that they are used as part of the lead-based paint hazard determination, the results of any previous inspections or analyses for the presence of lead-based paint, or other assessment of lead-based paint-related hazards.

(xvii) A description of the location, type, and severity of identified lead-based paint hazards and any other potential lead hazards.

(xviii) A description of interim controls and/or abatement options for each identified lead-based paint hazard and a suggested prioritization for addressing each hazard. If the use of an encapsulant or enclosure is recommended, the report shall recommend a maintenance and monitoring schedule for the encapsulant or enclosure.

New Rule, R.2005 d.144, effective May 16, 2005.  
See: 36 N.J.R. 2106(a), 37 N.J.R. 1754(c).

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

##### 5:17-4.1 Specification and drawing

(a) Prior to the commencement of any lead abatement project, the owner shall consent in writing to the scope of the project and to the methods to be employed during the abatement.

(b) A sketch plan of the abatement site shall be prepared and made available to the owner and to any occupants who shall remain in the structure during abatement. The sketch plan shall clearly show:

1. Work areas, labeled to show all surfaces to be abated, which shall not be accessible to occupants;
2. Barriers, if any, which separate the work area from occupied areas;
3. Occupied areas, including bathroom facilities with a route of access to these facilities, and emergency egress route(s), if occupants are to be present during abatement;
4. Workers' changing, handwashing and/or shower, toileting and eating areas;
5. Waste disposal route;
6. Waste storage area or dumpster if abatement will require more than one day;
7. Location of any special equipment; and
8. Any other information which occupants or the contractor would need to know to ensure safe and responsible activity during the abatement.

(c) Prior to any abatement, the occupants shall be relocated, if required, and they shall be supplied with information about lead hazards and about the abatement work being performed.

1. For limited abatements, during which occupants' safe access to bathroom facilities and emergency egress routes remains uninterrupted, occupants shall be given lead hazard information.
2. For all abatements, occupants shall be instructed how to remove, wrap, and secure personal belongings including furniture, appliances, carpeting, draperies and other items which require relocation or protection during the abatement.

(d) Prior to an abatement, the owner shall correct all structural deficiencies affecting the work area.

(e) The entire work area shall be HEPA vacuumed to remove existing dust, paint chips and debris.

(f) When waste shall be left at a site overnight, a secure area such as a plastic-lined room or area or a locked dumpster shall be set aside for this purpose.

##### 5:17-4.2 Abatement classification

(a) An abatement shall be classified as an interior or exterior worksite.