

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 Chapter 17 was repealed, effective June 19, 1989, as R.1989 d.317.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 OR OTHER
SUPERSTRUCTURES**

- 5:17-11.1 Abatement jobs on superstructures

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.

"Commercial building" means any building or portion thereof used primarily for commercial or industrial activity, which is generally not open to the public, or occupied or visited by children, including, but not limited to, warehouses, factories, storage facilities, aircraft hangars, garages, and wholesale distribution facilities. For purposes of applying these rules, commercial building shall not include offices or other similar spaces within such buildings.

"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.