

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.

(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 µg/square foot; or
2. Window sill wipes in excess of 125 µg/square foot.

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

1. Floors—equal to or greater than 40 µg/square foot;
2. Interior window sills—equal to or greater than 250 Mg/square foot;
3. Window wells—equal to or greater than 400 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.

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.

(b) Interior worksites shall be classified as Level 1, 2, 3 or 4, as described in N.J.A.C. 5:17-4.3(c), based on typical applications, time limit for the abatement, resident location, barrier system, warning signs, ventilation systems, furniture, clean up requirements and dust sampling.

(c) Exterior worksites shall be classified as Level 1, 2 or 3, as described in N.J.A.C. 5:17-4.3(c), based on typical

applications, time limit for the abatement, resident location, barrier systems, playground considerations, security, signs, weather, clean up and porches.

(d) Contractors shall follow the procedures specified in N.J.A.C. 5:17-4.3(c).

5:17-4.3 Worksite levels

(a) Each lead abatement shall be designated as one or more of the following:

1. Interior worksite, preparation Level 1, 2, 3 or 4;
2. Exterior worksite, preparation Level 1, 2 or 3; or
3. Window treatment or replacement preparation.