

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 Chapter 17 was repealed, effective June 19, 1989, as R.1989 d.317.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

**Law Review and Journal Commentaries**

Getting the Lead Out: An Overview of the New Federal Lead-Based Paint Disclosure Requirements. Vincent P. Maltese, Joseph J. Jankowski, 182 N.J. Law. 7 (Mag.)(Jan./Feb. 1997).

Lead Based Paint: Abate or Wait? Your Insurance Policy May Hold the Answer. Eugene R. Anderson, Joan L. Lewis, 182 N.J. Law. 10 (Mag.)(Jan./Feb. 1997).

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**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.

(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	Two dust samples from every room in dwelling (whether treated or untreated): <ul style="list-style-type: none"> <li>• One interior window sill or window trough, alternating between rooms,</li> <li>• One floor</li> </ul> AND <ul style="list-style-type: none"> <li>• For common areas, one for every 2,000 ft<sup>2</sup> of a common area room floor (if present).</li> </ul>	Three composite samples for every batch of four rooms (whether treated or untreated): <ul style="list-style-type: none"> <li>• One floor composite</li> <li>• One interior window sill composite</li> <li>• One window trough composite</li> </ul> AND <ul style="list-style-type: none"> <li>• For common areas, one floor subsample for every 2,000 ft<sup>2</sup> (if present); up to 8,000 ft<sup>2</sup> can be sampled for each composite.</li> </ul>
	No containment within dwelling		
2	Interior treatments	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"> <li>• For Common Areas, one floor sample for every 2,000 ft<sup>2</sup> and one floor sample outside containment.</li> </ul>	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"> <li>• For Common Areas, one floor subsample for every 2,000 ft<sup>2</sup> (up to 8,000 ft<sup>2</sup> for each composite) and one floor sample outside containment.</li> </ul>
	With containment (plastic sheeting as airlock on doors between treated and untreated areas)		
3	Exterior treatments	Two dust samples as follows: <ul style="list-style-type: none"> <li>• At least one dust sample on a horizontal surface in part of the outdoor living area (e.g., a porch floor or entryway), and</li> <li>• 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.</li> </ul>	Two dust samples as follows: <ul style="list-style-type: none"> <li>• One composite on a horizontal surface in part of the outdoor living area (e.g., a porch floor or entryway), and</li> <li>• One window trough composite for every 4 floors where exterior work was performed, including lower floors where exterior work was not done, if present.</li> </ul>

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 OR OTHER SUPERSTRUCTURES

### Subchapter Historical Note

The name of Subchapter 11, Steel Structures (Reserved), was changed to Subchapter 11, Steel Structures or Other Superstructures, 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).

### 5:17-11.1 Abatement jobs on superstructures

(a) The following chapters of the "Industrial Lead Paint Removal Handbook, 2nd edition" are hereby incorporated by reference for the abatement of lead-based paint from superstructures: Chapter 1 Introduction, Chapter 3 Definition of Lead-Containing Paint and How to Test For It, Chapter 5 Lead Paint Removal Methods and Chapter 6 Containment Systems.

1. Copies of the "Industrial Lead Paint Removal Handbook, 2nd edition" by Kenneth A. Trimmer may be obtained from: The Steel Structures Painting Council, 40 24th Street, Sixth Floor, Pittsburgh, PA 15222.

(b) For abatement jobs performed on superstructures in areas expected to be used by children, the provisions of N.J.A.C. 5:17-7 shall also apply.

New Rule, 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).