

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

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

Source and Effective Date

R.2006 d.9, effective November 30, 2005.
See: 37 N.J.R. 563(a), 38 N.J.R. 125(b).

Chapter Expiration Date

Chapter 17, Lead Hazard Evaluation and Abatement, expires on November 30, 2010.

Chapter Historical Note

Chapter 17, Retirement Community Full Disclosure Requirements, was adopted as R.1970 d.61, effective June 1, 1970. See: 2 N.J.R. 38(b), 2 N.J.R. 53(b).

Pursuant to Executive Order No. 66(1978), Chapter 17, Retirement Community Full Disclosure Requirements, was readopted as R.1984 d.300, effective June 27, 1984. See: 16 N.J.R. 1137(b), 16 N.J.R. 1968(a).

Chapter 17, Retirement Community Full Disclosure Requirements, was repealed by R.1989 d.317, effective June 19, 1989. See: 21 N.J.R. 958(a), 21 N.J.R. 1669(a).

Chapter 17, Lead Hazard Evaluation and Abatement Code, was adopted as new rules by R.1995 d. 381, effective July 17, 1995. See: 27 N.J.R. 970(a), 27 N.J.R. 2715(a).

Pursuant to Executive Order No. 66(1978), Chapter 17, Lead Hazard Evaluation and Abatement Code, was readopted as R.2000 d.311, effective July 5, 2000. See: 32 N.J.R. 737(a), 32 N.J.R. 2864(a).

Chapter 17, Lead Hazard Evaluation and Abatement, was readopted by R.2006 d.9, effective November 30, 2010. 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.

"Child occupied facility" means a building, or a portion of a building, constructed prior to 1978, that is visited regularly by the same child, six years of age or under. Such facilities

include, but are not limited to, day care centers, preschools and kindergarten classrooms.

"Clearance technician" means a person with proof of having completed a State certified or HUD approved training course as a clearance technician. This person is qualified to take dust wipe samples in a limited area undergoing renovation, remodeling, repair or maintenance work. A clearance technician may also be referred to as a "dust wipe technician" or a "sampling technician."

"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.

"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.