

Interpretive Guidance Categories

- A. Lead Inspector, Risk Assessor Issues, and Environmental Investigators (Pages 2 – 14)
- B. Lead-Based Paint Worker and Supervisor Including Abatement Issues and Work Practice Standards (Pages 15 – 22)
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Acronym Key

ASTM	American Society Testing Materials
CFR	Code of Federal Regulation
EBL	Elevated Blood Lead
EPA	Environmental Protection Agency
HHS	Healthy Homes Section
HUD	Housing and Urban Development
LBP	Lead-Based Paint
MCL	Michigan Compiled Laws
MDCH	Michigan Department of Community Health
MSHDA	Michigan State Housing Development Authority
PRE	Pre-Renovation Education
OPP	Occupant Protection Plan
RRP	Renovation Repair and Painting
XRF	X-Ray Fluorescence

A. Lead Inspector and Risk Assessor and Environmental Investigators Issues

A-1. Question: The Lead Hazard Control Rules state that a required report be prepared within 20 business days. Can this be extended for large multi-family projects?

Response - The lead inspection, risk assessment, combination, abatement or clearance report should be prepared within 20 business days from completion of the entire activity (ref: R325.99103(2)), including all laboratory results and collection of data. Individual extensions may be granted by the Department, upon request, for projects with special considerations.
(03/01/2005)

A-2. Question: Should a copy of a required report be given to the person paying for the activity (eg. city program or agency) and the owner, or will the person paying for the activity give a copy to the owner?

Response - As required in R325.99103(2), the person preparing the report is required to give a copy of the report to BOTH the person who paid for the service and the building owner, if they are different.

Examples:

1. A rental property owner or private homeowner contracts for a risk assessment to be performed on one of their buildings. The resulting report will be given to the homeowner/property owner only.
2. A tenant contracts for a risk assessment to be performed in their rented dwelling unit. The resulting report will be given to both the tenant (person who contracted the service) and the rental property owner. This eliminates the possibility of a rental property owner claiming to have no knowledge of lead-related hazards for a unit in which a LBP investigation had been performed.
3. A funding agency contracts for an Inspection, Risk Assessment or Combination to be done. The certified professional must provide a copy to the agency and building owner.
4. After an abatement project is completed, the abatement supervisor for the project is responsible for providing a copy of the lead abatement report to the funding agency, if there is one, and to the building owner.

Further specific contract situations, and those involving third party requests for reports should be referred to legal counsel.

(03/01/2005)(amended 7/12/13)

A-3. Question: Is there a requirement to give copies of lead inspection, risk assessment, or clearance, to tenants?

Response – No, unless the tenant was the one paying for the work to be done. The landlord has an obligation to inform the tenant of lead paint or lead paint hazards in the dwelling place, but the minimum requirement is that it be done when tenants are moving in or at the time of lease renewal.

(6/13)

A-4. Question: HUD Part 35 regulations are referenced in the revised Michigan rules as documented methodologies. Does this mean that they must be used to perform lead hazard control work?

Response – HHS may enforce the provisions of 24 CFR 35, if necessary, to protect the health and safety of Michigan residents, in accordance with the “documented methodologies” requirement of Michigan rule R325.99401(2). However, it is not HHS’s intent to infringe on enforcement of HUD regulations. HUD Part 35 regulations will to be used as a compliance tool, but not as a targeting measure for compliance investigations.
(03/01/2005, amended 08/03/2007)

A-5. Question: The HUD Guidelines are referenced in the revised Michigan rules as documented methodologies. Does this mean that they must be used to perform lead hazard control work?

Response – Yes, In Michigan the Revised HUD Guidelines of 2012 are to be followed as “documented methodologies (Lead Hazard Control Rules 325.99401(2)(a)), unless there are specific regulations in the Lead Abatement Act, the Lead Hazard Control Rules, or local city or county regulations that are more protective or more stringent than the HUD Guidelines.
(7/23/13)

A-6. Question: ASTM Standards E 1727 “Standard Practices for Field Collection of Soil Samples for Lead Determination by Atomic Spectrometry Techniques” and E 1728 “Standard Practices for Field Collection of Settled Dust Samples Using Wipe Sampling Methods for Lead Determination by Atomic Spectrometry Techniques” are referenced in the revised Michigan rules as documented methodologies. Does this mean that they must be used to perform lead hazard control work?

Response – Yes, unless there are specific federal, state, or local laws or regulations that are more protective.
(7/13)

A-7. Question: The Michigan Department of Community Health (MDCH) document, entitled, “Environmental Investigations for Children with Elevated Blood Lead Levels is referenced in the revised Michigan rules as a documented methodology. Does this mean that this document must be used when performing Environmental Investigations for children with elevated blood lead levels?

Response – Yes, in Michigan it is the required protocol for performing performing Environmental Investigations for children with elevated blood lead levels and must be followed. Individuals performing Environmental Investigations must be certified by MDCH as a Lead Inspector, Risk Assessor, and EBL Environmental Investigator.
(6/13)

A-8. Question: Before 2007 sampling requirements for a risk assessment in a child-occupied facility stated that samples were to be taken from areas where children 6 years of age and under were “likely” and “most likely” to be exposed to lead-based paint. What has changed?

Response - In 2007 the Lead Hazard Control Rules were changed to say that samples must now be taken from areas where children “could reasonably be expected to come in contact with dust”. This wording change was made to ensure that areas of a building where no children currently have access to, but children might have access in the future, were not excluded from sampling.
(03/01/2005, amended 08/03/2007)

A-9. Question: If a yard has multiple bare soil areas which exceed 9 square feet, does the Risk Assessor have to take samples of the soil in each one?

Response – Yes, the more detailed the sampling, the more complete the recommendations of the risk assessment. Professional judgment is needed by the Risk Assessor to define which areas should be included in composite soil sampling. The 9 square foot rule was taken from the HUD guidelines to establish a minimum area of bare soil for sampling consideration (i.e. soil samples need not be taken from bare soil areas of less than 9 square feet) (*ref: R325.99404(8)*).
(03/01/2005)

A-10. Question: If a risk assessment is performed in the winter and there is snow on the ground are risk assessors required to take soil samples?

Response – Yes, a risk assessment is not complete until soil samples are taken, provided bare soil is present, and that can't be determined if the ground is covered by snow. Snow cover does not remove the necessity to sample soil. Serious hazards may exist. The Department is adopting, as a policy, June 1st as a date by which soil samples must be taken for risk assessments done in the winter where snow prevented the taking of soil samples. It is advised that additional expenses be discussed with the customer or agency paying for the risk assessment prior to performing the work.
(7/22/13)

A-11. Question: If soil samples could not be taken due to snow on the ground how soon must the risk assessor return to take samples?

Response – Soil samples must be collected as soon as reasonably possible. The Department is proposing a that this be done no later than June 1st.
(7/22/13)

A-12. Question: Should the area of bare soil and the location of bare soil be recorded in the Risk Assessment Report?

Response – Yes, in the 2012 HUD Guidelines pages 5-21 and 5-22 it discusses the need to record the number and size of areas of bare soil. Pages 5-34 and 5-35 states that a site plan sketch should be made to identify the location of areas of bare soil in the yard.
(7/26/13)

A-13. Question: Is a risk assessor required to sample soil when it is unfeasible due to weather conditions (snow cover, rain, etc.)?

Response - Yes. Soil assessment is a required component of a risk assessment. When weather conditions do not permit sampling the assessor must arrange to return at another time, sample, and include results of analyses in final report or by addendum.

A-14. Question: Can any Lead Inspector/Risk Assessor obtain certification to be an

Elevated Blood Lead (EBL) Environmental Investigator, or is it restricted to local health department staff personnel?

Response – Yes, based on the individual’s certification as a Lead Inspector/Risk Assessor, review of the standard protocol manual, and successful completion of the proficiency [open-book] exam (*ref:R325.99302(7)*). This rule does not preclude a private Risk Assessor from becoming endorsed as an EBL Investigator.
(03/01/2005)(amended 7/13)

A-15. Question: What training is required for a person to become certified as an EBL Environmental Investigator?

Response –The first criteria is to be certified as a lead inspector and lead risk assessor. The only additional requirement is to take the EBL proficiency exam. The exam is open book and is prepared for by a self-directed study of the EBL Environmental Investigation protocol (R325.99302(7)). This protocol may be found at the Healthy Homes Section website at: www.mi.gov/leadsafe > **EBL Environmental Investigators > Elevated Blood Lead (EBL) Environmental Investigation (EI) Protocol, report instructions, and procedural guidelines.** A copy of the protocol should be brought with you to the exam. Field training can be sought through the Healthy Homes Section (HHS).
(03/01/2005, amended 03/10/13)

A-16. Question: What should be done about visual clearances during winter with snow cover?

Response - The Department’s position regarding snow, or other covering of the soil, during clearance procedures is to perform what can be done at the time of project completion, and to complete the exterior visual clearance inspection at a time when the soil can be examined. Clearance on the whole project cannot be given until the visual on the exterior is completed. If only exterior work was done, then the job is not complete until the visual clearance is achieved. If both interior and exterior work has been performed the interior work area can be cleared and occupants may return, but the report for the interior clearance should note that the whole project cannot be considered complete until the exterior clearance has been done. (03/01/2005, amended 08/03/2007, amended 08/02/13)

A-17. Question: If exterior abatement is done in the winter and snowfall occurs and prevents a visual clearance of the exterior work area is the lead abatement contractor required to come back and re-clean the work area if paint chips or debris are discovered by the clearance person after the snow melts?

Response – Yes, the clearance person is required to return after the snow melts to verify that the work area is clean. If paint chip, debris, or construction material is found it is the responsibility of the abatement company to re-clean the work site to clearance standards. This guidance is based on the definition of Abatement found in the EPA regulations at CFR40 745.223 where it states in part:

Abatement means any measure or set of measures designed to permanently eliminate lead-based paint hazards. Abatement includes, but is not limited to:
(1) The removal of paint and dust, the permanent enclosure or encapsulation of lead-based paint, the replacement of painted surfaces or fixtures, or the removal or permanent covering of soil, when lead-based paint hazards are present in such paint, dust or soil; and

(2) All preparation, cleanup, disposal, and post-abatement clearance testing activities associated with such measures.

And the Michigan Lead Abatement Act defines abatement very similarly:

Sec. 5453 (1) *Abatement*, except as otherwise provided in subsection (2), means a measure or set of measures designed to permanently eliminate lead-based paint hazards. Abatement includes all of the following:

(a) The removal of lead-based paint and dust lead hazards, the permanent enclosure or encapsulation of lead based paint, the replacement of lead-painted surfaces or fixtures, the removal or covering of soil lead hazards, and all preparation, cleanup, disposal, and post-abatement clearance testing activities associated with such measures.

The highlighted sections establish that clearance is a part of the abatement process, and that if the clearance isn't performed, then the abatement job is not finished or complete.
(8/5/13)

A-18. Question: Is exterior plastic groundcover required in deep snow and ice?

Response - Plastic sheeting over ice or packed snow cover is a dangerous slip and fall hazard. The necessity for capturing loose debris and paint chips during lead hazard control work must be balanced against the need for worker safety. In heavy snow cover or icy conditions, contractors may use, at a minimum, 1 ½ to 2 foot wide catch strip of plastic sheeting, secured to the foundation during exterior work and a very thorough cleanup performed. The Healthy Home Section encourages the use of the full 10' of plastic and use of methods that would allow the work to be done without jeopardizing the safety of the workers, but will allow contractors to use their judgment on snowy or icy surfaces. If snowfall prevents a thorough cleanup, then the lead abatement contractor must return after snow melt to clean the worksite. The abatement contractor may need to return and re-clean if the clearance person fails the visual clearance for debris in the work area. (03/01/08, amended 08/15/07 amended 05/10/13)

A-19. Question: Do all items addressed in a risk assessment have to be checked by the clearance professional as part of the clearance procedure?

Response - It is the job of the clearance professional to make sure that all work in the specified scope of lead hazard control work (R325.99407(3)(a)) has been performed satisfactorily. It is not expected that the clearance professional define or audit the specs from the risk assessment. If the work is HUD-related, and all hazards were required to be addressed by the scope of work (per Part 35 requirements), that is the spec writer's job, not that of the clearance professional. However, a prudent Risk Assessor may find it appropriate to note additional hazards found during clearance procedures or review of the original risk assessment.
(03/01/2005)

A-20. Question: How could a clearance professional use random selection of units for clearance in less than 10 units (rule 407(7) indicates greater than 4 units)?

Response - In the Michigan definition of *abatement*, buildings which are to have LBP-related activities performed as multi-family are defined as those of more than 4 units (consistent with HUD guidelines). Rule 407 says that "multi-family" dwellings can be cleared by using the 'random' selection method according to documented methodologies. Those methodologies do, indeed, begin random selection at buildings greater than 10 units (from HUD guidelines, Table 7.3). Therefore,

multi-family random selection cannot begin at less than 10 units. The mention of 4 units in rule R325.99407(7)) was to establish the prohibition of Clearance Technicians doing clearance procedures in multi-family dwellings.
(03/01/2005)

A-21. Question: May occupants re-occupy a dwelling before final clearance has been achieved?

Response – Documented methodologies (specifically HUD guidelines - Chapter 15, 24 CFR Part 35), and Michigan Lead Hazard Control Rule R325.99407(4)(d) prohibit occupants from re-occupying dwelling areas where lead hazard control activities were conducted, until after clearance has been achieved.

(03/01/2005 amended 8/5/13)

A-22. Question: Can an abatement contractor pay directly for a clearance?

Response - No. Any influence of the certified lead abatement firm over a clearance professional is prohibited by both federal and state regulations.

1. Michigan's Lead Hazard Control Administrative Rules, R325.99407(3), clearly states that the clearance professional must be "completely independent" of the lead hazard control firm performing the work.

2. The 2012 HUD Guidelines for the Evaluation and Control of Lead Based Paint Hazards in Housing, Chapter 15, "Clearance" state: "The clearance examiner must not be paid or employed, or otherwise compensated by the lead hazard control contractor and should have no vested interest in seeing that the job is completed on schedule."

3. HUD 24 CFR Part 35, Sec. 1340(3)(f), "Independence": "Clearance examinations shall be performed by persons or entities independent of those performing hazard reduction or maintenance activities..."

Federal and state regulations are in close agreement on the principle of complete independence of the clearance person or firm. These repeated prohibitions extend to the certified lead abatement firm having any influence on the selection of the clearance person or firm and their payment.

(08/15/2007)

A-23. Question: Must an individual be certified to perform a dust wipe clearance on an interim control project?

Response – Yes, a person performing a clearance on an interim control project must be certified as a Lead Inspector or Lead Risk Assessor. In Michigan there is another discipline that can perform clearances on interim control projects. It is called the Clearance Technician. Currently there are no certified Clearance Technicians and no training providers that are currently accredited to teach the Clearance Technician class.

(7/13)

A-24. Question: Are dust clearance samples required to be collected for all types of interior lead hazard reduction abatement activities?

Response - Yes. All interior lead hazard control projects in target housing or child-occupied facilities must be followed by a clearance examination, that includes dust wipe samples, as stated in R325.99407(1). Exterior lead hazard control projects require a visual clearance by a certified clearance professional (lead inspector or risk assessor) (R325.99407(6)).

A-25. Question: Are dust clearance samples required to be collected on all interior interim control projects?

Response – If the project is receiving federal funding through HUD, MSHDA, State of Michigan, or any county, city, or non-profit agency, etc. then, a dust wipe clearance is required. If the project is being funded through private sources or by homeowner resources, then under EPA law a dust wipe clearance is not required, but could be requested.

A-26. Question: Are dust clearance samples required to be collected on all renovation projects?

Response – No, renovation projects do not require a dust wipe clearance. Renovation is governed by EPA’s Renovation, Repair and Painting (RRP) Rule, and for renovation projects the minimum requirement is “cleaning verification.” The cleaning verification process involves using a disposable cleaning cloth (designed to clean hard surfaces), to wipe the work area following cleaning, and comparing the cleaning cloth color to a standard verification card to determine cleanliness. The cleaning verification process may require several repetitions to accomplish the goal. Visit www.epa.gov/lead for more information regarding the Renovation, Repair and Painting (RRP) Rule.

Dust wipe clearance testing involves taking dust samples from floors, window sills and window troughs, and having them analyzed by a NLLAP certified laboratory and compared with dust hazard standards to determine if the area has been adequately cleaned.

A-27. Question: If a dust wipe clearance has been requested for an RRP project where should the samples be taken from?

Response – On an RRP project, if dust wipes are requested or required, the samples must be taken from floors, window sills, and window troughs in areas or rooms where the work was done. Dust wipes must be taken by certified lead inspectors, risk assessors, or clearance technicians.

7/23/13

A-28. Question: If the occupants remain in the home during an abatement project, but remain outside the containment area, is it acceptable to remove all protective sheeting prior to securing a final clearance?

Response - No. There must be a plastic barrier between the work area and the occupants living space until the area has been cleaned and passed visual and dust clearance (2012 Revised HUD Guidelines for the Evaluation and Control of Lead Based Paint Hazards in Housing, Chapter 15: Clearance, page 15-33 (D)). This methodology is referenced in Michigan Rule No. 325.99401(2). Additional guidance concerning occupant protection measures on interim control and rehabilitation projects may be found in HUD Regulations at 24 CFR Part 35.1345.

(7/25/13)

A-29. Question: Does Michigan require a minimum number of dust samples during a risk assessment?

Response Yes. R325.99404(5) of the Lead Hazard Control Administrative Rules states:

In residential dwellings, the risk assessor shall collect the following dust samples in not less than 6 representative rooms, hallways, stairwells, or room equivalents:

(a) One dust sample from the floor of each selected room, hallway, or stairwell.

(b) One dust sample from a window sill or trough, if available, in each selected room, hallway or stairwell. Dust samples from windows shall be collected by alternating the sill and trough in each room to the extent possible.

(c) If there are less than 6 rooms, hallways, stairwells, or room equivalents in the dwelling, then the risk assessor shall sample all rooms, hallways, and stairwells.

A-30. Question: Is a floor and a window (sill or trough), dust sample always required during a risk assessment?

Response - Yes, where ever feasible. If a window sample is collected in a room, a floor sample must be collected from that room as well (Lead Hazard Control Rules 325.99404(5)(a)). If you have a room or room equivalent, such as a hallway or staircase, that has no window, then one floor sample is all that is required. The report should note in a limitations section that no window was present in that room or room equivalent.

A-31. Question: Is a sill or trough dust wipe sample required if the paint on window components is intact?

Response: If lead-based paint is identified, or assumed, on a friction surface such as a window sash, window stop, door jamb, etc. EPA regulation 40 CFR 745.65(a)(1) states: "Any lead-based paint on a friction surface that is subject to abrasion and where the lead dust levels on the nearest horizontal surface underneath the friction surface (e.g., the window sill, or floor) are equal to or greater than the dust-lead hazard levels identified in paragraph (b) of this section." The term "subject to abrasion" refers to window components where visible scratches, wear, or abrasion are apparent (less deterioration than flaking, peeling, chipping). Windows that are unable to be opened, or can be verified by observation to never open or show no signs of abrasion would not require a dust wipe test. If there is deteriorated lead-based paint, a dust wipe would not need to be taken from that window or the floor below the window, because it would already be considered a lead-based paint hazard.

A-32. Question: Is Dust sampling still necessary if no positives are found with XRF instrumentation during a lead-based paint risk assessment?

Response - Yes. Regardless of whether lead-based paint is identified on the property, dust sampling is still required (6 room minimum in Michigan 325.99.404(5)), in order to rule out contamination by other routes such as tracking from the exterior, hobby-related contamination, adjacent property contamination and other possible sources. Dust wipe sampling is a required part of all lead-based paint risk assessments.

A- 33. Question: Do window troughs have to be sampled during a risk assessment?

Response - Yes. Michigan rule 325.99404(5)(b) requires the risk assessor to alternate sampling windows and troughs to the extent possible.

A-34. Question: Can a risk assessor modify their recommendations to accommodate the planning needs of a housing agency?

Response - No. In accordance with Rule 325.99404(10)(r), the risk assessor must provide interim control and abatement options related to the hazards identified at the dwelling. The assessor may not limit or exclude recommendations based on rehabilitation planning. The risk assessment and/or inspection report is first a report to the homeowner describing hazards in their home and second a document required to fulfill procedure and policy needs of housing agencies.

A-35. Question: Can carpeted floors be omitted from risk assessments or clearances?

Response - No. Carpeted floors are not excluded from testing during a risk assessment or clearance. It is acknowledged by the EPA in 40CFR 745 Subpart D that a statistical relationship has not yet been established between carpet dust levels and child blood-lead concentrations. However, until the EPA and/or HHS have such statistical data upon which a new standard can be based, the clearance and hazard level for carpeted floors remains at 40 μ g/ft².

A-36. Question: Are risk assessors or lead inspectors responsible if the client denies access to a room or space during the investigation?

Response – No, a client or homeowner may restrict access to a room or area. If access is restricted to an area of the residence, then that information must be included in the limitations section of the report. The Department may choose to verify such information independently with the homeowner.

A-37. Question: How many sides of a house exterior must be tested?

Response - A minimum of four exterior walls must be tested per construction history. Walls comprising additions should be addressed separately.

A-38. Question: How should a risk assessor treat like components with identical painting histories in their report so that the specification writer understands how to address them?

Response - When testing all components with deteriorated paint, a risk assessor may group like components with identical painting histories. For example, a risk assessor may test the deteriorated paint on only one of three living room windows and generalize the result to the remaining two windows because, in their professional judgment, the windows have identical construction and painting histories. The risk assessor must then be clear in the report that the two untested windows share the result of the tested ones, either positive (hazard) or negative (non-hazard). This will help to avoid confusion with the specification writer, who may prescribe lead hazard reduction activities for the tested window only, not understanding the generalization.
(08/15/2007)

A-39. Question: Under the Revised HUD Guidelines of 2012 what are the paint condition designations to be used by risk assessors to determine lead paint hazards?

Response – Under the Revised HUD Guidelines the paint condition designations are “Intact” and “Deteriorated.” The “Fair” designation has been done away with. Now, any damage greater than a “nail hole” or “hair line crack” is considered deteriorated, (Revised HUD Guidelines 2012 page 5-24, end of 2nd paragraph). Lead-based paint, or assumed lead-based paint, is considered a hazard if it is in a deteriorated condition.

A-40. Question: We have started lead abatement work on a rehabilitation project that will require more work to be done once the lead abatement is completed. Since, HUD requires a clearance at the end of the project, do we have to have a clearance conducted at the end of the lead abatement activities?

Response – Yes, lead abatement site is considered a lead abatement site until a full clearance is conducted and passed. One of two things must occur when the lead abatement activities are finished.

1. The abatement worksite must have a full clearance conducted and passed before other, non-abatement certified, personnel can enter what use to be the abatement worksite.
2. If a clearance is not conducted and passed, all workers entering the abatement site would be required to be lead abatement certified, including plumbers, painters, carpenters, etc., until a full clearance is passed.

In a case that occurred in March of 2013 both HUD and EPA were consulted and confirmed that the above statements were the correct and appropriate guidance for lead abatement projects.
(8/5/13)

A-41. Question: Are risk assessors required to supply cost estimates of the different hazard control options that they have recommended in a risk assessment report?

Response –No, it is not necessary, but the 2012 revised HUD Guidelines advise:

The risk assessor should endeavor to provide information that will assist the owner in making an informed decision on this complex issue. The owner, not the risk assessor, must make the final decision. Costs for various treatments vary considerably from one locale to the next and are subject to market conditions, making it difficult to provide cost estimates. However, the risk assessor should at least indicate the order in which acceptable hazard control options for a given hazard fall in terms of relative initial cost. That is, the options should be described in terms such as “lower initial cost” and “higher initial cost.”

(7/26/13)

A-42. Question: Do risk assessors need to determine the cause of the paint deterioration and include that information in the risk assessment report?

Response – Yes, the 2012 revised HUD Guidelines state: “The risk assessor must determine, to the extent practicable, and record on Form 5.2, or similar form, whether the paint deterioration has been caused by a moisture problem, friction or abrasion, impact, deteriorated or damaged substrate, severe heat, or some other existing building deficiency. These conditions should be corrected before repainting. The type of deterioration (i.e., blistering, flaking, etc.) may yield information about necessary hazard control treatments. For example, if the type of deterioration is commonly caused by moisture in the substrate, the moisture problem will need to be addressed before the paint can be stabilized.”

(07/2613)

A-43. Question: If lead hazards are being treated on the exterior only is an interior clearance required?

Response – In the Revised HUD Guidelines of 2012 on page 15-13 under the heading 2. Clearance Area Following Exterior Work it says:

“Exterior areas must be cleared following work that has disturbed or may have disturbed exterior lead-based paint. Interior clearance is not necessary following exterior work if the only work being done is on the outside and if there is dust containment due to a tightly closed opening between exterior and interior spaces (e.g. window and/or door). In this type of containment, windows, doors, vents, and other building openings near the work area are sealed or tightly closed to prevent migration of dust from the outside to the inside during the work.”

If you are working on the exterior of a house, and windows and doors are not opened while the work is being performed (siding, trim, soffits, etc.), the work is strictly an exterior project not subject to any interior dust wipes. If you are working on the exterior of windows and doors it may change the picture. Page 15-13 goes on to say:

“If building openings near the work area are not sealed or tightly closed, clearance must be conducted in interior spaces that may have been affected.”

If you are painting the exterior casing on a window or door, and you do not need to open the window or door, it is an exterior project only and no interior clearance required. If, on the other hand you are painting the jambs, the sashes, the door, the threshold, the trough, etc., essentially anything where you would have to open the window or door to complete the task, then you interior clearance would be required. The contractor performing the work has two choices:

- 1) He can erect containment on the interior to prevent the dust from traveling throughout the house, whereupon you would need to take a sample from a floor and window (if available) and one outside the containment in the house within 10' of the containment, or
- 2) The contractor can choose not to put up containment which would require a whole house clearance to be done.

To summarize: If you are working on windows and doors and need to open them to perform the specified activity then an interior clearance is needed. Containment or lack of containment would then determine how many samples need to be taken inside.

(8/5/13)

A-44. Question: What is the difference between On-going Monitoring and Re-evaluation?

Response –

On-going monitoring is the responsibility of the home owner, property owner, or building manager. The residence should be visually inspected paying particular attention to areas where enclosure, encapsulation, or interim controls were done. If there is evidence that any of lead hazard control procedures have failed, then actions should be taken to correct the problems. This should be done at least once a year. See Revised HUD Guidelines 2012, page 6-9 under Visual Assessment heading.

Revaluation is to be done by a certified risk assessor and essentially is a follow-up risk assessment. The initial risk assessment should be reviewed, if possible, and any new hazards

identified should be eliminated. The re-evaluation should be done every two years unless certain conditions are met. See Revised HUD Guidelines 2012 pages 5-94 to 5-98 for more details.

A-45. Question: When converting a non-housing building, such as a warehouse, factory, school, or commercial building to residential living space when does it become “Target Housing?”

Response – In 2013 both the Environmental Protection Agency (EPA) and the Department of Housing and Urban Development (HUD) released statements that said that the end use of the building determines the nature of work practices used on the project. If the intent of the work is for the purposes of removing lead-based hazards, then it is a lead abatement project and the work would need to be done by certified abatement workers and/or supervisors. A dust wipe clearance is required after the abatement portion of the work before non-abatement certified workers can perform work act in the regulated work area. If it is desired to avoid the clearance after the abatement portion of the work, then all the trades people, such as plumbers, electricians, HVAC, etc. would need to be abatement certified to work in the lead abatement regulated area.
(7/27/13)

A-46. Question: The 2012 Revised HUD Guidelines eliminate “Fair” as a paint condition option, leaving only “Intact” and “Deteriorated.” Can the de minimus levels of 20 square feet on exterior walls, 2 square feet on interior walls, and 10% of small components be used for determining paint condition for risk assessments?

Response – No, the de minimus levels are for abatement work to determine if lead safe work practices are required or not. According to the 2012 Revised HUD Guidelines paint is considered to be deteriorated if damage is larger than a nail hole or hairline crack (page 5-24, end of 2nd paragraph). Risk assessors determine the hazards and if the damage is below the de minimus level, then non-abatement certified individuals could perform the work on those surfaces.
(7/27/13)

A-47. Question: Should the area of bare soil and the location of bare soil be recorded in the Risk Assessment Report?

Response – Yes, in the 2012 HUD Guidelines pages 5-21 and 5-22 it discusses the need to record the number and size of areas of bare soil. Pages 5-34 and 5-35 states that a site plan sketch should be made to identify the location of areas of bare soil in the yard.
(7/26/13)

A-48. Can a limited or “partial” risk assessment be performed?

Response – No, the intent of a risk assessment is to determine if there are hazards in Target Housing. Testing less than the whole residential dwelling will not identify all possible hazards. If, for example, you only test the bathroom and no hazards are found in that room there is still the potential for a child to get poisoned in any other room in the house, because the conditions in those other rooms have not been identified.

A-49. Question: Can a limited or “partial” Inspection be performed for lead abatement purposes?

Response – Yes, a certified lead identification professional may apply to the section in writing for a waiver of normal rules to conduct a limited scope inspection of a dwelling to accommodate the

individual needs of a client. The smallest unit of a dwelling for which an application may be made is one room. The applicant must provide information deemed necessary by the department when making the application and must justify the circumstances necessitating a limited scope identification activity.

Even limited in scope, an inspection must meet the objectives identified in its definition. An inspection is defined at MCL 333.5457(2) as:

“A SURFACE-BY-SURFACE INVESTIGATION TO DETERMINE THE PRESENCE OF LEAD-BASED PAINT IN TARGET HOUSING OR CHILD-OCCUPIED FACILITIES AND THE PROVISION OF A REPORT EXPLAINING THE RESULTS OF THE INVESTIGATION”.

The limitations of the inspection must be made clear in the resulting report and the homeowner urged not to generalize any information contained therein past the specific areas tested.
(7/18/13)

A-50. Question: Can a partial or limited lead paint inspection be done for RRP renovation projects?

Response – The 2012 Revised HUD Guidelines allow for “Selective Testing” (Page 5-13), but it indicates it is only allowable for “Rehabilitation or other renovation or maintenance activities.”
(8/6/13)

B. Lead-Based Paint Workers and Supervisors: Including Abatement Issues and Work Practice Standards

B-1. Question: When is the use of a certified lead abatement firm required?

Response – Anytime renovation or remodeling work is performed that fits the definition of abatement (from MCL 333.5453(1)), the work must be performed by a certified lead abatement firm, using certified employees. Interim control work must be performed by those meeting the requirements of rule 325.99406(1), having a minimum of 8 hours of lead training. (09/19/2000)

B-2. Question: Can Tyvek or fanfold be considered the abatement enclosure material so that a non-certified subcontractor may be used to install siding and wrap exterior components?

Response– No, the Department has determined, after researching the Revised HUD Guidelines of 2012, that Tyvek and fanfold do not meet the requirements of Enclosure. If an exterior abatement project requires the installation of siding, then the whole project from surface prep, to Tyvek or fanfold, and the hanging of the siding would need to be done by a certified Supervisors or Workers (with at least one Supervisor present) working for a certified Lead Abatement Contractor company. See 2012 HUD Guidelines Chapter 12 page 12-31, Appendix 7.2, page 7.2-1 letter F, and page App 7.2-7 number 19. (7/13)

B-3. Question: Can a non-certified subcontractor be used to install windows following window removal?

Response - Yes, but only if all of the following conditions are met:

- All surface preparation of window penetrations must be completed by certified lead abatement supervisors and workers. This would include scraping and repair of the substrate, and encapsulating as necessary to ensure that the window installation may be performed without disturbing the remaining painted surfaces.
- A lead dust wipe clearance must be achieved prior to any work being performed by the non-certified subcontractor.
- Other interior work must be finished and cleared or be contained and inaccessible to the subcontractor.
- All abatement-related equipment and waste must be removed from the site prior to any work being performed by the non-certified subcontractor .
- The subcontractor must be informed of the presence of lead based paint and the nature of the abatement contractor's work.
- The abatement contractor will be responsible for any repairs to leaded surfaces caused by the subcontractor as a result of installation.

(08/23/2001, amended 8/5/13)

B-4. Question: May non-abatement certified persons be used to perform general component replacement tasks during abatement activities?

Response – No, non-abatement certified persons may not remove LBP-coated building components within the scope of an abatement project (*ref: MCL 333.5468(4)*). Replacement of components has been addressed above. RRP certified, or any other uncertified personnel, are not allowed in the regulated abatement work area until after the dust wipe clearance has been achieved.

(09/04/2001, amended 03/01/2005, amended 7/9/13)

B-5. Question: May non-certified people (i.e. professional cleaning services) perform cleaning of work areas after abatement work has been completed, and prior to final clearance?

Response – No. Rule 406 (R325.99406(2)) of the Lead Hazard Remediation rules states that, “only an individual certified by the department ...shall conduct lead abatement activities”. Abatement activities are defined in the Lead Abatement Act of 1998 (MCL 333.5453(1)(a)) as, “the removal of lead-based paint and lead-contaminated dust,...., and all preparation, cleanup, disposal, and post-abatement clearance testing activities associated with such measures.”

Therefore, cleaning of a lead **abatement** site prior to final clearance sampling is considered part of an abatement activity by the above definition, and only persons certified as lead abatement workers or supervisors may perform this activity. Third-party cleaning firms may perform cleaning functions at an abatement project, but the persons doing so must be certified by the department.

Conversely, “supercleaning” of homes where lead-containing dust is to be cleaned up, but not as part of an abatement project, may be done by adequately trained persons. The minimum requirement for training would be the EPA Certified Renovator training. Certified abatement workers and supervisor would also be qualified to do this work. This activity is defined as an interim control, and is subject to the requirements of rule 325.99406(1).

(09/04/2001, amended 03/01/2005, as amended 07/12/13)

B-6. Question: The Lead Hazard Control Rules state that a required report be prepared within 20 business days. Can this be extended for large multi-family projects?

Response - The lead abatement report should be prepared within 20 business days from completion of the entire activity (*ref: R325.99103(2)*), including all laboratory results and collection of data. Individual extensions may be granted by the Department, upon request, for projects with special considerations.

(03/01/2005)

B-7. Question: Is there a requirement to give copies of abatement reports to tenants?

Response – No, unless the tenant was the one paying for any of the work to be done. The landlord has an obligation to inform the tenant of lead paint or lead paint hazards in the dwelling place, but the minimum requirement is that it be done when tenants are moving in or at the time of lease renewal.

(7/13)

B-8. Question: HUD Part 35 regulations are referenced in the revised Michigan rules as documented methodologies. Does this mean that they must be used to perform lead hazard control work?

Response – HHS may enforce the provisions of 24 CFR 35, if necessary, to protect the health and safety of Michigan residents, in accordance with the “documented methodologies” requirement of Michigan rule R325.99401(2). However, it is not HHS’s intent to infringe on enforcement of HUD regulations. HUD Part 35 regulations will to be used as a compliance tool, but not as a targeting measure for compliance investigations.

(03/01/2005, amended 08/03/2007)

B-9. Question: The HUD Guidelines are referenced in the revised Michigan rules as documented methodologies. Does this mean that they must be used to perform lead hazard control work?

Response – Yes, In Michigan the Revised HUD Guidelines of 2012 are to be followed as “documented methodologies (Lead Hazard Control Rules 325.99401(2)(a)), unless there are specific regulations in the Lead Abatement Act, the Lead Hazard Control Rules, or local city or county regulations that are more protective or more stringent than the HUD Guidelines.

(7/23/13)

B-10. Question: Does the Occupant Protection Plan (OPP) have to remain on-site at all times during lead hazard control work?

Response – Yes, Rule 325.99406(6) requires that the site-specific Occupant Protection Plan remain at the site during all hazard control work from the start of the Lead Abatement project until clearance is achieved.

(03/01/2005, amended 08/03/2007, amended 05/10/13)

B-11. Question: Does the certified Supervisor conduct a visual inspection for clearance of exterior lead hazard control work as well as the clearance professional?

Response – The certified Supervisor must first conduct a visual inspection of the exterior surfaces (R325.99406(11)), to ensure that all dust, debris, paint chips, etc. generated during the abatement project has been cleaned and removed from the exterior work area. This helps the certified supervisor determine if the work area has been cleaned well enough that the clearance professional can be called. The clearance professional must perform the final visual inspection for verification that the exterior work area is sufficiently clean and passes clearance (R325.99407(6)).

(03/01/2005, amended 8/5/13)

B-12. Question: May occupants re-occupy the work area of a dwelling before final clearance has been achieved?

Response – Documented methodologies (specifically HUD guidelines and 24 CFR Part 35) and rule R325.99407(4)(d) prohibit occupants from re-occupying the work area of a dwelling until after clearance has been achieved.

(03/01/2005)

B-13. Question: Is a firm required to be certified (licensed) as a lead abatement contractor to perform interim controls? (ref: 325.99406(5))

Response – No, interim control work does not require lead abatement contractor company certification, but the Renovation, Repair, and Painting (RRP) Rule requires EPA Renovator Firm certification for any work that disturbs painted surfaces in homes built before 1978, unless the painted surfaces have been tested and shown to not contain lead-based paint.
(03/01/2005)

B-14. Question: Is a firm required to be certified (licensed) as a lead abatement contractor to perform lead abatement work?

Response – Yes, a firm/company performing lead abatement work must be certified (licensed) as a lead abatement contractor company. All individuals performing the abatement work must also be certified as lead abatement supervisors or workers.

B-15. Question: Can an abatement contractor pay directly for a clearance?

Response - No. Any influence of the certified lead abatement firm over a clearance professionals is prohibited by both federal and state regulations.

1. Michigan's Lead Hazard Control Administrative Rules, R325.99407(3), clearly states that the clearance professional must be "completely independent" of the lead hazard control firm performing the work.

2. The 2012 HUD Guidelines for the Evaluation and Control of Lead Based Paint Hazards in Housing, Chapter 15, "Clearance" state: "The clearance examiner must not be paid or employed, or otherwise compensated by the lead hazard control contractor and should have no vested interest in seeing that the job is completed on schedule."

3. HUD 24 CFR Part 35, Sec. 1340(3)(f), "Independence": "Clearance examinations shall be performed by persons or entities independent of those performing hazard reduction or maintenance activities..."

Federal and state regulations are in close agreement on the principle of complete independence of the clearance person or firm. These repeated prohibitions extend to the certified lead abatement firm having any influence on the selection of the clearance person or firm and their payment.
(08/15/2007)

B-16. Question: If the occupants remain in the home during an abatement project, but remain outside the containment area, is it acceptable to remove all protective sheeting prior to securing a final clearance?

Response - No. There must be a plastic barrier between the work area and the occupants living space until the area has been cleaned and passed visual and dust clearance (2012 Revised HUD Guidelines for the Evaluation and Control of Lead Based Paint Hazards in Housing, Chapter 15: Clearance, page 15-33 (D)). This methodology is referenced in Michigan Rule No. 325.99401(2). Additional guidance concerning occupant protection measures on interim control and rehabilitation projects may be found in HUD Regulations at 24 CFR Part 35.1345.
(7/25/13)

B-17. Question: If the occupants of a dwelling have been relocated before abatement begins, would this be considered unoccupied for the purpose of notification?

Response – No, the Department interprets unoccupied to mean vacant. If someone lives at the dwelling it should be considered occupied and an occupant protection plan must be prepared prior to beginning the abatement. The occupant protection plan, in this case, may be limited to a simple statement that the occupants will be relocated during the abatement and will not return until clearance has been achieved.

B-18. Question: Can I own a lead abatement company and not be a lead abatement supervisor myself?

Response – Yes, you may own a lead abatement contracting company and not be a lead abatement supervisor, **but** the Michigan Department of Community/Healthy Homes Section requires that each Lead Abatement Contractor Firm have at least one currently certified Lead Abatement Supervisor employed by the contractor.

B-19. Question: We have started lead abatement work on a rehabilitation project that will require more work to be done once the lead abatement is completed. Since HUD requires a clearance at the end of the project, do we have to have a clearance conducted at the end of the lead abatement activities?

Response – Yes, lead abatement site is considered a lead abatement site until a full clearance is conducted and passed. One of two things must occur when the lead abatement activities are finished.

1. The abatement worksite must have a full clearance conducted and passed before other non-abatement certified personnel can enter what use to be the abatement worksite.
2. If a clearance is not conducted and passed, all workers entering the abatement site would be required to be lead abatement certified, including plumbers, painters, carpenters, etc., and must follow all abatement work practices until a full clearance is achieved.

(7/13)

B-20. Question: We are conducting abatement work all around the exterior of a house and the occupants will not be relocating. I know that the occupants have to have a lead safe egress to the house. We are planning on working on both sides and the back first, leaving the front door as the clean egress for the occupants. When the work on the driveway side and the back is complete, can we have a clearance done on only those two sides so the occupants can now enter through the back door when work starts on the front?

Response – Yes, a clearance can be conducted on a designated portion of the worksite. A final clearance would still be required for the remaining abatement worksite.

B-21. Question: What does “completely independent” mean when dealing with clearance professionals and lead hazard control firms? (ref: 325.99407(3))

Response – The clearance professional may NOT have a reasonable interest in the outcome of the clearance samples. For example, the clearance professional may not be employed by the lead hazard control firm. In the same way, the clearance professional, or any principal of the company employing the clearance professional, may not be related to any person involved in performing the lead hazard control work. Further interpretation of this provision will be done on a case-by-case

basis, as the necessity arises.
(03/01/2005)

B-22. Question: In Michigan Lead Hazard Rule 406(8) it requires that containment materials remain in place until after clearance. Does all containment have to stay up until clearance is achieved?

Response – The materials defining the containment area, usually the pieces hung vertically at entries, need to stay up (defining boundaries) until clearance is complete. It will be the Supervisor’s responsibility to determine where the containment areas are established for any given project. Other poly within the containment area on the floor, or possibly the walls, must be removed before the clearance testing is done. All surfaces within the containment area must be cleaned and pass the visual inspection before dust wipes can be taken.

(03/01/2005, amended 08/03/2007, amended 8/5/13)

B-23. Question: It can be very difficult to get a passing clearance on a basement floor, does the normal 40µg/ft² clearance standard apply?

Response - HHS may not pass any law that is less protective than the federal equivalent. That said, HHS may not alter the existing dust hazard standards set forth for floors in 40 CFR 745 Sec. 227(h). The best practice for a lead hazard control firm to avoid a possible clearance of a basement floor is to contain off the basement from the rest of the work area, if no basement work is being done, and to maintain that defining containment until after a successful clearance examination. Containment that defines the work area must be left up until after clearance is achieved. If lead hazard control work in the basement is required, then normal standards for clearance must apply.

However in practical consideration of the difficulty of obtaining a successful clearance off a concrete surface, HHS will allow a visual-only clearance to be conducted in basements that meet all of the following:

1. The basement is completely unfinished.
2. The basement is used primarily for storage or utilities with no evidence that occupants use the space for recreation.
3. The basement is essentially inaccessible to small children residing in the home.

In other instances where the basement fails to meet any one of these criteria, normal clearance procedures and standards apply.

This modified clearance for unfinished basements with no play areas is optional for clearance professionals. It is for the clearance professional to make the final determination of whether or not the basement applies for this modified clearance or whether to apply normal clearance standards. If uncertain, the clearance professional may seek the advice of the Section in this determination.

B-24. Question: Under the Revised HUD Guidelines of 2012 tables 8.1, 8.2 and 8.3 have been done away with and replaced with the terms “high dust activities” and “low dust activities” to determine the appropriate containment procedures and the amount of plastic to be used on lead abatement projects. Can it be clarified how these new terms are to be used on lead abatement worksites?

Response – The short definition of a “low dust activity” is found in Table 8.1 on page 8-13 of the Revised HUD Guidelines 2012:

“A low-dust job creates a small amount of dust that will not spread beyond 6 feet from the painted surfaces being disturbed, depending on the type of work performed.”

Four things have to be taken into consideration for an activity to be considered a low-dust generating activity.

1. Will the work activity itself fall in the low-dust generating category?
2. Are the windows and doors shut, HVAC system turned off and sealed and fans turned off preventing air from flowing through the work area?
3. Is all of the dust and debris falling on the plastic and not going beyond the 6 foot workspace?
4. Are there measures in place to prevent tracking of dust and debris?

If the answer is yes to all questions then the work is considered a low-dust generating activity.

Anything else is a “high dust activity.” The Healthy Homes Section is also stating that if outside air is coming into the contained work area, then a “low dust activity” will become a high dust activity. The 2012 HUD Guidelines allow for window repair and interim control work to be considered a “low dust activity,” but only if plastic is taped in place to prevent air from coming in, or a storm window is present that can be tightly seal and gaps sealed with tape if necessary. If there is no plastic or storm window in place, then it is considered a “high dust activity.” See page 8-27 in the 2012 HUD Guidelines for more specifics about windows. Look in section D. *Worksite Preparation for Windows*.

Refer to Table 8.1 in the 2012 HUD Guidelines for more detailed information regarding “low dust” and “high dust” activities.

B-25. Question: Does any plastic, covering occupant belongings in the abatement work area, need to be removed before the clearance can be done?

Response – The abatement contractor has options to choose from:

1. The contractor must follow the contract specifications in the contract documents. If the scope of work calls for a whole house cleaning, then the protective plastic sheeting covering the occupant’s belongings must be removed to allow for cleaning.
2. The 2012 HUD Guidelines in Table 8.1 on page 8-20 says, “The final cleanup includes: (1) cleaning and removal of protective sheeting from the floor and belongings and discarding of same.” The area under the belongings should have been cleaned prior to being covered in the plastic sheeting. The belongings would then be subject to a visual clearance. Any dust, paint chips, or debris would result in a failed clearance. If during a compliance visit if any dust, paint chips, debris, or contractor tools were found of occupant belongings it would be considered a violation.
3. If the contract does not call for a whole house cleaning, HHS will allow that the protective sheeting can be considered a containment area and can remain until

clearance is achieved. As with vertical containment, these containments must be completely sealed with tape before work begins. The surface of the plastic must pass the visual assessment of the clearance. The floor under the containment would be subject to clearance sampling as one clearance sample is required outside of the containment area when containment is used. If at any time the containment fails, removal of the plastic and cleaning of the belongings underneath the plastic would be required. After the clearance is passed, the contractor must return and remove all containment plastic, caution tape and signs.

C. Clearance Issues

C-1. Question: Under the Revised HUD Guidelines of 2012, when on a lead abatement job, if part of the house is contained how many dust wipe samples need to be taken outside of the containment area.

Under the 2012 Revised HUD Guidelines the answer has changed. Now potentially two samples are required. In Chapter 15: Clearance, page 15-27 in the Category 2 box it says to take “One floor sample outside of, and within 10 feet of, each containment area.” It goes on to say you should take, “One floor sample along each passageway used by workers walking to and from the work area.” If the entrance of the containment is within 10 feet of the exit of the home, then one sample is sufficient. If the entrance of the containment is more than 10 feet, then two samples would be necessary.

(8/5/13)

C-2. Question: Can carpeted floors be omitted from risk assessments or clearances?

Response - No. Carpeted floors are not excluded from testing during a risk assessment or clearance. It is acknowledged by the EPA in 40CFR 745 Subpart D that a statistical relationship has not yet been established between carpet dust levels and child blood-lead concentrations. However, until the EPA and/or HHS have such statistical data upon which a new standard can be based, the clearance and hazard level for carpeted floors remains at 40 μ g/ft².

C-3. Question: Is there a requirement to give copies of lead inspection, risk assessment, or clearance, to tenants?

Response – No, unless the tenant was the one paying for any of the work to be done. The landlord has an obligation to inform the tenant of lead paint or lead paint hazards in the dwelling place, but the minimum requirement is that it be done when tenants are moving in or at the time of lease renewal.

C-4. Question: What should be done about visual clearances during winter with snow cover?

Response - The Department’s position regarding snow or other covering of the soil during clearance procedures is to perform what can be done at the time of project completion, and to complete the exterior visual clearance inspection at a time when the soil can be examined. Since the purpose of a visual clearance inspection is to prevent tracking of contaminated soil into the dwelling, the snow covering will effectively do the same thing until it can be evaluated at a later time. Clearance on the whole project cannot be given until the visual on the exterior is completed (03/01/2005, amended 08/03/2007, amended 06/06/13)

C-5. Question: If exterior abatement is done in the winter and snowfall occurs and prevents a visual clearance of the exterior work area is the lead abatement contractor required to come back and re-clean the work area if paint chips or debris are discovered by the clearance person after the snow melts?

Response – Yes. The clearance person is required to return after the snow melts to verify that the

work area is clean. If paint chip, debris, or construction material is found it is the responsibility of the abatement company to re-clean the work site to clearance standards.

C-6. Question: Do all items addressed in a risk assessment have to be checked by the clearance professional as part of the clearance procedure?

Response - It is the job of the clearance professional to make sure that all work in the specified scope of lead hazard control work (R325.99407(3)(a)) has been performed satisfactorily. It is not expected that the clearance professional define or audit the specs from the risk assessment. If the work is HUD-related, and all hazards were required to be addressed by the scope of work (per Part 35 requirements), that is the spec writer's job, not that of the clearance professional. However, a prudent Risk Assessor may find it appropriate to note additional hazards found during clearance procedures or review of the original risk assessment.

(03/01/2005)

C- 7. Question: How could a clearance professional use random selection of units for clearance in less than 10 units (rule 407(7) indicates greater than 4 units)?

Response - In the Michigan definition of *abatement*, buildings which are to have LBP-related activities performed as multi-family are defined as those of more than 4 units (consistent with HUD guidelines). Rule 407 says that "multi-family" dwellings can be cleared by using the 'random' selection method according to documented methodologies. Those methodologies do, indeed, begin random selection at buildings greater than 10 units (from HUD guidelines, Table 7.3). Therefore, multi-family random selection cannot begin at less than 10 units. The mention of 4 units in rule R325.99407(7) was to establish the prohibition of Clearance Technicians doing clearance procedures in multi-family dwellings.

(03/01/2005)

C-8. Question: May occupants re-occupy a dwelling before final clearance has been achieved?

Response – Documented methodologies (specifically HUD guidelines and 24 CFR Part 35) and rule R325.99407(4)(d) prohibit occupants from re-occupying dwelling areas until after clearance has been achieved.

(03/01/2005)

C-9. Question: Can an abatement contractor pay directly for a clearance?

Response – No, any influence of the certified lead abatement firm over a clearance professional is prohibited by both federal and state regulations.

1. Michigan's Lead Hazard Control Administrative Rules, R325.99407(3), clearly states that the clearance professional must be "completely independent" of the lead hazard control firm performing the work.

2. The 2012 HUD Guidelines for the Evaluation and Control of Lead Based Paint Hazards in Housing, Chapter 15, "Clearance" state: "The clearance examiner must not be paid or employed, or otherwise compensated by the lead hazard control contractor and should have no vested interest in seeing that the job is completed on schedule."

3. HUD 24 CFR Part 35, Sec. 1340(3)(f), "Independence": "Clearance examinations shall be performed by persons or entities independent of those performing hazard reduction or maintenance activities..."

Federal and state regulations are in close agreement on the principle of complete independence of the clearance person or firm. These repeated prohibitions extend to the certified lead abatement firm having any influence on the selection of the clearance person or firm and their payment.
(08/15/2007 and (6/13)

C-10. Question: Must an individual be certified to perform a dust wipe clearance on an interim control project?

Response – Yes, a person performing a clearance on an interim control project must be certified as a Lead Inspector or Lead Risk Assessor. In Michigan there is another discipline that can perform clearances on interim control projects. It is called the Clearance Technician. Currently there are no certified Clearance Technicians and no training providers that are currently accredited to teach the Clearance Technician class.

C-11. Question: Are dust clearance samples required to be collected for all types of interior lead abatement activities?

Response - Yes. All interior lead hazard control projects in target housing or child-occupied facilities must be followed by a clearance examination as stated in *R325.99407(1)*. Exterior lead hazard control projects require a visual clearance by a certified clearance professional (lead inspector or risk assessor) (*R325.99407(6)*).

C-12. Question: Are dust clearance samples required to be collected on all interior interim control projects?

Response – If the project is receiving federal funding through HUD, MSHDA, State of Michigan, or any county, city, or non-profit agency, etc. then, a dust wipe clearance is required. If the project is being funded through private sources or by homeowner, then under EPA law a dust wipe clearance is not required, but could be requested.

C-13. Question: Are dust clearance samples required to be collected on all renovation projects?

Response – No, renovation projects do not require a dust wipe clearance, unless there is HUD funding or it is a contract requirement. Renovation is governed by the Renovation, Repair and Painting (RRP) Rule, and for renovation projects the minimum requirement is “cleaning verification.” The cleaning verification process involves using a disposable cleaning cloth (designed to clean hard surfaces), to wipe the work area following cleaning, and comparing the cleaning cloth color to a standard verification card to determine cleanliness. The cleaning verification process may require several repetitions to accomplish the goal. Visit www.epa.gov/lead for more information regarding the Renovation, Repair and Painting (RRP) Rule. A dust wipe clearance may be requested by the homeowner. The extra expense would need to be negotiated.

Dust wipe clearance testing involves taking dust samples from floors, window sills and window troughs, and having them analyzed by a NLLAP certified laboratory and compared with dust hazard standards to determine if the area has been adequately cleaned.

C-14. Question: If a dust wipe clearance has been requested for an RRP project where should the samples be taken from?

Response – On an RRP project, if dust wipes are requested or required, the samples must be taken from floors, window sills, and window troughs in areas or rooms where the work was done. Dust wipes must be taken by certified lead inspectors, risk assessors, or clearance technicians.
(6/13)

C-15. Question: If the occupants remain in the home during an abatement project, but remain outside the containment area, is it acceptable to remove all protective sheeting prior to securing a final clearance?

Response - No. There must be a plastic barrier between the work area and the occupants living space until the area has been cleaned and passed visual and dust clearance (2012 Revised HUD Guidelines for the Evaluation and Control of Lead Based Paint Hazards in Housing, Chapter 15: Clearance, page 15-33 (D)). This methodology is referenced in Michigan Rule No. 325.99401(2). Additional guidance concerning occupant protection measures on interim control and rehabilitation projects may be found in HUD Regulations at 24 CFR Part 35.1345.
(7/25/13)

C-16. Question: Do all items addressed in a risk assessment have to be checked by the clearance professional as part of the clearance procedure?

Response - It is the job of the clearance professional to make sure that all work in the specified scope of lead hazard control work (R325.99407(3)(a)) has been performed satisfactorily. It is not expected that the clearance professional define or audit the specs from the risk assessment. If the work is HUD-related, and all hazards were required to be addressed by the scope of work (per Part 35 requirements), that is the spec writer's job, not that of the clearance professional. However, a prudent Risk Assessor may find it appropriate to note additional hazards found during clearance procedures or review of the original risk assessment.
(03/01/2005)

C-17. Question: How could a clearance professional use random selection of units for clearance in less than 10 units (rule 407(7) indicates greater than 4 units)?

Response - In the Michigan definition of *abatement*, buildings which are to have LBP-related activities performed as multi-family are defined as those of more than 4 units (consistent with HUD guidelines). Rule 407 says that "multi-family" dwellings can be cleared by using the 'random' selection method according to documented methodologies. Those methodologies do, indeed, begin random selection at buildings greater than 10 units (from HUD guidelines, Table 7.3). Therefore, multi-family random selection cannot begin at less than 10 units. The mention of 4 units in rule R325.99407(7) was to establish the prohibition of Clearance Technicians doing clearance procedures in multi-family dwellings.
(03/01/2005)

C-18. Question: May occupants re-occupy a dwelling before final clearance has been achieved?

Response – Documented methodologies (specifically HUD guidelines - Chapter 15, 24 CFR Part 35), and Michigan Lead Hazard Control Rule R325.99407(4)(d) prohibit occupants from re-occupying dwelling areas where lead hazard control activities were conducted, until after clearance has been achieved.
(03/01/2005, amended 8/5/13)

C-19. Question: We have started the lead abatement work on a rehabilitation project that will require more work to be done once the lead abatement is completed. Since HUD requires a clearance at the end of the project, do we have to have a clearance conducted at the end of the lead abatement activities?

Response – Yes, a lead abatement site is considered a lead abatement site until a full clearance is conducted and passed. One of two things must occur when the lead abatement activities are finished.

1. The abatement worksite must have a full clearance conducted and passed before other non-abatement certified personnel can enter what use to be the abatement worksite.
2. If a clearance is not conducted and passed, all workers entering the abatement site would be required to be lead abatement certified, including plumbers, painters, carpenters, etc., until a full clearance is passed.

C-20. Question: We are conducting abatement work all around the exterior of a house and the occupants will not be relocating. I know that the occupants have to have a lead safe egress to the house. We are planning on working on both sides and the back first, leaving the front door as the clean egress for the occupants. When the work on the driveway side and the back is complete, can we have a clearance done on only those two sides so the occupants can now enter through the back door when work starts on the front?

Response – Yes, a clearance can be conducted on a designated portion of the worksite. A final clearance would still be required for the remaining abatement worksite.

C-21. Question: The ASTM standard E 1728-03, which is required to be used for collection of lead dust wipe samples (R325.99401(2)(d)), calls for 3 blanks to be submitted per batch. Do we have to submit 3 blanks for each project where dust wipes are taken?

Response – No, according to ASTM you do not need to submit 3 blank samples for each project where dust wipes were taken. The standard practice of submitting a single blank with each group of samples for a lead-based paint activity fulfills the E 1728-03 standard requirement (The minimum frequency is 5 % or 1 for every 20 field wipe samples collected).

If more than one manufacturer's lot of wipes is used for the activity, then one wipe should be submitted for each lot number used. Example: To perform a risk assessment, 18 dust wipe samples have been collected. Ten of the samples were collected using wipes from the manufacturer's lot number 105, and 8 wipes used from the manufacturer's lot number 106. In this case, two blanks would need to be submitted for analysis with the 18 dust wipe samples.

(03/01/2005)(amended 7/16/13)

C-22. Question: How many blank samples are required when taking dust wipes for risk assessments and clearances?

Response – The ASTM standard E 1728-03 states that field blanks should be collected at a rate of 1 field blank for every 20 field wipe samples collected, or a minimum frequency of 5 % . For the average single family home that means one wipe sample per house.

C-23. Question: What does “completely independent” mean when dealing with clearance professionals and lead hazard control firms? (ref: 325.99407(3))

Response – The clearance professional may NOT have a reasonable interest in the outcome of the clearance samples. For example, the clearance professional may not be employed by the lead hazard control firm. In the same way, the clearance professional, or any principal of the company employing the clearance professional, may not be related to any person involved in performing the lead hazard control work. Further interpretation of this provision will be done on a case-by-case basis, as the necessity arises.

(03/01/2005)

C-24. Question: On a lead abatement project, if there is containment, how many dust wipe samples need to be taken outside of the contained area?

Response – The answer has changed with the release of the Revised HUD Guidelines of 2012. Under the old HUD Guidelines the answer was one. Under the 2012 HUD Guidelines the answer can be one or two. In the Revised HUD Guidelines of 2012 on page 15-15 under the heading, **1. Sampling Rooms within a Unit for Category 2** it says:

For Category 2 clearance, in which dust has been contained to the work area, the sampling locations are the same as for single-surface sampling Category 1, above, plus one floor sample outside of, and within 10 feet of, each containment area, and one floor sample along each passageway used by workers walking to and from the work area.

This results in 1 sample being required if the entry to the containment is within 10' of the exit door of the home, or 2 samples being required if the entry to the containment is greater than 10' from the exit door of the home.

(7/25/13)

C-25. Question: In Michigan Lead Hazard Control Rule 406(8) it requires that containment materials remain in place until after clearance. Does all containment have to stay up until clearance is achieved?

Response – The materials defining the containment area, usually the pieces hung vertically at entries, need to stay up (defining boundaries) until clearance is complete. It will be the Supervisor's responsibility to determine where the containment areas are established for any given project. Other poly within the containment area on the floor, or possibly the walls, must be removed before the clearance testing is done. All surfaces within the containment area must be cleaned and pass the visual inspection before dust wipes can be taken.

(03/01/2005, amended 08/03/2007, amended 8/5/13)

C-26. Question: It can be very difficult to get a passing clearance on a basement floor, does the normal 40µg/ft² clearance standard apply?

Response - HHS may not pass any law that is less protective than the federal equivalent. That said, HHS may not alter the existing dust hazard standards set forth for floors in 40 CFR 745 Sec. 227(h). The best practice for a lead hazard control firm to avoid a possible clearance of a basement floor is to contain off the basement from the rest of the work area, if no basement work is being done, and to maintain that defining containment until after a successful clearance examination. Containment that defines the work area must be left up until after clearance is achieved. If lead hazard control work in the basement is required, then normal standards for clearance must apply.

However in practical consideration of the difficulty of obtaining a successful clearance off a concrete surface, HHS will allow a visual-only clearance to be conducted in basements that meet all of the following:

1. The basement is completely unfinished.
2. The basement is used primarily for storage or utilities with no evidence that occupants use the space for recreation.
3. The basement is essentially inaccessible to small children residing in the home.

In other instances where the basement fails to meet any one of these criteria, normal clearance procedures and standards apply.

This modified clearance for unfinished basements with no play areas is optional for clearance professionals. It is for the clearance professional to make the final determination of whether or not the basement applies for this modified clearance or whether to apply normal clearance standards. If uncertain, the clearance professional may seek the advice of the Section in this determination.

C-27. Question: Does any plastic, covering occupant belongings in the abatement work area, need to be removed before the clearance can be done?

Response – The abatement contractor has options to choose from:

1. The contractor must follow the contract specifications in the contract documents. If the scope of work calls for a whole house cleaning, then the protective plastic sheeting covering the occupant's belongings must be removed to allow for cleaning.
2. The 2012 HUD Guidelines in Table 8.1 on page 8-20 says, "The final cleanup includes: (1) cleaning and removal of protective sheeting from the floor and belongings and discarding of same." The area under the belongings should have been cleaned prior to being covered in the plastic sheeting. The belongings would then be subject to a visual clearance. Any dust, paint chips, or debris would result in a failed clearance. If during a compliance visit if any dust, paint chips, debris, or contractor tools were found of occupant belongings it would be considered a violation.
3. If the contract does not call for a whole house cleaning, HHS will allow that the protective sheeting can be considered a containment area and can remain until clearance is achieved. As with vertical containment, these containments must be completely sealed with tape before work begins. The surface of the plastic must pass the visual assessment of the clearance. The floor under the containment would be subject to clearance sampling as one clearance sample is required outside of the containment area when containment is used. If at any time the containment fails, removal of the plastic and cleaning of the belongings underneath the plastic would be required. After the clearance is passed, the contractor must return and remove all containment plastic, caution tape and signs.

D. Certification Issues

D-1. Question: Do persons who are currently certified have to take the Core Lead Basics course the next time they renew their certification?

Response – No, the curriculum topics required in the Core Lead Basics course has already been addressed in previously approved curricula (R325.99304), and do not need to be repeated. The Core Lead Basics course does NOT have to be taken at any renewal period. People who are already certified in any discipline will NOT need to take a separate Core Lead Basics course.
(03/01/2005)

D-2. Question: When I take my refresher class, that is required every three years, must I also take the State exam again?

Response – Yes, you must. In the Lead Hazard Control Rules in R 325.99304(3) it states:

Persons seeking recertification under subrule (2) of this rule shall successfully complete an accredited refresher training course for the discipline for which they seek recertification, and successfully pass the third-party examination for that discipline within 6 months after completion of the training course. Individuals seeking to maintain certification as risk assessor must complete both the inspector and risk assessor refresher training courses, and pass both the inspector and risk assessor third-party examinations or a combination thereof.

D-3. Question: When do I need to pay my certification fees for me as an individual?

Response – Supervisors, Workers, Inspectors, Risk Assessors all have to pay an annual fee by March 31st of each year. You will receive a mailing every year in January reminding you of the need to pay your fees. If you move and don't tell us, or the mail gets lost, or the letter gets thrown away by accident the requirement to pay still remains and a late fee will be assessed if the payment is sent after the due date. Your certification card has two dates on it: One is a reminder for the annual fee, and the other, down in the lower right corner is a reminder of when you need to take your refresher class.

D-4. Question: When do I need to pay my lead abatement contractor renewal fee?

Response – The lead abatement contractor fee is due by December 31st of each year. A mailing is sent out in October of each year as a reminder. If you move and don't tell us, or the mail gets lost, or the letter gets thrown away by accident the requirement to pay still remains and a late fee will be assessed if the payment is sent after the due date.

E. Training Provider Issues

E-1. Question: What is the required instructor-to-student ratio for lead training courses?

Response - In an effort to maintain the high standard of lead training excellence that we have set here in Michigan, HHS has studied training models and recommended practices for adult instruction. Based on those studies, the following maximum student-to-instructor ratios have been instituted:

- no more than 25 students for each instructor during lecture and classroom instruction,
- no more than 8 students for each instructor during hands-on work practice activities and skills evaluation

Approved guest lecturers and hands-on instructors should be used to achieve these levels.
(02/22/2000)

F. Rental Property and Home Owner Issues

F-1. Question: Does the Lead Abatement Act require a homeowner to make their property lead-safe?

Response - No, if a child identified with an elevated blood lead level resides in an owner occupied residence. Section MCL 333.5460(a)(3) states, “*This part does not require the owner or occupant to undertake any lead-based paint activities*”, except MCL 333.2455 (1) states, “*a local health department or the department may issue an order to avoid, correct or remove, at the owners expense, a building or condition which violates health laws or which the local health officer reasonably believes to be a nuisance, unsanitary condition, or cause illness.*” (09/19/2000)

F-2. Question: Does the Lead Abatement Act require rental property owner to make their property lead-safe?

Response - Yes, if a child identified with an elevated blood lead level resides in a rental property residence, or work is ordered by a local government agency or the Michigan Department of Community Health. Section MCL 333.5460(a)(3) states, “*This part does not require the owner or occupant to undertake any lead-based paint activities*”, except MCL 333.2455 (1) states, “*a local health department or the department may issue an order to avoid, correct or remove, at the owners expense, a building or condition which violates health laws or which the local health officer reasonably believes to be a nuisance, unsanitary condition, or cause illness.*” (09/19/2000)

Even though the State may not have requirements, local city, county or other jurisdictions may have requirements to make properties leadsafe.

F-3. Question: Does the Lead Abatement Act require rental property owner to make their property lead-safe if a lead poisoned child resides in a unit?

Response - If the child is living in a rental property, MCL 333.5475a does apply. This law, commonly referred to as the Landlord Penalty Law, requires rental property owners to make a good faith effort to remove the lead hazards that have been identified in a Risk Assessment of Environmental investigation report provided to them or their agent. If no good faith effort is made within 90 days of learning of lead-based paint hazards, then the landlord is subject to penalties or not more than 93 days in or a fine of not more than \$5,000, or both. This law became effective in 2005.

G. Renovation, Repair, and Painting (RRP) and Pre-Renovation Education (PRE) Issues

G-1. Question: Does the State of Michigan enforce the Renovation, Repair and Painting (RRP) Program Rule?

Response – No, the Environmental Protection Agency (EPA) has enforcement authority in the State of Michigan for the RRP Rule. For more information go to the EPA’s website at: www.epa.gov/lead and follow the prompts to Renovation, Repair and Painting (RRP) Program Rule.

(07/26/13)

G-2. Question: Does the EPA Pre-Renovation Education (406b) pamphlet have to be given out every 60 days prior to commencing a renovation activity?

Response – The purpose of this rule (*R325.99408(6)*) is to alert dwelling occupants that work being performed in their building may result in disturbance of lead-containing coatings, and therefore, create hazards. If it can be determined that the occupants have received a copy of the pamphlet, it does not have to be given again, even if it has been more than 60 days. It is recommended that an adult occupant of the dwelling provide a written acknowledgement that the pamphlet had been received, to document compliance with the rule.

(03/01/2005, amended 7/26/13)

G-3. Question: Are dust clearance samples required to be collected on all renovation projects?

Response – No, renovation projects do not require a dust wipe clearance. Renovation is governed by the Renovation, Repair and Painting (RRP) Rule, and for renovation projects the minimum requirement is “cleaning verification.” The cleaning verification process involves using a disposable cleaning cloth (designed to clean hard surfaces), to wipe the work area following cleaning, and comparing the cleaning cloth color to a standard verification card to determine cleanliness. The cleaning verification process may require several repetitions to accomplish the goal. Visit www.epa.gov/lead for more information regarding the Renovation, Repair and Painting (RRP) Rule.

Dust wipe clearance testing involves taking dust samples from floors, window sills and window troughs, and having them analyzed by a NLLAP certified laboratory and compared with dust hazard standards to determine if the area has been adequately cleaned.

(7/22/13)

G-4. Question: If a dust wipe clearance has been requested for an RRP project where should the samples be taken from?

Response – On an RRP project, if dust wipes are requested or required, the samples must be taken from floors, window sills, and window troughs in areas or rooms where the work was done. Dust wipes must be taken by certified lead inspectors, risk assessors, or clearance technicians.

(7/24/13)