

Interpretive Guidance Categories

- A. Lead Inspector, Risk Assessor Issues, and Environmental Investigators (Pages 2 – 15)
- B. Lead-Based Paint Worker and Supervisor Including Abatement Issues and Work Practice Standards (Pages 16 – 22)
- C. Clearance Issues (Pages 23 – 29)
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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
OPP	Occupant Protection Plan
PRE	Pre-Renovation Education
RRP	Renovation Repair and Painting
XRF	X-Ray Fluorescence

Questions to Discuss at the Workshop

A. Lead Inspector, Risk Assessor Issues, and Environmental Investigators

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, the 2012 Revised HUD Guidelines for the Evaluation and Control of Lead Based Paint Hazards in Housing must be followed unless there are specific federal, state, or local laws or regulations that are more protective.

(6/13)

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-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-22. 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.

A-40. 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 deteriorated condition.

A-41. 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-42. 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.”

A-44. 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-46. 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-47. 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 may perform the work on those surfaces.
(7/27/13)

A-48. 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-49. 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-50. 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-51. 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)

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

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)

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-8. 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-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-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.

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.

Response – 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)

If We Have Time

A-43. 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.”

A-45. 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.

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)