

promulgated and is therefore proposing that they be readopted without change.

Under the Prevention of Homelessness Act (1984), N.J.S.A. 52:27D-280 et seq., as implemented by N.J.A.C. 5:41, people who are homeless or in imminent danger of homelessness may receive temporary assistance to enable them to find or retain housing that they will, with the temporary assistance, be able to keep once the period of assistance has passed. Unlike the public welfare system, this program is not designed to help those who are chronically in need of assistance and is not funded at a level that would provide the help that such persons are likely to require. The rules include program eligibility requirements and habitability standards.

As the Department has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

**Social Impact**

The program provides assistance that is designed to enable persons who are temporarily unable to obtain or retain housing with means otherwise available to them to do so. Failure to readopt the rules would have an adverse social impact in that it would eliminate the standards and procedures under which homelessness prevention assistance is provided and would thereby contribute to increased homelessness.

**Economic Impact**

In Fiscal Year 2009, the program spent \$3,242,410 to assist 1,401 households in avoiding homelessness.

**Federal Standards Statement**

No Federal standards analysis is required because this rule is not being proposed for readoption under the authority of, or in order to implement, comply with or participate in any program established under, Federal law or a State law that incorporates or refers to Federal law, standards or requirements.

**Jobs Impact**

The Department does not anticipate any net creation or loss of jobs as a result of the rule proposed for readoption.

**Agriculture Industry Impact**

The Department does not anticipate any impact upon the agriculture industry as a result of the rules proposed for readoption.

**Regulatory Flexibility Statement**

These rules affect persons who are homeless or imminently threatened by homelessness. They do not affect "small businesses," as defined in the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

**Smart Growth Impact**

The Department does not anticipate any impact upon "smart growth" or the implementation of the State Development and Redevelopment Plan as a result of the rules proposed for readoption.

**Housing Affordability Impact**

The rules proposed for readoption concern financial assistance to households and individuals facing the prospect of homelessness. The rules would be most unlikely to have any impact upon housing production costs or to affect housing affordability.

**Smart Growth Development Impact**

The rules proposed for readoption concern financial assistance to households and individuals facing the prospect of homelessness. The rules would be most unlikely to have any impact upon housing production within Planning Areas 1 and 2 or within designated centers under the State Development and Redevelopment Plan.

**Full text** of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 5:41.

(a)

**DIVISION OF HOUSING AND COMMUNITY RESOURCES**

**Lead Hazard Control Assistance Fund**

**Proposed Amendments: N.J.A.C. 5:48-1.2, 2.1 through 2.4, 2.6, 2.9, 2.11 through 2.14, 2.15, 3.1, 3.2, 3.3 and 3.5**

**Proposed Repeals and New Rules: N.J.A.C. 5:48-2.7, 2.8 and 3.4**

**Proposed New Rules: N.J.A.C. 5:48-2.16, 2.17 and 2.18, and 4.1 and 4.2**

Authorized By: Charles A. Richman, Acting Commissioner, Department of Community Affairs.

Authority: N.J.S.A. 52:27D-437.6.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2009-353.

Submit written comments by February 5, 2010 to:

Michael L. Tickin, Esq.  
Chief, Legislative Analysis  
Department of Community Affairs  
PO Box 802  
Trenton, New Jersey 08625  
Fax No. (609) 633-6729

The agency proposal follows:

**Summary**

The Department of Community Affairs, Division of Housing and Community Resources, Indoor Environmental Hazards Unit (DCA) administers the Lead Hazard Control Act (LHCA) Fund. The DCA is recommending several amendments to the LHCA rules in order to assist the DCA in accomplishing the goals of the LHCA, based on the experience of DCA staff.

As the DCA provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

A summary of the proposed amendments, repeals and new rules follows:

**N.J.A.C. 5:48-1.2 Definitions**

A definition for "blended loan" is proposed. Current market conditions have depressed property values in most areas of the State. As a result, some property owners subject to a Notice of Violation/Abatement Order have been unable to meet the equity test and qualify for a loan from the LHCA Fund. In response to this need, the Department is proposing a blended loan which will allow a portion of the financial assistance to a qualified property owner to be provided in the form of a grant and a portion in the form of a loan.

The definition for "causative factor" has been amended to clarify the LHCA Fund considers deterioration of lead-based paint rather than all paint as a causative factor thereby limiting rule requirements to repair or correct the conditions to only those which deteriorate lead-based paint.

The definition for "concurrent rehabilitation" has been amended to include all rehabilitation work that the LHCA Fund would consider as concurrent rehabilitation. The current definition limited the definition to causative factors.

A definition for "environmental intervention blood lead level" is proposed. This definition is added to clarify that N.J.A.C. 8:51 is the source for determining the level at which an environmental intervention shall be conducted by the local board of health.

The definition for "financial assistance" has been amended to include grants and blended loans.

A definition for "head of household" is proposed. This definition serves to clarify who should complete and sign applications for relocation assistance.

A definition for "hybrid treatment method" is proposed. The Department proposes this new treatment option for property owners to

allow for lower cost treatment of lead-based paint hazards. This method uses a combination of lead abatement together with interim controls of lead hazards. Windows in habitable rooms with lead-based paint hazards are replaced, a lead abatement treatment method and any remaining lead-based paint hazards are treated using interim controls. The hybrid treatment method is far less invasive than the lead abatement method previously employed by the LHCA Fund allowing for occupants to return to the property at the end of each work day following clean-up by the contractor. This method has been designed to treat permanently the primary generator of lead-based paint hazards in residential dwellings - lead contaminated windows. The hybrid treatment method can only be utilized by property owners who wish to treat lead-based paint hazards before a child has been poisoned as a prevention method. Moisture issues which have been identified by the LHCA Fund as causative factors must also be treated.

The definition for "interim control project" has been deleted from the rules as this treatment method is no longer being offered.

A definition for "permanent relocation" is proposed to describe when relocation is considered permanent by stating that the intention of the LHCA Fund is not to return the household to its original lead contaminated primary residence. A household may need a period of temporary relocation so that the family can be immediately removed from exposure to lead hazards while seeking a permanent primary residence. The definition also includes a clarification about the eligibility of service animals as opposed to pets being part of a household. In addition, the definition serves to aid in differentiating permanent relocation from temporary relocation.

Amendments to the definition for "qualified contractor" are proposed to insure that only contractors registered in accordance with N.J.A.C. 13:45A-17, Home Improvement Contractor Registration, are utilized by property owners to perform non-abatement work funded in whole or in part by the LHCA Fund. Additionally, these contractors must be trained in lead-safe work practices. The rule proposal includes amendments that allow alternative training courses that will be acceptable to the LHCA Fund such as the EPA Certified Renovator Course and Lead Safe Building Maintenance Practices Course. The proposed amendments also include a provision that allows the Commissioner to approve future courses that will satisfy the training requirement without future rule revision.

A definition for "temporary relocation" has been proposed to quantify the term temporary to mean a period of time not to exceed 180 days. The definition also includes a clarification about the eligibility of service animals as opposed to pets being part of a household. In addition, the definition serves to aid in differentiating permanent relocation from temporary relocation.

#### **N.J.A.C. 5:48-2.1 Purpose and program objectives**

##### **N.J.A.C. 5:48-2.1(a)**

The proposed amendment includes blended loans and grants as forms of financial assistance.

##### **N.J.A.C. 5:48-2.1(b)2**

The proposed amendment reflects the deletion of interim controls alone as an acceptable treatment method and provides for the combination of abatement and interim controls as found in the revised treatment methods found in N.J.A.C. 5:48-2.7, Additional eligibility criteria – prevention projects. The existing regulation reflected an either/or position (either abatement or interim controls) which is not practical or desirable and increased costs.

##### **N.J.A.C. 5:48-2.1(b)5**

The proposed amendment clarifies that it will be an eligible use of LHCA Funds to conduct activities which expand public awareness of the dangers of lead-based paint in consumer products as well as residential dwellings. This is consistent with the overall purpose of the LHCA and assists the DCA in protecting the State's children from lead hazards through increased public awareness.

#### **N.J.A.C. 5:48-2.2 Allocation of funds**

The proposed amendment includes emergency relocation as a general area where funds shall be allocated on an annual basis. Emergency relocation was inadvertently left out of the original rule proposal.

#### **N.J.A.C. 5:48-2.3 Forms of financial assistance**

##### **N.J.A.C. 5:48-2.3(a)**

The proposed amendments are designed to allow the LHCA Fund to assist a wider segment of the population. Currently the minimum loan amount is \$5,000 per dwelling unit. The LHCA Fund has found that a number of property owners have smaller lead abatement projects which the LHCA Fund was not able to assist due to the \$5,000 minimum. With the lowering of the minimum loan amount to \$1,000, the Department will now be able to assist those property owners with smaller lead projects. The Department shall not take a mortgage on loans under \$5,000 but shall secure the debt with a promissory note. Loans of \$5,000 or greater will continue to be secured by a mortgage and mortgage note.

Repayment is currently triggered by a refinance of senior debt; however, refinancing of senior debt to improve rates and terms is in the best interest of the property owner and the LHCA Fund and therefore should be allowed to proceed without triggering repayment of the LHCA Fund loan. This exception to the repayment trigger is only for refinancing which improves the terms and rates of the borrower and for which only the funds necessary to process the refinance are included in the principal to refinance.

Existing regulations permitted placing a LHCA loan up to 125 percent of value of the subject property. The LHCA Fund believes lowering the loan to value ratio from 125 percent of value to 100 percent of value protects the Fund from unnecessary risk, while permitting the Fund to continue to assist homes in a depressed real estate market. A waiver of this requirement up to 125 percent of value is proposed in cases where property owners do not have the option of postponing lead treatments because a child was poisoned at the dwelling and the property is subject to a Notice of Violation/Order to Abate issued by the local board of health in response to an environmental intervention blood lead level. In these cases, the LHCA Fund shall consider waivers so that the work can be financed.

The existing loan to value when offering alternative real estate as security for the loan is 75 percent. The proposed revision increases the loan to value to 90 percent of value. This will increase the amount of equity available to owners of multiple properties.

The LHCA Fund currently requires property owners of five or more residential dwellings to establish a repayment reserve account. The proposed amendments would allow the LHCA fund discretion on whether a reserve account is necessary. For properties with limited cash flow, the reserve account may not be feasible. The proposed amendments include a caveat that allows the Division Director the ability to evaluate alternative security to allow LHCA loans.

##### **N.J.A.C. 5:48-2.3(b)**

With the reduction of the minimum loan amount from \$5,000 to \$1,000, the rule has been revised to provide the term for the lower loan amounts.

##### **N.J.A.C. 5:48-2.3(c), (d) and (e)**

Amendments to the rule have been made to clarify the basic compliance requirements for forgiving deferred payment loans including the requirement of the property owner to perform periodic inspections and routine maintenance in accordance with a maintenance plan which the LHCA Fund provides all borrowers. The proposed amendments also clarify the consequences of an owner failing to meet those criteria. The LHCA Fund finds the requirement of an owner-occupant to continue to use the property as their primary residence as a primary eligibility criteria for forgiveness and therefore proposes to discontinue the benefit to the owner upon their termination of occupancy in the subject dwelling. Noncompliance with the requirements for the payment of real estate taxes, water and sewer assessments, maintenance of hazard insurance, and requirement to perform routine inspections and maintenance to insure lead treatments remain intact, and where there are tenant-occupied units the exercise of nondiscrimination against potential tenants in accordance

with N.J.A.C. 5:48-2.6(m) will result in the loan amount which coincides with the period of noncompliance converting to a deferred payment repayable loan.

**N.J.A.C. 5:48-2.3(f)**

A new subsection (f) was created to clarify that in all cases where a loan is made (forgivable or repayable); title services shall be paid by the LHCA Fund in the form of a grant. The LHCA Fund began the loan program by including the costs of title services in the loan amount; however, as this resulted in less equity available to perform the lead hazard control work, the LHCA Fund adopted the policy of providing the funds in the form of a grant to the applicant as the nature of the services is such that it is in the best interest of the LHCA Fund to continue them. The proposed amendment will formalize this policy.

**N.J.A.C. 5:48-2.3(g)**

A new subsection (g) was created because the rule amendments propose to reduce the minimum amount of financial assistance from \$5,000 to \$1,000 with loans under \$5,000 having different security instruments and terms. The LHCA Fund does not consider recording a mortgage on loans of under \$5,000 to be an acceptable or cost-effective practice and therefore proposes to secure debts under \$5,000 using a personal note. The proposed amendment includes a two-year loan term from \$1,000 up to and including \$1,999 and an additional year for each \$1,000 increment or portion thereof, up to a maximum loan term of five years.

**N.J.A.C. 5:48-2.3(h)**

A new subsection (h) was created to provide financial assistance in the form of blended loans or grants. This subsection was created to assist property owners who were obligated to perform lead hazard control immediately due to a Notice of Violation/Abatement Order issued by the local board of health in response to an environmental blood lead level. The LHCA Fund will now consider applicants as follows: Owners applying for LHCA Funds with sufficient equity will be provided a deferred payment loan; and those that qualify, can also receive provisions for forgiveness. Owners without sufficient equity may request a waiver of the 100 percent equity cap up to 125 percent of value when they are responding to a Notice of Violation/Abatement Order issued by the local board of health in response to an environmental intervention blood lead level and therefore cannot and should not postpone remediation. Owners who are applying from a prevention perspective and not required to immediately perform any lead hazard control work shall be found ineligible until such time as they have gained sufficient equity in the subject property to secure the loan amount. For those owners responding to an environmental blood lead level, if the waiver up to 125 percent of value still does not provide sufficient equity to secure the loan amount, a blended loan (combination of loan and grant) or grant shall be considered. The limitation of grants or blended loans to properties containing one to four residential dwellings is a requirement of the LHCA Act.

**N.J.A.C. 5:48-2.4 Limitations on financial assistance**

In subsection (b), the proposed amendment reduces the minimum amount of financial assistance to an average of \$1,000 from \$5,000. This will allow the LHCA Fund to provide loans to a greater number of applicants and/or to applicants with smaller cost projects.

**N.J.A.C. 5:48-2.6 Basic eligibility criteria**

**N.J.A.C. 5:48-2.6(a)**

The Department proposes a sentence that will permit assistance to be provided to households with an ownership type that is analogous to holding fee simple title to the property, such long-term leasehold interest.

**N.J.A.C. 5:48-2.6(b)**

The proposed amendments clarify the different types of lead testing that the LHCA Fund can accept as evidence of lead-based paint hazards for a preliminary eligibility determination of an applicant. They include positive results for lead obtained from a home lead test kit, lead dust wipe kit, lead evaluation performed by a licensed lead evaluation contractor or a hazard assessment performed by the local board of health. The

amendments also clarifies that the LHCA Fund will conduct lead testing for final eligibility or may accept the testing performed by a local board of health when the owner makes application for a poisoning response project in accordance with N.J.A.C. 5:48-2.8.

**N.J.A.C. 5:48-2.6(c)**

The proposed amendment makes it clear that the applicant must provide evidence of the year of construction at the time of application. As it is often difficult for the owner to obtain this verification, the amendment proposes that the LHCA Fund has the option to obtain verbal confirmation of the age of the dwelling from the local tax assessor's office.

**N.J.A.C. 5:48-2.6(d)**

Property owners have found it difficult to obtain evidence that their real estate taxes, water and sewer assessments are paid current; therefore, the amendment proposes that the LHCA Fund has the option to obtain verbal confirmation from the local tax collector, water or sewer authority to verify this information.

**N.J.A.C. 5:48-2.6(f)**

The proposed amendment inserts the word "Fund" to clarify that the LHCA fund may use any insurance proceeds to repair and restore the property or to reduce the amount due under the mortgage.

**N.J.A.C. 5:48-2.6(k)**

The proposed amendment clarifies that owners of properties with five or more residential dwellings are not eligible for preferred rates and terms except that the LHCA Fund will provide the reasonable cost of title services in the form of a grant to all applicants.

**N.J.A.C. 5:48-2.6(l)**

The proposed amendment clarifies that an owner-occupant of a one- to four-family dwelling must verify household size as well as gross annual income to qualify for forgiveness. The LHCA Fund has been requesting two years of Federal income tax returns to aid in the calculation of household income. This also serves to verify dependents that are listed as household members.

**N.J.A.C. 5:48-2.7 Additional eligibility criteria prevention projects**

The proposed repeals and new rules at N.J.A.C. 5:48-2.7 and 2.8, respectively, classify projects into one of two categories: prevention projects or poisoning response projects. Properties which are not subject to a Notice of Violation/Abatement Order issued by the local board of health in response to an environmental intervention blood lead level shall be categorized as prevention projects. Prevention projects must use the LHCA Fund hybrid treatment method project completion criteria at N.J.A.C. 5:48-2.9(d) and the LHCA Fund causative factors project completion criteria at proposed N.J.A.C. 5:48-2.9(b). These treatments provide the most cost-effective treatments while still maintaining a high degree of protection against lead hazards for occupants. A waiver provision is proposed to allow for the use of abatement methods on a case-by-case basis when it is impossible to control the lead-based paint hazard using interim controls due to State or local codes or other good cause.

**N.J.A.C. 5:48-2.8 Additional eligibility criteria poisoning response projects**

**N.J.A.C. 5:48-2.8(a)**

The proposed repeals and new rules at N.J.A.C. 5:48-2.7 and 2.8, respectively, classify projects into one of two categories: prevention projects or poisoning response projects. Properties which are subject to a Notice of Violation/Abatement Order issued by the local board of health in response to an environmental intervention blood lead level shall be categorized as poisoning response projects. These projects must meet the LHCA Fund abatement order assistance project completion criteria at N.J.A.C. 5:48-2.9(c) and the LHCA Fund causative factors project completion criteria at N.J.A.C. 5:48-2.9(b). Together these project completion criteria insure that all lead hazards identified on the hazard assessment conducted by the local board of health and any housing conditions contributing to the deterioration of lead-based paint are

corrected. Lead hazards on the interior of the dwelling will be treated using abatement methods. Lead hazards on the exterior will be treated using either abatement or interim controls whichever method is preferred by the owner and permissible under N.J.A.C. 8:51, New Jersey State Sanitary Code Chapter XIII Childhood Lead Poisoning.

**N.J.A.C. 5:48-2.8(b)**

A waiver provision is proposed to allow for the use of abatement methods on a case-by-case basis when it is impossible to control the lead-based paint hazard using interim controls due to state or local codes or other good cause.

**N.J.A.C. 5:48-2.7 and 2.8**

The proposed repeals and new rules will eliminate the categories of abatement projects found at N.J.A.C. 5:48-2.7(a) and interim controls projects found at N.J.A.C. 5:48-2.8(a). The LHCA Fund has found that these current treatment strategies (lead abatement or interim control) have not provided property owners with the flexibility necessary to make lead hazard control a realistic option for property owners. The "lead abatement" treatment method although comprehensive affording the highest level of protection for occupants is the most invasive and the most expensive averaging \$47,100 per unit (using abatement criteria for single family dwelling). The "interim control" treatment method using temporary, less expensive measures to treat all identified lead-based paint hazards has proven to be undesirable to New Jersey property owners and to date, no applicant has requested that their property be treated using the interim control method.

Based on the Department's experience with the LHCA and its Federally funded lead initiatives which have utilized various treatment strategies, the classifications of "abatement project" and "interim control project" have been removed from the rules and replaced with two new treatment methods: the "hybrid" method, a prevention strategy and the "abatement order assistance" method, a poisoning response strategy.

The hybrid treatment method combines both abatement and interim controls by requiring the replacement of windows (replacement being an abatement method) with interim controls of all remaining lead-based paint hazards. Occupants are not required to relocate for the duration of the project and may return at the end of the work day following clean-up. The major generators of lead-based paint hazards, the windows, are permanently treated and other leaded components/surfaces are treated with interim controls significantly reducing costs. The estimated average per unit cost for the proposed prevention strategy is \$17,000 including the correction of causative factors (for single family dwelling) representing a significant reduction in costs from the current LHCA average of \$47,100 for a single family dwelling.

Currently, properties subject to a Notice of Violation/Abatement Order issued by the local board of health must use the lead abatement treatment option resulting in additional repairs beyond those required in the Notice of Violation/Abatement Order. The abatement order assistance method abates only those hazards identified by the local board of health in its Notice of Violation/Abatement Order. The estimated average per unit cost for the proposed poisoning response strategy is \$25,000 including the correction of causative factors (for single family dwelling) representing a significant reduction from the current LHCA average of \$47,100 for a single family dwelling.

**N.J.A.C. 5:48-2.9 Eligible project activities/costs**

**N.J.A.C. 5:48-2.9(a)1**

The proposed amendment allows the LHCA Fund to utilize existing reports rather than order new reports whenever feasible or desirable. For example, this will occur when an applicant's property qualifies as a poisoning response project as the owner must submit a copy of the Notice of Violation/Order to Abate which includes a copy of all lead testing done by the local board of health. The LHCA Fund intends to use this hazard assessment to prepare a scope of work and bid documents for the property owner to use in obtaining lead abatement contractor bids provided that the hazard assessment was performed within 12 months of the loan approval. Older hazard assessments shall not be used because conditions within the property could have changed substantially over time. The rule as currently written does not allow this option. The

amendment also includes the ability of the LHCA fund to recapture the costs of LHCA funded testing when an applicant eligible for a repayable loan voluntarily withdraws from the program.

**N.J.A.C. 5:48-2.9(a)2**

The proposed amendment allows the LHCA fund to recapture their costs of preparing scopes of work, cost estimates and bid documents when an applicant eligible for a repayable loan voluntarily withdraws from the program.

**N.J.A.C. 5:48-2.9(a)3**

The LHCA Fund has been requested to fund variance requests for activities which it does not support such as allowing the property owner to remain in residence during the work. The proposed amendment limits eligibility to costs for processing a variance to the code only when the LHCA Fund has approved the underlying activity.

**N.J.A.C. 5:48-2.9(a)4**

The proposed amendment corrects the references to conform with other proposed amendments.

**N.J.A.C. 5:48-2.9(a)5**

The proposed amendment corrects references to conform with other proposed amendments, including the addition of using a lead abatement contractor whose firm is approved by the LHCA Fund in accordance with N.J.A.C. 5:48-2.16. The amendment also clarifies the eligibility of costs associated with rehabilitation work made necessary due to lead abatement treatments such as the upgrading of insulation and/or electric when a leaded wall is replaced in accordance with the Uniform Construction Code, N.J.A.C. 5:23.

**N.J.A.C. 5:48-2.9(a)6**

The proposed amendments include language that allows contractors who are not trained in accordance with either 40 CFR 745 and/or applicable state regulations such as N.J.A.C. 5:10 to perform work exempted from the requirements. Additionally, amendments were made to conform with the proposed definition for concurrent rehabilitation at N.J.A.C. 5:48-1.2. The proposed amendments allows the LHCA fund to recapture the costs of homes inspections, the preparation of scopes of work, cost estimates and bid documents when an applicant eligible for a repayable loan voluntarily withdraws from the program.

**N.J.A.C. 5:48-2.9(a)7**

The proposed amendment replaces the word "families" with "households" to better identify occupants who are eligible for relocation assistance under the LHCA Fund.

**N.J.A.C. 5:48-2.9(a)8**

The proposed amendment clarifies the clearance requirements when both lead abatement and interim controls are used within the same project. Approximately 80 percent of projects fail an initial clearance sampling making at least one re-clearance necessary. Given the high percentage of initial failures among even the most diligent contractors, the LHCA fund will pay for the first re-clearance. Subsequent re-clearance costs will be borne by the contractor.

**N.J.A.C. 5:48-2.9(b)**

This subsection has been deleted to conform with previous amendments eliminating abatement only projects.

**N.J.A.C. 5:48-2.9(c) (recodified as N.J.A.C. 5:48-2.9(b))**

This causative factors subsection has been recodified as subsection (b). The proposed amendments clarify that causative factors will be identified by the LHCA fund by conducting a moisture audit. The amendments clarify that floors and other horizontal surfaces will be evaluated by the LHCA fund to determine if their condition contributes to the accumulation of lead contaminated dust, and if so, the LHCA fund will consider the floor or other horizontal surface as a lead dust hazard requiring treatment as indicated by the lead evaluation contractor. The proposed amendments also require repair or correction of conditions that a local board of health has identified on the Notice of Violation/Order to Abate which cause or contribute to the deterioration of lead-based paint.

The proposed amendments also require owners to correct all structural deficiencies affecting the work area prior to beginning lead abatement.

**N.J.A.C. 5:48-2.9(c)**

This new subsection provides the project completion criteria which must be met by projects classified as poisoning response. These methods include the most protective treatments for windows which typically produce the largest amounts of lead contaminated household dust and other friction, impact, chewable or mouthable surfaces. With approval from the local board of health, exterior surfaces may be treated using interim controls such as vinyl or aluminum siding. Project must be evaluated by the LHCA fund for causative factors. A waiver of the proscribed treatment methods may be granted if the property is on or eligible for listing on the National or State Register of Historic Buildings or other good cause as determined by the Department.

**N.J.A.C. 5:48-2.9(d)**

The current subsection deleted in its entirety to conform with other amendments eliminating interim control projects and is replaced with the LHCA Fund hybrid treatment method project completion criteria. Prevention projects must use the treatment methods provided. These methods include the most protective treatments for windows in habitable rooms. Windows typically produce the largest amounts of lead contaminated household dust. All other lead hazards shall be treated using interim controls. Projects must be evaluated for causative factors and any noted must be corrected. The value of using the hybrid treatment method has been discussed previously.

**N.J.A.C. 5:48-2.11 Non-displacement controls**

Proposed amendments clarify the permanent relocation of tenants with children living in a unit assisted with LHCA funds that contains housing conditions which pose an immediate risk of continuing exposure to lead hazards may only be approved if it is impossible or impractical for the household to return to their original primary residence when lead abatement is completed.

**N.J.A.C. 5:48-2.12 Lead Safe Housing Registry**

Subsection (b) has been recodified as subsection (c) and expanded to include additional sources of data for the Registry. A new subsection (b) is included which identifies the categories to be used in the lead classification of housing listed upon the Registry. The categories were established by the enabling legislation.

**N.J.A.C. 5:48-2.13 Public inspection of Lead Safe Housing Registry**

This section has been amended to describe how the public can obtain information from the Registry.

**N.J.A.C. 5:48-2.14 Relocation due to immediate risk**

**N.J.A.C. 5:48-2.14(a)**

This subsection has been amended to include the name of the program for which this section applies, the Relocation to End Exposure to Lead (REEL) Program.

**N.J.A.C. 5:48-2.14(b)**

This subsection has been amended to reflect blood lead screening eligibility starts and includes 10 micrograms of lead per deciliter ( $\mu\text{g}/\text{dL}$ ) of blood. The rule inadvertently left out children with a 10.

**N.J.A.C. 5:48-2.14(c)**

N.J.A.C. 5:48-2.14(c)2 has been amended to reflect the legislative language that eligible applicants shall be tenants.

N.J.A.C. 5:48-2.14(c)3 has been amended to reflect eligibility includes blood lead levels of 10  $\mu\text{g}/\text{dL}$  or more.

N.J.A.C. 5:48-2.14(c)5 was amended to clarify that the applicant must be relocated to lead-safe housing.

New N.J.A.C. 5:48-2.14(c)6 was added to provide the additional criteria for eligibility for permanent relocation. The LHCA fund considers the relocation programs non-displacement programs in that only as a last resort are occupants permanently relocated. This amendment reflects that position.

**N.J.A.C. 5:48-2.14(d)**

This new subsection provides for assistance for occupants of residential dwellings who are not tenants and who would not normally be considered for financial assistance. The assistance is limited to a 14-day period of placement to allow the household the ability to obtain assistance from other sources provided that they are otherwise eligible. Otherwise eligible means that the applicant meets the eligibility requirements at N.J.A.C. 5:48-2.14(c) except that they are not the actual tenant (that is, the applicant may be a sub-leasee or unauthorized occupants)

**N.J.A.C. 5:48-2.14(e)**

Current N.J.A.C. 5:48-2.14(d) has been recodified as subsection (e).

**N.J.A.C. 5:48-2.14(f)**

This new subsection provides a list of eligible costs under the REEL Program. Eligible costs include those found at N.J.A.C. 5:48-3.4 plus case management services provided by a local board of health up to \$1,000 per assisted household provided the services are not funded by another program.

**N.J.A.C. 5:48-2.15 Lead education/outreach and training**

**N.J.A.C. 5:48-2.15(a)**

The proposed amendments provide the Department with the ability to tie funding to lead education goals and objectives in lieu of a flat dollar amount, in the discretion of the Department and if funds are available. Proposed amendments also expand the Department's course offering to include lead-safe building maintenance practices and Certified Renovator and provide the Division the ability to add appropriate lead courses without further rule revisions.

**N.J.A.C. 5:48-2.15(b)**

The proposed amendments clarify that the Department has the ability to enter into contracts to award grant funds to other State agencies via a Memorandum of Understanding as well as contracting with units of local government or nonprofit organizations providing regional lead education/outreach or training services, regional lead coalitions and/or local boards of health to promote lead awareness, prevent childhood lead poisoning and provide training opportunities in lead disciplines. The amendments provide that grants to units of local governments including local boards of health and nonprofits will be made on a competitive basis using set standards which will be identified in any request for proposal. All requests for proposals and grant awards will be made using the Departments System for Administering Grants Electronically (SAGE).

**N.J.A.C. 5:48-2.15(c)**

This new subsection describes the Geographic Organization of Lead Data (GOLD) Program which has been providing data collection and geographic information systems (GIS) mapping for the LHCA Fund. GIS maps prepared to date include areas of the State which have the highest number of lead poisoned children, highest number of pre-1950 housing and greatest percentage of pre-1950 housing to identify areas of greatest risk to children. Maps are available for use by other State agencies, units of local government and nonprofit organizations. In addition, consumer friendly maps will be included at the Division's [leadsafenj.org](http://leadsafenj.org) website.

**N.J.A.C. 5:48-2.15(d)**

This new subsection describes the Program for Emergency Relocation and Abatement of Lead (PERAL) database which has been collecting and managing data on grants, loans and blended loans made to applicants under the LHCA, REEL and ELPR Programs.

**N.J.A.C. 5:48-2.16 LHCA Fund Approved Lead Abatement Contractor List and Lead Abatement Contractor Profiles**

**N.J.A.C. 5:48-2.16(a)**

This new subsection provides for the creation of a list of approved licensed lead abatement contractors who perform work funded in whole or in part by the LHCA Fund in accordance with policies established by the LHCA Fund to protect property owners and LHCA Funds invested in the control of lead-based paint hazards. The LHCA Fund provides financial assistance to property owners to conduct lead hazard control work; however, the property owner has been responsible for obtaining

properly licensed lead abatement contractors to perform the work on their own with limited guidance from the LHCA Fund. Because the LHCA Fund cannot steer property owners to or from any particular contractor, problematic lead abatement contractors have been able to continue to bid and obtain work funded by the LHCA Fund costing property owners and the LHCA Fund thousands of dollars in additional relocation costs and for corrective work. Therefore, through this proposed amendment, the LHCA Fund will provide a list of licensed lead abatement contractors who meet minimum standards of performance. Licensed lead abatement contractors must apply to the LHCA Fund to be listed and shall:

Attend a LHCA Fund Orientation Session for lead abatement contractors desiring to be included on the list; sign a written agreement to perform all work funded in whole or in part by the LHCA Fund in accordance with the requirements under N.J.A.C. 5:48-2.16; be properly certified as lead abatement contractors in accordance with N.J.A.C. 5:17, Lead Hazard Evaluation and Abatement Code; perform all LHCA Funded work in accordance with the provisions of N.J.A.C. 5:17 and N.J.A.C. 5:23, Uniform Construction Code; routinely begin and complete projects on time; comply with LHCA Fund policies on changes to the scope of work regardless of their effect on project costs; and ensure consistent quality of their work.

**N.J.A.C. 5:48-2.16(b)**

This new subsection provides the information that shall be collected and maintained by the LHCA Fund for the Lead Abatement Contractor Profile. The information was designed to assist property owners in selecting a contractor by providing contact information; areas of the state that the contractor is willing to work, and the size of the contract that the contractor is interested in bidding. The Contractor Profile reduces the number of potential lead abatement contractors that the owner will contact to only those who have expressed interest in bidding on projects similar to the owner's project.

**N.J.A.C. 5:48-2.16(c)**

This new subsection describes the notification that shall be sent to the lead abatement contractor when the LHCA Fund will be removing that contractor from the approved list. This notification provides for list removal 14 days following written notification.

**N.J.A.C. 5:48-2.16(d)**

This new subsection describes the reasons why the LHCA Fund can remove a lead abatement contractor from the approved list. They include: consistent failure to begin and complete projects on time; repeated incidences of performing changes to the scope of work without prior approval; serious or significant quality of work issues; or other good cause as determined by the LHCA Fund.

**N.J.A.C. 5:48-2.16(e)**

This new subsection describes the reinstatement process which contractors must use to request reinstatement on the approved contractors list. The LHCA Fund believes that a six-month period is sufficient for contractors to correct deficiencies which led to their removal; however, contractors are responsible for providing written evidence of their satisfactory correction.

**N.J.A.C. 5:48-2.16(f)**

This new subsection describes the LHCA Fund's responsibility in maintaining the approved contractor list and profiles and the contractor's responsibility in reviewing the information and providing corrections or updates as needed to the LHCA Fund.

**N.J.A.C. 5:48-2.17 Lead Identification and Field Testing (LIFT) Program**

This new section provides a description of the LIFT Program. The LIFT Program shall accept applications from eligible applicants to purchase lead testing equipment which identifies lead in a field environment in paint, dust, soil or consumer products to which at-risk children have access. The immediate identification of sources of lead in a child's environment allows for the immediate separation of the child from that exposure. Other eligible uses of funds include: information technology equipment (hardware or software) which improves or enhances an agency's ability to gather testing data and produce user

friendly reports and training which qualifies employees of the applicant in the use of lead testing equipment and/or in the determination of risk of exposure.

**N.J.A.C. 5:48-2.18 Health Expedited Abatement of Lead (HEAL) Program**

A new N.J.A.C. 5:48-2.18 has been added to describe the Health Expedited Abatement of Lead (HEAL) Program. This Program provides funding directly to local boards of health to finance lead abatement on properties where the property owner is unwilling or unable to perform the abatement treatments required in a Notice of Violation/Abatement Order issued in response to an environmental intervention blood lead level. Local boards of health will oversee the lead abatement of the properties and file a lien against the property for the full amount of the loan obtained from the LHCA Fund and assign the lien to the Department.

**Subchapter 3. Emergency Lead Poisoning Relocation Fund**

**N.J.A.C. 5:48-3.1 Purpose and program objectives**

Amendments proposed to this section reflect the current actions being taken by the Division. The Emergency Lead Poisoning Relocation (ELPR) Fund has not been funded since inception of the rules; however, the relocation activities were deemed critical by the Division; therefore, the Division has been funding relocation under this subchapter using funds from the LHCA Fund, as indicated in the proposed amendment to N.J.A.C. 5:48-3.1. As a result, owner-occupants must be evaluated using the criteria established to provide financial assistance under Subchapter 2, Lead Hazard Control Assistance Fund.

**N.J.A.C. 5:48-3.2 Forms of financial assistance**

Proposed amendments are being made to clarify the form of financial assistance. Tenants are eligible for grants whereas owner-occupants must be evaluated in accordance with provisions found at Subchapter 2 which allows for repayable loans, forgivable loans, blended loans or grants for owners.

**N.J.A.C. 5:48-3.3 Basic eligibility criteria**

**N.J.A.C. 5:48-3.3(a)1**

The proposed amendment establishes the New Jersey Department of Health and Senior Services as the authority for determining what blood lead level shall trigger an environmental intervention.

**N.J.A.C. 5:48-3.3(a)3**

The proposed amendment clarifies that the applicant's current primary residence must be subject to an order to abate/notice of violation issued by the local board of health as opposed to any secondary.

**N.J.A.C. 5:48-3.3(a)4**

This new paragraph is proposed because the ELPR Program has received applications from households where their primary residence is subject to a Notice of Violation/Order to Abate; however, the lead-based paint in that primary residence is not the cause of the poisoning. By including this eligibility requirement, the applicant must provide evidence that the lead hazards in the primary residence are the likely source of exposure thereby justifying relocation.

**N.J.A.C. 5:48-3.3(a)5**

This new paragraph is proposed to clarify the nature of the occupancy that qualifies an applicant for relocation assistance.

**N.J.A.C. 5:48-3.3(a)6**

This new paragraph is proposed to establish the circumstances under which the program will consider an application for permanent relocation benefits as opposed to temporary relocation benefits.

**N.J.A.C. 5:48-3.3(b)**

This new subsection provides for limited relocation assistance in the event the occupant is not the owner or tenant of the residence.

**N.J.A.C. 5:48-3.4 Eligible activities/costs****N.J.A.C. 5:48-3.4(a)**

The proposed amendments remove the requirement to provide relocation assistance in accordance with N.J.A.C. 5:11, Relocation Assistance and Eviction, which unduly restricted the amount of assistance and its use. The proposed amendments include criteria which must be met in order for costs to be considered eligible. Costs must be necessary and reasonable and meet the criteria under N.J.A.C. 5:48-3.4(c). Applicants who can obtain relocation assistance from another source such as Emergency Assistance must make application for that assistance; however, the ELPR Program can provide relocation assistance during the application process.

**N.J.A.C. 5:48-3.4(b)**

The proposed new subsection increases the amount of the dislocation allowance a household may opt to receive in lieu of the ELPR Program paying 100 percent of the actual costs of their temporary relocation. Previously this amount was \$400.00 and is now proposed to be \$800.00.

**N.J.A.C. 5:48-3.4(c)**

The proposed new subsection includes those costs the Department believes to be eligible to perform a temporary relocation of a household. Included in the temporary housing/shelter amendments are guidelines for placement such as keeping households intact whenever possible, accommodating physical disabilities such as insuring onsite refrigeration for storing insulin and placing households in decent, safe accommodations. Moving services can include packing services to insure the household moves in a timely manner to allow lead abatement work to commence as soon as possible. Cleaning services may include removal of lead dust hazards in lieu of relocation of occupants in accordance with Subchapter 4, Other Relocation Services. Depending upon the placement, households may receive direct payments to offset transportation costs to and from their employment, school, day care or medical appointments, when those costs are above and beyond those normally incurred by the household while they were living in the lead contaminated housing unit. The proposed amendments also include per diem payments made directly to households when placed in temporary housing that does not include kitchen facilities or prepared meals as eligible costs.

**N.J.A.C. 5:48-3.4(d)**

This new subsection provides for a list of ineligible costs. They include using ELPR Funds when other sources of funds are available to the household for the same purpose; relocation of pets; costs which have not been found necessary to accomplish the relocation; placement in unsafe dwellings; purchases of vehicles or equipment such as moving vans, trucks or the like (rental of the vehicles is eligible) attorney's fees moving dangerous or flammable or prohibited materials, campground hookup fees outside of a licensed/registered campground; costs incurred prior to the approval of the household's application for assistance; payments to family members and damage claims against the household except as provided at N.J.A.C. 5:48-3.4(i).

**N.J.A.C. 5:48-3.4(e)**

This new subsection establishes the basic requirements for temporary relocation assistance that the costs incurred are necessary to accomplish the temporary relocation and reasonable, and that temporary relocation shall not exceed 180 days.

**N.J.A.C. 5:48-3.4(f)**

The proposed new subsection includes those costs the Department believes to be eligible to perform a permanent relocation of a household. Eligible costs include: a refundable security deposit, first month's rent, housing location costs such as finder's fees, commissions and application fees; and a monthly rental subsidy not to exceed 48 months. The monthly rental subsidy shall be calculated based upon total shelter costs comparing the current total shelter costs to the receiving dwelling units total shelter costs and providing funds for the increase in costs, if any. The amount of subsidy will be evaluated at least annually. The annual review will base future subsidy payments on the total gross household income of the applicants.

**N.J.A.C. 5:48-3.4(g)**

This new subsection is proposed to clarify the conditions under which the Department may cancel and terminate relocation assistance after it has been approved and request reimbursement for any funds expended when the applicant does not remain eligible during the relocation period. This includes removal or separation of the qualifying child from the assisted household and/or failure to report changes in the household composition to the Department. The Department has particular concerns about households that voluntarily terminate their landlord/tenant relationship during the relocation period making it impossible for the household to return to the original residence upon completion of lead abatement. This has occurred on several occasions leaving the households without permanent housing. Some assisted households have discontinued rent payments to the landlord during their relocation period providing good cause for the landlord to obtain termination of the tenancy through the courts. The Department has determined that costs for continuation of temporary relocation after a household has terminated their tenancy voluntarily or involuntarily are not eligible. Involuntary termination must have been accomplished by the landlord through the courts.

**N.J.A.C. 5:48-3.4(h)**

This new subsection provides for the termination of relocation assistance without a written notice to the assisted family under certain conditions. The conditions include failure to maintain the receiving dwelling unit (typically a hotel room in the case of temporary relocation) or the removal or separation of the qualifying child from the household or the failure of the assisted household to notify the Department of changes in the household composition; or failure of the assisted family to use the receiving dwelling unit exclusively for their use. The Department has experienced each of these situations and has determined that they constitute sufficient cause for immediate termination of assistance. In particular, actions taken by assisted households which affect the receiving dwelling unit have had a detrimental effect on the Programs ability to place other households in the same accommodations and at times have resulted in damage claims against the assisted family.

**N.J.A.C. 5:48-3.4(i)**

The new subsection provides the Department the right to withhold per diem and other direct payments to the assisted family where the relocated household has not maintained their relocated dwelling in good and tenable condition. The withheld portion may be provided to hotels or other receiving dwelling units to offset the costs of any loss or damages which occurred as a result of the assisted household's placement.

**N.J.A.C. 5:48-3.5 Reimbursement of ELPR Fund**

The proposed amendment provides for the ability of the Department to reimburse the LHCA fund which is the likely source of financial assistance to the assisted household and the ELPR Fund has not received any allocation of funds since program inception. It is the intention of the Department to further revise this section of the rules governing recapture of relocation funds in future rule revisions.

**Subchapter 4. Other Relocation Services**

This new subchapter is proposed to offer additional relocation services to eligible New Jersey households.

**N.J.A.C. 5:48-4.1 Lead Dust Hazard Removal Program**

This new section provides for the removal of lead dust hazards in cases where a tenant's household includes a qualifying child. A qualifying child for the purposes of this section means a child under the age of 18 years with a blood lead level of five to nine µg/dL who resides with the applicant at least nine months of the year. The lead dust hazard removal program is also available to applicants who are eligible under N.J.A.C. 5:48-2.14, Relocation due to immediate risk, or Subchapter 3, Emergency Lead Poisoning Relocation Fund.

**N.J.A.C. 5:48-4.2 Housing Assistance for Lead-safe Living Opportunities (HALLO) Program**

This new section provides basic information regarding the HALLO Program which will provide LHCA Funds to eligible nonprofit organizations to provide a full-time employee who will serve as a housing

assistant. The housing assistant will work directly with households eligible for relocation services under N.J.A.C. 5:48-2.14, Relocation due to immediate risk, Subchapter 3, Emergency Lead Poisoning Relocation, or this subchapter under N.J.A.C. 5:48-4.1 to identify both temporary and permanent lead-safe housing. The housing assistant will also provide information obtained from public records or other reliable sources which establish the lead status of residential dwellings for the purposes of placing those dwelling on the lead safe housing registry.

**Social Impact**

The proposed amendments, repeals and new rules would provide greater opportunity for property owners to remove lead-based paint hazards from their environment and improve protections of young children by ensuring that they have a lead-safe environment.

**Economic Impact**

Under the proposed amendments, repeals and new rules, the Department would administer financial assistance in an amount of at least \$7 million annually. Deferred payment loans with provisions for forgiveness would be available to both moderate income owners of one-to-four family residential dwellings when they occupy one of the units as their principal residence. Deferred payment repayable loans are available to all other applicants.

The specific costs associated with applying and receiving assistance under the LHCA Fund will vary from case to case; however, all costs associated with applying for assistance and loan processing shall be eligible costs for LHCA Funding as a grant provided a loan is made. Costs of loan processing such as: the cost of a credit report, appraisal, loan processing fees, title insurance and other title services and escrow services will be included in the grant award. Exception: Owners must provide personal funds if it is necessary for applicants who are self-employed, corporations, limited liability companies or partnership entities to obtain professional services in the preparation of financial reports to verify income or for debt coverage ratio analysis when any applicant is requesting assistance for work being performed upon a multi-family dwelling.

All applicants for LHCA Funds must establish the presence of lead-based paint hazards. The Division has made available free lead dust wipe kits for households with children under 18 years of age or pregnant women. The Division also accepts positive results from home test kits which cost \$15.00 to \$30.00.

There shall be no application or loan processing costs to applicants for ELPR Funds; however, owners of the rental housing unit from which the tenant-applicant was moved may be required to reimburse the ELPR Fund in accordance with N.J.A.C. 5:48-3.6. There are no capital costs of compliance.

The application and compliance requirements set forth would not have a significant economic impact on small businesses and are the minimum necessary to insure the eligibility of the applicant and to insure the work is performed in such a way as to protect public health and safety.

**Federal Standards Statement**

The proposed amendments, repeals and new rules are made to improve the State's ability to implement a State statute that incorporates the definitions under Federal law of "lead-safe housing" and "lead-hazard control work." However, no Federal standards analysis is required because these rules are not being proposed under the authority of, or in order to implement, comply with, or participate in, any program established under, Federal law or under a State statute that incorporates or refers to Federal law, standards or requirements, other than as has been indicated.

**Jobs Impact**

Insofar as the proposed amendments, repeals and new rules would implement a funding program for lead hazard control work, they may stimulate employment in the lead hazard abatement or interim control industries.

**Agriculture Industry Impact**

The proposed amendments, repeals and new rules would have no impact upon the agriculture industry.

**Regulatory Flexibility Analysis**

All owners of buildings subject to the "Lead Hazard Control Assistance Act," P.L. 2003, c. 311, be they "small businesses," as defined in the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., or otherwise, would be equally subject to reporting, recordkeeping requirements inherent in the financial assistance process and to the requirements of compliance with the terms of the loan agreement. Costs of compliance are discussed in the Economic Impact above. As with any agreement, loan applicants may require legal and accounting assistance, as well as the assistance of persons performing the actual work.

Basic compliance records shall include documents that prove the assisted property continues to be used as the original loan applicant's principal residence (if the applicant applied as an owner-occupant), evidence of payment of real estate taxes, water and sewer assessments, evidence of hazard insurance and nondiscrimination in accordance with N.J.A.C. 5:48-2.6(m).

These rules are intended as part of a comprehensive program intended to safeguard children with emphasis upon rental housing and require the State to track the progress of making all of New Jersey's housing stock lead hazard controlled. As such, the proposed requirements relate to the protection of the public health and safety, and are not designed to minimize the economic impact on small businesses.

**Smart Growth Impact**

The proposed amendments, repeals and new rules would not affect the achievement of smart growth or implementation of the State Development and Redevelopment Plan.

**Housing Affordability Impact**

The proposed amendments, repeals and new rules concern financial assistance to households at risk of lead poisoning or subject to an abatement order for a known lead hazard. The amendments, repeals and new rules would be most unlikely to have any impact upon housing production costs or to affect housing affordability.

**Smart Growth Development Impact**

The proposed amendments, repeals and new rules concern financial assistance to households at risk of lead poisoning or subject to an abatement order for a known lead hazard. The amendments, repeals and new rules would be most unlikely to have any impact upon housing production within Planning Areas 1 and 2 or within designated centers under the State Development and Redevelopment Plan.

**Full text** of the proposed amendments, repeals and new rules follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

5:48-1.2 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

...  
**"Blended loan" means financial assistance provided for lead hazard work, causative factors and relocation in part as a deferred payment loan and in part as a grant.**  
 ...

"Causative factor" means any housing condition that contributes to the deterioration of **lead-based** paint or the significant accumulation of household dust, such as: the failure of a system designed to prevent moisture infiltration (roof, siding, windows), leaks or other deficiencies in household plumbing or heating, horizontal surfaces which are damaged, worn and/or not washable (floors, window wells, stair treads).  
 ...

"Concurrent rehabilitation" means **non-lead hazard control** work undertaken [to correct a housing condition considered to be a "causative factor"] immediately prior to or **immediately following** or simultaneous with the lead hazard control work being funded with LHCA funds. **Work may include repair of causative factors identified by the LHCA Fund or identified by a local board of health on a Notice of Violation/Abatement Order or rehabilitation work required as a result of a lead abatement treatment such as upgrading insulation or electric when leaded walls are removed.**  
 ...



“Environmental intervention blood lead level” means the level of lead in blood which triggers action under N.J.A.C. 8:51, Childhood Lead Poisoning: State Sanitary Code Chapter XIII, to identify lead hazards present in the child’s environment and to order the abatement of those hazards.

“Financial assistance” means grants, loans and deferred payment loans with provisions for forgiveness and blended loans.

“Head of household” means the person legally responsible to pay for rent to a property owner in the case of a tenant household or the person who holds title to the dwelling in the case of an owner-occupant household.

“Hybrid treatment method” means the combination of lead abatement and interim control methods as described in N.J.A.C. 5:48-2.9(d) to treat lead-based paint hazards.

“Interim control project” means a project which uses solely interim controls to reduce or temporarily control lead-based paint hazards.

“Permanent relocation” means relocation to lead-safe housing with no intention of returning to the original lead contaminated primary residence. Permanent relocation may include a period of temporary relocation while a household locates a lead-safe dwelling unit to occupy as their new primary residence. Permanent relocation of a household includes service animals that accompany and provide services to a person with a disability. Pets are not considered service animals and are not eligible.

“Qualified contractor” means a firm that is registered with the Division of Consumer Affairs in accordance with N.J.A.C. 13:45A-17, Home Improvement Contractor Registration, and that uses individuals trained in lead-safe work practices, lead-safe building maintenance practices or an Environmental Protection Agency-approved certified renovator course or any other course approved by the Commissioner when performing interim controls or rehabilitation funded in whole or in part with LHCA funds.

“Temporary relocation” means relocation for up to 180 days to lead-safe housing with the intention to return to the original lead contaminated primary residence upon abatement of lead-based paint hazards. Temporary relocation of a household includes service animals that accompany and provide services to a person with a disability. Pets are not considered service animals and are not eligible.

5:48-2.1 Purpose and program objectives

(a) The purpose of the Lead Hazard Control Assistance Fund is to provide financial assistance in the form of deferred payment loans with provision for forgiveness and deferred payment loans without forgiveness, **blended loans and grants** to eligible property owners.

(b) The LHCA Fund shall be used to:

1. (No change.)
2. Eradicate lead hazards to the greatest extent feasible through the performance of lead hazard control work ([interim controls or] lead abatement or a combination of lead abatement and interim controls) and the correction of conditions creating lead-based paint hazards;
- 3.-4. (No change)
5. Increase public awareness of the dangers of lead-based paint in residential dwellings and consumer products to which at-risk children have access; and
6. (No change.)

5:48-2.2 Allocation of funds

The Administrator of the LHCA Fund shall determine on an annual basis the amount of funds that shall be allocated for administration, education/outreach/training, lead hazard control, **emergency relocation**, and lead safe housing registry. The Lead Hazard Control allocation shall be further apportioned between two property types: properties containing one to four housing units and properties containing five or more units.

5:48-2.3 Forms of financial assistance

(a) Except as otherwise provided in (b), (d) and (f) below, financial assistance to eligible owners shall be repayable loans. The Administrator of the LHCA Fund shall determine on an annual basis the rate of interest that loans shall bear. The initial interest rate shall be three percent. All loans of **\$5,000 or more** shall be secured by a lien upon the property upon which work is performed. Payments shall be deferred and loans shall become due and payable upon [refinance,] transfer[,] or sale of the property, and/or expiration of the mortgage term. **A refinance of senior debt shall trigger repayment of the loan except when the purpose of the refinance is to improve the terms given to the borrower under the senior mortgage (such as a lower interest rate resulting in lower monthly payments) and when only those funds necessary to process the refinance are included in the principal to be refinanced.** Applicants must establish their ability to repay the loan using their equity in the subject property or equity in their personal residence or other real property or through other such guarantees as approved by the Division Director. Loans may be made up to [125] **100** percent of value of the subject property[;] **without a waiver. Waivers for loans over 100 percent of value of the subject property may be requested by the applicant and approved by the LHCA Fund when the property is subject to a Notice of Violation/Order to Abate lead-based paint hazards issued by the local board of health in response to an environmental blood lead level;** however, loan to value shall not exceed [75] **90** percent of value when alternative real estate is offered as additional security for the loan. Value shall be determined by an appraisal. For properties containing one to four housing units **with loans of \$5,000 or more**, the loan term shall be 20 years. For properties containing five or more housing units, the debt coverage ratio shall be 1.25 with a flexible loan term tied to net operating income. Properties containing five or more housing units [will] **may** also be required to establish a repayment reserve account. If a repayment reserve account is not feasible, the owner shall provide additional real estate as security **or other such guarantees as approved by the Division Director.**

(b) Financial assistance in the form of deferred payment loans with provisions for forgiveness is available on the basis of property type, occupancy and income. The LHCA [fund] **Fund** shall consider owner-occupants of a one-to-four family dwelling for a deferred payment loan with forgiveness provided they qualify as a low-income or moderate-income household. **All property owners must use the property as their primary residence.** The Administrator of the LHCA Fund shall determine on an annual basis the rate of interest that loans shall bear. The initial interest rate shall be three percent. The term of the loan shall be established according to the principal loan amount. [For every \$10,000 increment or portion thereof, the loan term shall be five years, up to a maximum loan term of 20 years. Therefore: a property owner wishing to borrow \$10,000 or less shall have a five-year loan term;] **Loans from \$1,000 up to \$1,999 shall have a two-year loan term, loans from \$2,000 to \$2,999 shall have a three-year loan term, loans from \$3,000 to \$3,999 a four-year loan term, loans from \$4,000 to \$10,000 a five-year loan term; loans from \$10,001 to \$20,000 shall have a 10-year loan term; from \$20,001 to \$30,000 shall have a 15-year loan term; and \$30,001 or more shall have a 20-year loan term.**

(c) The Department shall forgive a portion of the deferred payment loan each year when the loan qualifies for forgiveness under (b) above. The portion shall be determined by dividing the principal loan amount plus interest by the loan term. Owners must provide evidence on an annual basis of their compliance with the terms of the LHCA loan agreement, Mortgage, and Mortgage Note. This evidence shall be delivered to the Department on or before the anniversary date of the loan in a form acceptable to the Department. Basic compliance shall include, but is not limited to:

1. [proof] **Proof** that the assisted property continues to be used as the original loan applicant’s principal residence;
2. [evidence] **Evidence** of payment of real estate taxes, water and sewer assessments; [and]
3. **Evidence that the owner has performed the inspections and maintenance stated in the LHCA Fund provided maintenance plan;**
4. [evidence] **Evidence** of hazard insurance; and

5. For tenant-occupied assisted units, the owner shall demonstrate they have complied with the nondiscrimination [in accordance with] requirements at N.J.A.C. 5:48-2.6(m).

(d) Failure to comply with (c)1 above will result in the balance of the loan converting to a deferred payment repayable loan.

(e) Failure to comply with (c)2 through 5 above will result in that portion of the loan for which the owner was not in compliance being converted to a deferred payment repayable loan.

(f) Provided a loan is made, title services including, but not limited to, title search, title insurance, settlement fees and recording fees shall be provided to the applicant in the form of a grant provided those costs are reasonable and necessary as determined by the LHCA Fund.

(g) Loans under \$5,000 shall be secured by a personal note. Loans up to \$1,999 shall have a loan term of two years. Beginning at \$2,000, for every \$1,000 increment or portion thereof, the loan term shall be increased one year, up to a maximum loan term of five years. Therefore, a property owner wishing to borrow from \$1,000 to \$1,999 shall have a two-year loan term; from \$2,000 to \$2,999 shall have a three-year loan term, from \$3,000 to \$3,999, a four-year loan term, and from \$4,000 to \$4,999, a five-year loan term. Repayment of principal and interest shall be made in a lump sum payment on or before the expiration of the loan term except in cases where the owner has qualified for provisions for forgiveness, a blended loan, or a grant.

(h) Financial assistance in the form of a grant or blended loan shall be considered by the LHCA Fund for individuals who are property owners in the instances in (h)1 through 3 below. Only those costs necessary to remediate the lead hazards identified on the local board of health Notice of Violation/Abatement Order will be considered. Necessary costs would include the costs of relocating occupants if required under the N.J.A.C. 5:17, Lead Hazard Evaluation and Abatement Code, and causative factors in accordance with N.J.A.C. 5:48-2.9(b).

1. The property contains one to four residential dwellings;
2. Eligible costs exceed available equity at 125 percent of value; and
3. The lead hazard control work is being undertaken to abate lead hazards identified as a result of an environmental intervention blood lead level.

#### 5:48-2.4 Limitations on financial assistance

(a) (No change.)

(b) The minimum amount of financial assistance shall be [\$5,000 for single-family housing and] an average of [\$5,000 per housing unit for two-family or multi-family housing] **\$1,000 per dwelling unit.**

#### 5:48-2.6 Basic eligibility criteria

(a) The applicant must be the property owner. A property owner means the titleholder of record as reflected in the most recently dated and recorded deed for the particular dwelling unit. The applicant must provide a complete copy of the recorded deed showing himself or herself as the owner. The recording information must be legible. If ownership is vested in more than one person, all owners must sign as applicants and execute all loan documents. When the ownership entity is a corporation, the applicant must provide a copy of the Certificate of Incorporation, and a copy of the corporate resolution authorizing the rehabilitation and abatement activities and designating an individual who will be acting on the corporation's behalf. A list of corporate principals is also required. When the applicant is a limited liability company, the applicant must provide a copy of the company's Certificate of Formation and Operating Agreement and any documents establishing the authority of the member making application. When the applicant is a trustee, the applicant must provide a copy of the documents which established the trust, named the trustee and established the authorities that have been granted to the trustee. The trustee must have the authority to execute the required loan documents. **The Department expects owners to hold a fee simple interest in the property; however, the Department will consider other ownership types, provided they are substantially comparable to fee simple ownership as determined by the Department.**

(b) The owner must provide evidence of lead-based paint hazards. To determine preliminary eligibility at the time of application, evidence can include: positive test results from a home lead test kit, lead dust wipe kit results, lead evaluation testing performed by a licensed lead evaluation contractor or a hazard assessment performed by the local board of health. For a final eligibility determination, [Evidence] evidence shall be in the form of a lead hazard evaluation performed by a New Jersey licensed lead evaluation firm contracted by the LHCA Fund or in the case of an owner selecting the abatement order assistance treatment method at N.J.A.C. 5:48-2.8, a hazard assessment performed by the Local Board of Health in accordance with N.J.A.C. 8:51.

(c) The housing must have been constructed prior to 1978. At the time of application, the owner shall provide [Written] written evidence [shall be] obtained from public records such as a statement from the Tax Assessor. The written evidence shall establish the year the building was constructed. If the exact year is not known, the written evidence shall, at a minimum, establish that the building was constructed prior to 1978. If the applicant wishes priority consideration under N.J.A.C. 5:48-[2.8]2.10, the written evidence shall establish whether the building was constructed prior to 1950. **In the absence of written evidence, the LHCA Fund may obtain a verbal confirmation of the age of the dwelling from the tax assessor.**

(d) Real estate taxes, water and sewer assessments must be paid current. Written evidence shall be provided at the time of application or **the LHCA Fund may obtain verbal confirmation from the tax collector, water or sewer authority.**

(e) (No change.)

(f) The owner must maintain hazard insurance on the property. This insurance must cover loss or damage caused by fire and other hazards, normally included under "extended coverage" insurance. The amount of coverage shall be the greater of: the total of the principal secured by the mortgage and the principal secured by the senior mortgage (if any) or the current replacement value of the buildings and improvements to the extent available. Coverage must be in effect at the time of application and must remain in force throughout lead hazard control work and loan term. The owner must agree that all payments from the insurance company must be payable to the LHCA Fund under a standard mortgage clause in the insurance policy. In the event of loss, the LHCA Fund may use any proceeds to repair and restore the property or to reduce the amount due under the mortgage.

(g)-(j) (No change.)

(k) [Ownership entities other than individuals] **Except for grants for title services, owners of properties of five or more dwelling units are not eligible for grants or deferred payment loans with provisions for forgiveness or preferred interest rate loans.**

(l) [Applicants] **Owner-occupants of a one- to four-family dwelling requesting deferred payment loans with provisions for forgiveness must verify household size and gross annual income by providing source documents such as copies of pay stubs, benefit award letters, net income from rents, net income from operation of a business or profession, interest, or dividends. Earned income from household members 18 years of age or older must be included in calculating gross annual income. Earned income of minors (household members 17 and under) shall not be counted. The Administrator reserves the right to request up to two years of Federal income tax returns to aid in the eligibility determination.**

(m) (No change.)

#### 5:48-2.7 Additional eligibility criteria-[abatement] prevention projects

[(a) Abatement projects must also meet the following criteria in addition to the basic eligibility criteria at N.J.A.C. 5:48-2.6:

1. Occupants must be willing and able to relocate during the performance of the abatement work when required under N.J.A.C. 5:17;

2. Projects must achieve the LHCA Fund lead-based paint abatement criteria at N.J.A.C. 5:48-2.9(b) upon completion of work; and

3. Projects must achieve the LHCA Fund causative factors criteria at N.J.A.C. 5:48-2.9(c) upon completion of work.]

**(a) Owners who have applied to the LHCA Fund for lead hazard control for the prevention of childhood lead poisoning shall:**

1. Use the lead hazard control treatment methods in accordance with N.J.A.C. 5:48-2.9(d) LHCA Fund hybrid treatment method project completion criteria; and

2. Shall correct causative factors in accordance with the requirements at N.J.A.C. 5:48-2.9(b).

(b) The Department shall consider waivers to the project completion criteria at N.J.A.C. 5:48-2.9(b) or (d) on a case-by-case basis. Waivers shall be limited to those properties where lead hazards cannot be properly treated in accordance with state and local codes using interim controls or other good cause at the sole discretion of the Department.

#### 5:48-2.8 Additional eligibility criteria-[interim control] poisoning response projects

[(a) Interim control projects must also meet the following criteria in addition to the basic eligibility criteria at N.J.A.C. 5:48-2.6:

1. Interim control projects shall not use abatement methods in the treatment of lead-based paint hazards;

2. Property must not be cited under N.J.A.C. 8:51; and

3. Property must achieve the LHCA Fund interim controls criteria at N.J.A.C. 5:48-2.9(d) upon completion of work.]

(a) Owners who have applied to the LHCA Fund for the correction of lead-based paint hazards identified in a Notice of Violation/Abatement Order issued by a local board of health in response to an environmental intervention blood lead level shall:

1. Use the lead hazard control treatment methods in accordance with N.J.A.C. 5:48-2.9(c) LHCA Fund abatement order assistance project completion criteria;

2. Correct causative factors in accordance with the requirements at N.J.A.C. 5:48-2.9(b); and

3. Insure occupants relocate in a timely manner during the performance of the abatement work when required under N.J.A.C. 5:17.

(b) The Department shall consider waivers to the project completion criteria at N.J.A.C. 5:48-2.9(b) or (c) on a case-by-case basis. Waivers shall be limited to those properties where lead hazards cannot be properly treated in accordance with state and local codes using interim controls or other extraordinary circumstances at the sole discretion of the Department.

#### 5:48-2.9 Eligible project activities/costs

(a) The following project activities/costs shall be eligible for funding:

1. Lead hazard evaluation: The LHCA Fund shall obtain a lead hazard evaluation of the applicant's property as a part of the application process. The evaluation shall be a combined lead-based paint inspection/risk assessment in accordance with 40 CFR 745. **The LHCA Fund reserves the right to utilize current (current means performed within 12 months of loan approval) pre-existing lead hazard evaluation reports such as a hazard assessment conducted by a board of health in accordance with N.J.A.C. 8:51, Childhood Lead Poisoning: State Sanitary Code Chapter XIII, in lieu of additional testing. In the case of repayable loans, the cost of lead inspection/risk assessment obtained by the LHCA Fund shall be reimbursed to the LHCA Fund by the property owner if the property owner voluntarily withdraws their application.**

2. Scope of work preparation/cost estimation: The LHCA Fund shall obtain lead hazard control and concurrent rehabilitation scopes of work which shall contain the [following:] key elements in (a)2i through iv below. **In the case of repayable loans, the cost of scope preparation, cost estimate preparation, and bid document preparation shall be reimbursed to the LHCA Fund by the property owner if the property owner voluntarily withdraws their application.**

i.-iv. (No change.)

3. Building permits: Costs associated with the application and issuance of a building permit from the local Construction Official in accordance with the Uniform Construction Code, N.J.A.C. 5:23, are eligible for LHCA funding when the permit is for work which is an eligible activity. All permits must be properly closed out, with the appropriate Certificate (that is Clearance, Approval, Occupancy) being issued. **The costs associated with the processing of a variance when the proposed**

**activity requiring a variance is approved by the LHCA Fund and in accordance with the Uniform Construction Code, N.J.A.C. 5:23.**

4. Interim controls: Interim controls are eligible activities and costs are eligible for LHCA funding when the work is performed by qualified contractors using lead safe work practices and the work is necessary to achieve the LHCA Fund [interim controls] **project completion** criteria at (c) or (d) below.

5. Lead hazard abatement: Lead hazard abatement is an eligible activity and costs are eligible for funding when the abatement is performed in accordance with N.J.A.C. 5:17, Lead Hazard Evaluation and Abatement Code, and the work performed conforms with the **applicable** LHCA Fund [lead-based paint abatement] **project completion** criteria at [(b)] (c) or (d) below. When abatement work is performed to address hazards cited in a local board of health lead abatement order in accordance with N.J.A.C. 8:51-6, Abatement of Lead Hazards, the **scope of work** must be approved by the local board of health prior to performance in order for the associated costs to be eligible under the LHCA Fund. In all cases, lead abatement work must be performed by a licensed lead abatement contractor **whose firm is listed as an approved contractor in accordance with N.J.A.C. 5:48-2.16** and must conform to the requirements at N.J.A.C. 5:17 to be considered eligible. **Rehabilitation work required as a result of a lead abatement treatment such as upgrading insulation and/or electric when leaded walls are removed is also eligible.**

6. Concurrent rehabilitation: Concurrent rehabilitation is an eligible activity and costs are eligible for LHCA funding when performed by qualified contractors (**unless the work is an exempt activity in accordance with N.J.A.C. 5:10-6.6 or other applicable State rules and 40 CFR 745**) and the work is required to achieve the LHCA Fund causative factors **project completion** criteria at [(c)] (b) below or if required by a local board of health to satisfy a Notice of Violation/Abatement Order or if work has been determined necessary by the LHCA Fund. Concurrent rehabilitation work may be performed prior to abatement or following abatement depending upon the nature of the work; however, work which must be performed to insure abatement treatments do not fail must be performed prior to abatement (that is roof repair, repair of plumbing leaks). **In the case of repayable loans, the cost of a home inspection to determine the presence of causative factors, a scope of work, cost estimate and bid document prepared by the LHCA Fund to address the work shall be reimbursed to the LHCA Fund by the property owner if the property owner voluntarily withdraws their application.**

7. Relocation during performance of work: Relocation is an eligible activity when the relocation is temporary (tenants shall not be permanently displaced as a result of LHCA [Funded] **funded** activities) and necessary to protect occupants during the performance of lead-based paint hazard control work. Temporary relocation during the performance of rehabilitation work is eligible for LHCA funding when the nature of the rehabilitation work makes occupancy of the housing unit hazardous or renders the housing uninhabitable (as defined by State and/or local habitability codes) during the performance of the work. Relocation costs for services/activities shall comply with the temporary relocation requirements of N.J.A.C. 5:11, Relocation Assistance and Eviction. Tenants must be notified of the owner's intention to apply for LHCA funds for the purposes of lead hazard control work and the effect the activity will have upon them. [Tenants shall also be notified of the non-displacement protections provided at N.J.A.C. 5:48-2.11.] The owner is responsible for insuring household furnishings and personal belongings are removed from the work areas in accordance with the requirements of N.J.A.C. 5:17 and 24 CFR 35.1345, Occupant Protection and Worksite Preparation. Eligible costs include expenses for those [families] **households** in place prior to application to the LHCA Fund. Owners must be notified that tenants moving into rental units after he or she has applied for LHCA assistance are not eligible for relocation assistance.

8. Clearance testing/reporting: Clearance testing is an eligible activity and must be performed following [abatement, interim controls] **lead hazard control work** and rehabilitation. Clearance following abatement must conform to 40 CFR Part 745, Environmental Protection Agency regulations on Lead; Identification of Dangerous Levels of Lead; Final Rule, except that dust wipe samples shall be single surface samples.

Clearance following Interim Controls or Rehabilitation shall conform to 24 CFR 35.1340(c), Lead Safe Housing Rule. **Projects which use both abatement and interim control treatments must use the clearance standards applicable to the treatment method used on the component/surface or area being cleared. The costs of an initial clearance and the first re-clearance if environmental samples have failed will be absorbed by the LHCA Fund. Re-cleaning costs and any subsequent clearances costs shall be borne by the contractor performing the work.**

9.-10. (No change.)

(b) LHCA Fund lead-based paint abatement criteria are as follows:

1. For all projects: Replace windows in habitable rooms when window components which are friction surfaces (sash, jamb, interior stop, blind stop and parting bead) test positive for lead-based paint (an XRF reading of 1.0 mg/cm<sup>2</sup> or greater);

2. For all projects: Provide an acceptable treatment in habitable rooms when friction, impact, chewable or mouthable surfaces test positive for lead-based paint (an XRF reading of 1.0 mg/cm<sup>2</sup> or greater) and show visible signs of serious paint deterioration and/or are identified by a risk assessor as a lead-based paint hazard. Acceptable forms of treatment are: replacement of components, enclosure, or paint removal;

3. For all projects: Provide an acceptable treatment in habitable rooms for any other surface and/or component not covered under (b)1 or 2 above when the surface/component tests positive for lead-based paint and the surface/component is identified by an inspector/risk assessor as a lead-based paint hazard. Acceptable forms of treatment are: replacement of components, enclosure, encapsulation, or paint removal;

4. For all projects: Replace or enclose or encapsulate (subject to N.J.A.C. 5:17-6.4(b)1) with a washable floor surface all floors that test positive for lead-based paint;

5. For all projects: Clean all treated rooms and all untreated habitable rooms. In all cases, cleaning shall be in accordance with N.J.A.C. 5:17, Lead Hazard Evaluation and Abatement Code, and Chapters 12 and 14 of the "Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing," published in June 1995 by the United States Department of Housing and Urban Development, incorporated herein by reference, as amended and supplemented, hereinafter referred to as the "HUD Guidelines," must be performed. A copy of the "HUD Guidelines" may be obtained for \$45.00 from: HUD User, P.O. Box 23268, Washington, DC 20026-3268, or may be obtained in the internet at: <http://www.hud.gov>. An area is considered satisfactorily cleaned when a visual inspection is conducted and there is no visible evidence of dust and post-cleaning dust wipe results achieve the clearance standards defined at N.J.A.C. 5:17-9, Final Inspection and Clearance Testing. Carpeting may be replaced with a washable floor surface when it is identified as a lead hazard. Carpeting must be dry vacuumed prior to using a low-moisture cleaning method;

6. For all projects: For lead-based paint, dust or soil hazards identified on a lead hazard evaluation, which are not covered in (b)1 through 5 above, the LHCA Fund shall use the recommendations of the inspector/risk assessor performing the lead hazard evaluation; and

7. As funding permits: Other lead-based paint reduction or abatement treatments. Priority consideration will be given as follows:

i. First priority: Any remaining lead-based paint whether or not it is currently a hazard on friction, impact, and chewable or mouthable surfaces. Acceptable treatments are: replacement, enclosure or paint removal. All first priority surfaces must be treated before second priority surfaces can be treated.

ii. Second priority: any remaining lead-based paint on other surfaces. Acceptable treatments are: replacement, removal, encapsulation, enclosure or stabilization.]

(c) (b) The LHCA Fund causative factors project completion criteria are:

1. A moisture audit shall be conducted by the LHCA Fund of each property for which LHCA funds are requested to control lead-based paint hazards. When housing conditions are noted on the moisture audit that contribute to the deterioration of lead-based paint and therefore generate lead-based paint hazards, the correction of that condition shall be considered eligible for repair using LHCA funds. Systems to be evaluated under the moisture audit are:

[1. For all projects:] i. All systems designed to prevent moisture infiltration (that is, roof, siding, windows, gutter systems) [must be functional prior to performing lead hazard control work];

[2. For all projects: All plumbing must be inspected for leaks and deficiencies must be corrected;]

ii. Plumbing;

[3. For all projects with steam] iii. Steam or hot water heating[: The heating system must be inspected for leaks and deficiencies must be corrected]; and

[4. For all projects:] iv. Moisture venting systems [must be inspected and deficiencies must be corrected] (that is, bathrooms, dryers) [; and].

[5. For all projects:] 2. Floors [which] and other horizontal surfaces such as window wells that have tested negative for lead-based paint must be evaluated by the LHCA Fund to determine if their condition contributes to the accumulation of lead contaminated dust and therefore constitutes a lead dust hazard. Floors which have been determined to constitute a lead dust hazard shall be repaired or sealed and thoroughly cleaned. If the existing floor covering is carpeting, carpet must be dry vacuumed and, if soiled, additional cleaning shall be performed using a low-moisture cleaning method. Dry vacuuming must be performed prior to low-moisture cleaning.

3. For properties applying for funds under N.J.A.C. 5:48-2.8 poisoning response, housing conditions noted on the Notice of Violation/Order to Abate issued by the local board of health in response to an environmental intervention blood lead level on the subject property that cause or contribute to defective paint in accordance with N.J.A.C. 8:51-8.6 shall be repaired or corrected as a part of the project undertaking and shall be considered causative factors under the LHCA Fund.

4. Prior to abatement, the owner shall correct all structural deficiencies affecting the work area as required by N.J.A.C. 5:17-4.1(d).

(d) The LHCA Fund interim controls criteria are:

1. For components/surfaces which are NOT friction, impact, or chewable surfaces; At a minimum, paint shall be stabilized in accordance with the United States Department of Housing and Urban Development's Requirements for Notification, Evaluation and Reduction of Lead-Based Paint Hazards in Federally Owned Residential Property and Housing Receiving Federal Assistance, 24 CFR 1330(b), and Chapter 11 of the United States Department of Housing and Urban Development's Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing, published in June 1995, incorporated herein by reference, as amended and supplemented;

2. For components/surfaces which are friction, impact, or chewable surfaces: Paint must be removed from contact areas or temporary barriers shall be installed. Barriers shall be of a sufficient durability to prevent abrasion of the painted surface;

3. All habitable rooms shall be cleaned in accordance with HUD Guidelines, Chapter 11. For soiled carpets, use low moisture cleaning method only after dry vacuuming; and

4. Provide an ongoing maintenance plan to property owners and tenants.]

(e) LHCA Fund abatement order assistance project completion criteria are:

1. For all projects: Replace windows when window components which are friction surfaces (interior or exterior sash, jamb, interior stop, blind stop and parting bead) are reported as positive for lead-based paint (an XRF reading of 1.0 mg/cm<sup>2</sup> or greater) and hazardous on the Notice of Violation/Abatement Order issued by the Local Health Department;

2. For all projects: Provide an acceptable treatment when interior friction, impact, chewable or mouthable surfaces are reported as positive for lead-based paint (an XRF reading of 1.0 mg/cm<sup>2</sup> or greater) and hazardous on the Notice of Violation/Abatement Order issued by the local board of health. Acceptable forms of treatment are: replacement of components, enclosure, or paint removal. For exterior surfaces or components paint stabilization, vinyl siding and/or aluminum wrap may all be considered acceptable treatments upon approval by the local board of health;

3. For all projects: Provide an acceptable treatment for any other interior surface and/or component not covered under (c)1 or 2 above when the surface/component is reported as positive for lead-based paint and hazardous on the Notice of Violation/Abatement Order issued by the local health department. Acceptable forms of treatment are: replacement of components, enclosure, encapsulation, or paint removal. For exterior surfaces or components paint stabilization, vinyl siding and/or aluminum wrap may all be considered acceptable treatments upon approval by the local health department;

4. For all projects: Replace or enclose or encapsulate (subject to N.J.A.C. 5:17-6.4(b)1) with a washable floor surface all floors that test positive for lead-based paint and hazardous on the Notice of Violation/Abatement Order issued by the local board of health;

5. For all projects: For lead-based paint, dust or soil hazards identified on the Notice of Violation/Abatement Order issued by the local board of health, which are not covered in (c)1 through 4 above, the LHCA Fund shall obtain the recommendations of the local board of health for an acceptable treatment method;

6. A waiver of the treatment methods in (c)1 through 5 above can be requested in cases where the property is on or eligible for listing on the National or State Register of Historic Buildings or other good cause as determined by the Director; and

7. All projects must be evaluated for causative factors in accordance with (b) above.

(d) LHCA Fund hybrid treatment method project completion criteria shall be:

1. For all projects: Replace windows in habitable rooms when window components which are friction surfaces (exterior or interior sash, jamb, interior stop, blind stop and parting bead) test positive for lead-based paint (an XRF reading of 1.0 mg/cm<sup>2</sup> or greater);

2. For interior or exterior components/surfaces which are not friction, impact, or chewable surfaces and test positive for lead-based paint (an XRF reading of 1.0 mg/cm<sup>2</sup> or greater) and hazardous, at a minimum paint shall be stabilized in accordance with the United States Department of Housing and Urban Development's Requirements for Notification, Evaluation and Reduction of Lead-Based Paint Hazards in Federally Owned Residential Property and Housing Receiving Federal Assistance, 24 CFR 1330(b), and Chapter 11 of the United States Department of Housing and Urban Development's Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing, published in June 1995, incorporated herein by reference, as amended and supplemented;

3. For interior or exterior components/surfaces which are friction, impact, or chewable surfaces other than windows in habitable rooms and test positive for lead-based paint: Paint must be removed from contact areas or temporary barriers shall be installed;

4. A waiver of (d)1 through 3 above can be requested in cases where the property is on or eligible for listing on the National or State Register of Historic Buildings or other good cause as determined by the Director; and

5. All projects must be evaluated for causative factors in accordance with (b) above.

(e) (No change.)

5:48-2.11 Non-displacement protections

(a) Existing tenants in occupied units shall not be permanently displaced as a result of any activity funded in whole or in [party] part by the LHCA Fund except in the case of a tenant household when it has been determined that they are living in conditions which pose an immediate risk of continuing exposure to lead hazards for any of their children and it is impossible or impractical to return the household to their original primary residence upon completion of lead abatement. Whenever possible, relocation shall be temporary in nature to allow the property owner the opportunity to correct unsafe conditions.

(b) (No change.)

5:48-2.12 Lead Safe Housing Registry

(a) (No change.)

(b) Housing units eligible to be included in the Registry are those that fall under any of the following four categories:

1. Lead-free which shall include any housing constructed after 1977 and housing certified to be free of lead-based paint by a certified lead inspector/risk assessor;

2. Lead-abated, including housing where lead-based paint hazards have been permanently abated;

3. Lead-hazard controlled, including housing in which preventative maintenance practices and interim controls have been implemented; or

4. Lead-free interior, which shall include housing certified to have a lead-free interior by a certified lead inspector/risk assessor.

[(b)] (c) At a minimum, the Department shall enter onto the Lead Safe Housing Registry the following dwelling units:

1. (No change.)

2. All residential dwellings constructed after 1977; [and]

3. All multiple dwellings in accordance with N.J.A.C. 5:10[.];

4. Any dwelling units with a lead-free certification issued in accordance with N.J.A.C. 5:17-3.6(b), or a lead-based paint hazard free certification issued in accordance with N.J.A.C. 5:17-3.6(c);

5. Any dwelling assisted with funds administered by the Department;

6. Any dwelling abated under a Notice of Violation issued by a local health department in accordance with N.J.A.C. 8:51, Childhood Lead Poisoning: State Sanitary Code Chapter XIII; and

7. Any other source as determined by the Director.

5:48-2.13 Public inspection of Lead Safe Housing Registry

(a) The Lead Safe Housing Registry shall be a governmental record open to public inspection and copying.

1. Photocopies of the Registry are available for purchase at the standard photocopying rate by calling 1-877-DCA-LEAD (1-877-322-5323).

2. The Registry may be viewed, downloaded, or printed from the World Wide Web. The Registry is available at [www.leadsafeni.org](http://www.leadsafeni.org).

5:48-2.14 Relocation due to immediate risk

(a) The LHCA Fund shall consider applications under the Relocation to End Exposure to Lead (REEL) Program for relocation payments to remove a tenant family from housing where a lead hazard exists and which poses an immediate risk of continuing exposure to lead hazards for any children living in the housing.

(b) Immediate risk is defined as a child having a health indicator of exposure to lead at levels equal to or greater than the Center for Disease Control recommended level of 10 micrograms of lead per deciliter of blood combined with the existence of lead-based paint hazards in that child's residence.

(c) Eligibility criteria for payments under this section shall be:

1. (No change.)

2. The applicant[']s and his or her household must be a tenant of a rental residential dwelling which is used as their primary residence [must be a rental residential dwelling];

3. The applicant's household must include a qualifying child. A qualifying child means: a member of the applicant's household who is a child under the age of 18 with a blood lead level of 10 micrograms of lead per deciliter of blood or more who resides with the applicant at least nine months of the year;

4. The applicant must provide evidence of the existence of a lead-based paint hazard in their primary residence. Acceptable forms of evidence include: lead evaluation performed by a certified inspector/risk assessor or a hazard assessment performed by a local board of health; [and]

5. The applicant must provide evidence of immediate risk. Acceptable forms of evidence include a written determination from a local board of health or primary care provider that the affected child(ren) is at immediate risk due to continuing exposure to a lead hazard and must be relocated to lead-safe housing[.]; and

6. For permanent relocation, the applicant must provide evidence that it is impractical or impossible to return to their original primary residence following lead abatement.

(d) Residents of residential dwellings other than tenant-occupants are not eligible for relocation assistance under the REEL Program except that the Director may agree to a one-time emergency placement not to exceed 14 calendar days to allow the household the

opportunity to secure alternative lead-safe housing provided the residents are otherwise eligible.

[(d)] (e) (No change in text.)

(f) Eligible activities and costs shall include the activities and costs at N.J.A.C. 5:48-3.4 and case management services provided by the local board of health or other public health agency assisting the household with their relocation up to \$1,000 per household provided the case management services are not funded under another program.

#### 5:48-2.15 Lead education/outreach and training

(a) The Department shall set aside a minimum of [five percent of the total budget allocated to lead hazard control or] \$1,000,000 or whatever is necessary to meet the goals and objectives of the LHCA Fund, whichever is greater for the purpose of increasing public awareness of the dangers of lead-based paint and to provide opportunities for training in lead related disciplines. Lead related disciplines include, but are not limited to: abatement supervisor, abatement worker, inspector/risk assessor, dust wipe technician, project designer, lead-safe work practices, [and] lead-safe building maintenance practices and Certified Renovator or other lead curricula approved by the Division.

(b) Statewide, regional and local education/outreach and training efforts shall be coordinated with the Inter-Agency Task Force on the Prevention of Lead Poisoning. The Division may elect to enter into contracts [with] to award grant funds to other State agencies[,] via a Memorandum of Understanding. The Division may also elect to enter into contracts with units of local government or nonprofit organizations serving as regional providers of lead education/outreach or training services, regional lead coalitions and/or local boards of health for implementation of this section using a competitive process based upon set standards as identified in a request for proposal processed through the New Jersey Department of Community Affairs System for Administering Grants Electronically (SAGE). Set standards shall include: minimum experience requirements in the activity to be funded, established track record in accomplishing objectives; and reasonable costs associated with the contracted activities.

(c) The Geographic Organization of Lead Data (GOLD) Program shall be funded under (a) above to provide data collection of lead risk factors, geographic information systems (GIS) mapping and other planning and targeting recommendation tools for lead education/outreach and training initiatives funded by the Department. Lead data will be evaluated statewide using existing data sources and/or new data sources created for the Lead Safe Housing Registry.

(d) The Program for Emergency Relocation and Abatement of Lead (PERAL) shall be funded under (a) above to develop and maintain a database which collects and manages data associated with grants, loans and program related costs provided to property owners and tenants under the LHCA, REEL and ELPR Programs.

#### 5:48-2.16 LHCA Fund Approved Lead Abatement Contractor List and Lead Abatement Contractor Profiles

(a) The Division shall create and maintain a listing of all lead abatement contractors who meet the following criteria:

1. Attend a LHCA Fund Orientation Workshop describing the list criteria, list removal and list reinstatement policies and procedures;
2. Enter into a written agreement with the LHCA Fund to comply with the requirements under N.J.A.C. 5:48-2.16;
3. Are properly certified by the Division of Codes and Standards in accordance with the applicable provisions of N.J.A.C. 5:17, Lead Hazard Evaluation and Abatement Code, as lead abatement firms;
4. Perform all work funded in whole or in part by the LHCA Fund in accordance with N.J.A.C. 5:17, Lead Hazard Evaluation and Abatement Code, and applicable provisions of N.J.A.C. 5:23, Uniform Construction Code;
5. Routinely complete LHCA funded projects on time (particularly projects which require relocation of the occupants during work);
6. Routinely commence abatement work in a timely manner (particularly projects occupied by a child with an elevated blood lead level);

7. Comply with the LHCA Fund policies on changes to the scope of work including obtaining written approval from the property owner and the Division prior to:

- i. Undertaking work which was not on the original scope of work;
  - ii. Changing the method of treatment from the original scope of work; and
  - iii. Removing items from the original scope of work; and
8. Ensure consistent quality of work.

(b) The LHCA Fund Approved Lead Abatement Contractor List shall include information that assists property owners in contacting the contractor as well as providing information to guide the property owner. Specific information to be collected includes the locations where a contractor is interested in working and the size of the project in dollars the contractor is interested in bidding. The additional information on each contractor shall be referred to as the Lead Abatement Contractor Profile.

(c) Lead abatement contractors will be removed from the LHCA Fund Approved Lead Abatement Contractor List 14 days following written notification from the LHCA Fund of the removal action. The notice shall include the specific reasons why the action is being taken and shall provide the contractor with the opportunity to request an informal appeal of the action.

(d) The following shall constitute sufficient cause to remove lead abatement contractors from the LHCA Fund Approved Lead Abatement Contractor List:

1. Consistent failure to begin projects in a timely manner and/or complete projects on time. Consistent failure shall mean at least three incidences in a one-year period where the contractor failed to begin the project within 30 days of the Proceed Order issued by the LHCA Fund and/or complete the project within one week of the original estimated completion date when it is determined by the LHCA Fund the delays were within the control of the contractor;

2. Repeated incidences of performing changes to the scope of work without proper notification and approval. Repeated incidences shall mean three incidences in a one-year period where changes to the method of treatment or components/surfaces being treated have occurred without the proper notice and approval prior to performing the work;

3. Serious or significant quality of work issues which may or may not have resulted in the LHCA Fund providing funding to correct deficiencies; or

4. Other good cause as determined by the LHCA Fund at their sole discretion.

(e) This subsection concerns reinstatement of lead abatement contractors on the LHCA Fund Approved Lead Abatement Contractors List.

1. Lead abatement contractors that have been removed from the LHCA Fund Approved Lead Abatement Contractors List may apply for reinstatement no sooner than six months after the effective date of their removal from the LHCA Fund Approved Lead Abatement Contractors List. Reinstatement requests must be accompanied by the following:

- i. A written request for reinstatement;
- ii. The specific actions the lead abatement contractor has taken to correct the cause for their removal from the LHCA Fund Approved Lead Abatement Contractors List; and
- iii. Documentation, photographs, or other written evidence to support the lead abatement contractor's request.

2. The Division shall review the reinstatement request and provide the lead abatement contractor with a written determination within 30 days of receipt of the reinstatement request.

(f) The LHCA Fund shall maintain and update the LHCA Fund Approved Lead Abatement Contractor List and the Contractor Profiles on a regular basis. Listed contractors are responsible for periodically reviewing the List and Profiles to insure information is accurate and up-to-date. Both the approved list and contractor profiles shall be posted to the LHCA Funds website located at [www.leadsafeni.org](http://www.leadsafeni.org).

**5:48-2.17 Lead Identification and Field Testing (LIFT) Program**

(a) The purpose of the LIFT Program is to provide funds to State agencies and units of local government with enforcement authority under consumer protection regulations and State agencies and units of local government and/or local boards of health with enforcement authority under childhood lead poisoning prevention regulations and New Jersey Department of Health and Senior Services designated regional lead education coalitions to purchase lead analysis and information technology equipment to identify lead-based paint in New Jersey housing and other coated surfaces in the home to which at-risk children would likely come into contact; to effectively digitize, store and transmit that information; and to promote the clear communication of the test results to property owners, regulatory agencies, researchers and planners. Equipment purchased using LHCA Funds can be for the purposes of primary prevention or poisoning response. Primary prevention means efforts to identify lead-based paint before children's health is adversely impacted. Poisoning response means efforts to identify lead-based paint in a poisoned child's environment. Through these purchases, the LIFT Program will:

1. Increase the capacity of local health departments to conduct field testing operations for the purposes of preventing childhood lead poisoning and, in the case of a poisoned child, immediately eliminating the child's exposure to lead hazards;
2. Provide regional lead education coalitions with the ability to conduct education/outreach activities using appropriate lead testing equipment; and
3. Provide consumer protection agencies with the ability to test for lead and other contaminants in consumer products being offered for sale in New Jersey and being gathering statistical data on those products and their health effects.

(b) The Division may elect to enter into contracts to award grant funds to other State agencies via a Memorandum of Understanding. Grants to units of local governments, local boards of health and nonprofit organizations shall be awarded in a competitive process based upon set standards as identified in a request for proposal processed through the New Jersey Department of Community Affairs System for Administering Grants Electronically (SAGE), including demonstration of need and proposed use of equipment; resource sharing; current mission and capacity; and executive level commitment to solving lead issues.

**5:48-2.18 Health Expedited Abatement of Lead (HEAL) Program**

(a) A local board of health may apply for LHCA loan funds in the form of a repayable loan by applying for the Health Expedited Abatement of Lead (HEAL) Program under the following conditions:

1. At least 90 days has elapsed since the issuance of a Notice of Violation/Abatement Order which has been properly served and the owner has failed to complete the lead abatement; or 45 days following the issuance of a Notice of Violation/Abatement Order if:
  - i. Title to the property is not clear;
  - ii. The local board of health has been unable to properly serve the Notice of Violation/Abatement Order to the owner due to the whereabouts of the owner being unknown;
  - iii. The property has been abandoned by the owner;
  - iv. In the case of properties in foreclosure proceedings, the lender fails to complete the lead abatement; or
  - v. Other good cause;
2. The local board of health has obtained permission from the court having jurisdiction to proceed with the performance of the lead abatement in accordance with their authority under N.J.S.A. 26:1A-1 et seq.;
3. The local board of health agrees to record a lien against the property for the full amount of the loan obtained from the LHCA Fund and assign such lien to the Department; and
4. The local board of health agrees to comply with all applicable provisions of this chapter.

(b) Eligible costs under the HEAL Program include all costs listed at N.J.A.C. 5:48-2.9(a) except that eligible relocation costs shall be limited to relocation of tenant occupants and the following:

1. A one-time project management fee of up to \$1,000 per housing unit; and
  2. Necessary and reasonable costs of recording and assignment of the lien to the Department provided the Department's ability to recover those costs are included in the assignment.
- (c) Ineligible costs under the HEAL Program include:
1. Unpaid fines, penalties or interest thereon issued to the property owner;
  2. Unpaid taxes, water, sewer or other municipal assessments;
  3. Legal costs of actions taken to undertake the lead abatement; and
  4. Attorney's fees except for those associated with normal loan.

### SUBCHAPTER 3. EMERGENCY LEAD POISONING RELOCATION FUND

**5:48-3.1 Purpose and program objectives**

The purpose of the Emergency Lead Poisoning Relocation Fund (ELPR Fund) is to provide financial assistance to relocate a child and his or her family when that child has tested positive for lead poisoning and that child is removed from his or her dwelling unit in connection with an order to abate a lead-based paint hazard. The relocation may be temporary or permanent and the child and family must be relocated to a lead safe housing unit. **In the absence of any allocation provided by the Legislature for the ELPR Fund, programs and services under this subchapter shall be funded from the LHCA Fund.**

**5:48-3.2 Forms of financial assistance**

The ELPR Fund shall make relocation payments in [accordance with N.J.A.C. 5:11, Relocation Assistance and Eviction] **the form of a grant to tenants. The form of financial assistance for owner-occupants shall be determined in accordance with N.J.A.C. 5:48-2, Lead Hazard Control Assistance Fund.**

**5:48-3.3 Basic eligibility criteria**

(a) The basic eligibility criteria for ELPR funds are:

1. The applicant shall be the head of a household with a child under the age of six that:
  - i. Has a confirmed blood lead level of 20 µg/dL [(or the most current Center for Disease Control standard)] or higher; [or]
  - ii. Has a persistent blood lead level between 15 and 19 µg/dL as defined at N.J.A.C. 8:51-4.4; [and] or
  - iii. **Has the most current New Jersey Department of Health and Senior Services (DHSS) environmental intervention blood lead level or higher; and**
2. The applicant shall[:
  - i. Be] **be** subject to an order to vacate or order for removal issued by a State agency or unit of local government undertaking a program of building code enforcement, housing code enforcement or health code enforcement; or
  - ii. Have received a written opinion from the health official finding that the health of the child dictates that the child must be removed due to an immediate risk of continuing exposure to lead hazards in his or her dwelling unit;]
  3. The applicant's current **primary** residence must be subject to an order to abate/notice of violation issued by the local board of health in accordance with N.J.A.C. 8:51-6.1[.];
  4. **The applicant must provide evidence of immediate risk. Acceptable forms of evidence include a written determination from a local board of health or primary care provider that the affected child(ren) is at immediate risk due to continuing exposure to a lead hazard and must be relocated to lead-safe housing;**
  5. **The applicant must be either:**
    - i. An owner-occupant; or
    - ii. A tenant-occupant of a rental residential dwelling which is used as their primary residence; and
  6. For permanent relocation, the applicant must provide evidence that it is impractical or impossible to return to their original primary residence following lead abatement.

(b) Residents of residential dwellings other than owner-occupants or tenant-occupants are not eligible for relocation assistance except

that the Director may agree to a one-time emergency placement not to exceed 14 calendar days to allow the household the opportunity to secure alternative lead-safe housing.

#### 5:48-3.4 Eligible activities/costs

[In accordance with N.J.A.C. 5:11, Relocation Assistance and Eviction, the ELPR Fund shall provide financial assistance for up to 100 percent of the actual reasonable costs of moving expenses either temporary or permanent or a fixed payment, based on the number of rooms in the unit. The fixed payment shall not exceed \$1,000 per household plus a \$400.00 dislocation allowance.]

(a) The ELPR Fund can pay up to 100 percent of actual costs of temporary relocation when the cost meets the following criteria:

1. The cost is eligible under (c) below;
2. The cost is necessary for the household to be relocated and/or for the lead abatement work to occur;
3. The cost is reasonable; and
4. The temporary relocation is not eligible for funding through another source (that is, Emergency Assistance). Exception: ELPR funds may be used while a household is moving through the application process for other funding sources.

(b) In lieu of (a) above, a household may opt to receive a fixed payment of \$1,000 per household plus a dislocation fee of \$800.00.

(c) Eligible temporary relocation costs may include the following:

1. **Temporary housing/shelter:** Actual reasonable costs of temporary housing/shelter when the temporary housing/shelter is lead-safe and, in the case of rooming homes, boarding homes, multiple dwellings, family shelters or hotels, properly registered/licensed. Any lead-safe dwelling unit designed for human habitation provided the dwelling is deemed habitable under applicable State codes may be utilized for temporary housing/shelter. Occupancy shall be no more than is allowable under State or local law. Households shall be kept intact whenever possible. Multiple rooms may be required for larger households and should be adjoining whenever possible. Physical disabilities must be accommodated. Households should not be placed in known drug areas or high crime areas. Placement in campgrounds shall be approved on a case-by-case basis and only in facilities in compliance with applicable State regulations (N.J.A.C. 5:10A, Proprietary Campground Facility Health and Safety Standards, or N.J.A.C. 8:22, Public Campgrounds).

2. **Moving services:** Actual reasonable costs of moving services including, but not limited to: packing materials, packing services, moving services, and rental of moving trucks/vans and equipment. Unpacking shall be performed by the occupants unless they are unable to perform the unpacking due to physical limitations or disability.

3. **Cleaning services/fees:** Actual reasonable cost of cleaning the current residence, furniture or personal belongings when cleaning is required for the following purposes: to remove lead dust hazards in lieu of relocation of occupants; and/or to prepare for the abatement of lead hazards by a licensed lead abatement firm. Cleaning services/fees are limited to those households which are unable to perform the cleaning themselves either due to physical limitations or disability and/or when time is of the essence.

4. **Storage:** Actual reasonable rental costs of storage space or storage pods or containers either onsite or offsite.

5. **Additional transportation costs due to relocation:** Actual or estimated costs of essential transit to and from work, school, day care or health care facilities when the costs are over and above the costs that the applicant and their household would normally incur while residing at their primary residence. For privately owned vehicles, the assistance shall be limited to the State of New Jersey reimbursement rate in effect at the time assistance is provided. As of (the effective date of this amendment), the rate is 31 cents per mile traveled. Additional costs of bus and/or train passes/tickets needed for essential transit may also be eligible.

6. **Additional costs of meals and incidentals:** Per diem allowances for the increased costs of meals and incidentals for temporarily displaced households based upon the per diem rate established by the

Department. The allowance is available to any eligible households temporarily relocated under the provisions of the ELPR Program when the receiving dwelling unit does not include kitchen facilities or meals. Rates differ according to geographic location and size of relocated household.

7. **Other relocation costs:** On a case-by-case basis, other costs not identified in this section may be approved by written request to the Director.

(d) The ELPR Program shall not provide financial assistance for the following costs:

1. **Supplanting funds:** ELPR funds shall not be used to pay for costs which are eligible under other relocation assistance programs except during the period of application processing for the other relocation assistance.

2. **Relocation of pets:** ELPR funds shall not be used to pay for the boarding, moving, feeding or other costs of relocation of pets. Service animals are those that accompany and provide services for a person with a disability and are not pets. The costs associated with the relocation of service animals are eligible.

3. **Unnecessary costs:** ELPR funds shall not be used to pay for the costs of relocation services which are not required to protect the qualifying child and their household members and personal belongings from exposure to lead-based paint hazards.

4. **ELPR funds shall not be used for placement in residential dwellings which are not lead safe.**

5. **Purchase of vehicles or equipment:** ELPR funds shall not be used to purchase moving vans, trucks, trailers, lifts, dollies or other durable equipment.

6. **Attorney's fees/legal fees:** ELPR funds shall not be used to pay for legal services.

7. **Movement of dangerous/flammable or prohibited materials:** Households shall not move or store dangerous, flammable or prohibited materials using ELPR Program funds.

8. **Campers/recreational vehicles:** ELPR funds shall not be used for campground hook up fees or other fees related to providing utilities or parking space for campers or other recreational vehicles outside of a licensed/registered campground facility or within a licensed/registered campground which is not in compliance with applicable state law.

9. **Costs incurred prior to approval:** ELPR funds shall not be used for costs incurred by applicants for their relocation prior to approval of their application unless agreed to in writing by the ELPR Program.

10. **Family members/relatives:** ELPR funds shall not be used for payments made to family members or relatives.

11. **Damage claims:** ELPR funds shall not be used for claims of damage or loss to personal belongings or furnishings except as provided at (i) below.

(e) The ELPR Program limits expenditures to payment of the eligible costs of the temporary relocation of a household when those costs are necessary and reasonable. Temporary relocation assistance shall not exceed 180 days.

(f) The ELPR Program can provide funding for the following eligible costs for households found eligible for permanent relocation:

1. Costs associated with a period of temporary relocation during housing search for a new lead-safe dwelling unit;

2. Security deposit and/or first month's rent;

3. Finders fees, commissions, application fees and other reasonable housing location costs; and

4. Monthly rental subsidy not to exceed 48 months based initially upon the difference in total shelter costs from the household's current rental dwelling to the lead-safe dwelling total shelter costs. Upon annual renewal, future subsidy will be based upon income.

(g) The Department may immediately, by giving the assisted family written notice, cancel and terminate relocation assistance and upon such notice, require reimbursement from the assisted family of any funds disbursed on behalf of the assisted family for which the assisted family was not entitled should the assisted family fail to remain eligible for assistance. Ongoing requirements for eligibility include:



1. The household composition of the assisted family must continue to include the qualifying child;

2. The assisted family shall report any changes in the household composition immediately to the Department by calling 1-877-DCA-LEAD and providing changes in writing at the address provided herein;

3. In the case of temporary relocation assistance, the assisted family acknowledges that their temporary relocation through the ELPR Program does not affect any obligations they may have under the terms of a lease/rental agreement with the landlord of their primary residence. This includes the assisted family's obligation to continue to pay rent to the landlord of their primary residence during their temporary relocation. The assisted family acknowledges that they must continue to pay rent. If the assisted family believes that they are not obligated to pay rent, they should seek independent legal advice. If the assisted family cannot afford to pay for a lawyer, free legal advice may be available by contacting Legal Services. If the assisted family can afford to pay a lawyer but do not know one, they may call the Lawyer Referral Services of the local county bar association;

4. The assisted family shall immediately provide the relocation program with a copy of any Order issued by the Landlord/Tenant Court with jurisdiction regarding their tenancy, any complaint filed for possession, any notice to quit, cease or any similar document indicating that the landlord intends to evict the assisted family from their primary residence;

5. The assisted family shall immediately notify the relocation program of any legal action they take and provide copies of any complaints, notices and orders affecting their tenancy at the primary residence; and

6. Other good cause as determined by the Department.

(h) The Department may immediately terminate relocation assistance without a written notice to the assisted family if:

1. The assisted family fails to maintain the receiving dwelling unit in good and tenantable condition;

2. The qualifying child is no longer a part of the household;

3. The assisted family has failed to limit the use of the accommodations exclusively for their use; or

4. Other good causes as determined by the Department.

(i) The ELPR Program reserves the right to withhold per diem and other direct payments to the assisted family where the relocated household has not maintained their relocated dwelling in good and tenantable condition. The withheld portion may be provided to hotels or other receiving dwelling units to offset the costs of any loss or damages which occurred as a result of the applicant's placement at the sole discretion of the Department.

5:48-3.5 Reimbursement of ELPR Fund

If reimbursement is received from the property owner, Federal or State sources or from insurance proceeds, such reimbursement shall be directed to reimburse the LHCA Fund or, if applicable, the ELPR Fund for payments made under this subchapter.

SUBCHAPTER 4. OTHER RELOCATION SERVICES

5:48-4.1 Lead Dust Hazard Removal Program

(a) The LHCA Fund shall consider applications for lead-poisoning prevention services where lead dust hazards exist and there is evidence that a child has been exposed to lead dust hazards. Lead poisoning prevention services for the purposes of this section means lead inspection/risk assessment, specialized cleaning follow up dust wipe analysis, education and training and other services which are necessary to prevent continued exposure to lead dust hazards as determined by the Program Administrator. Eligibility criteria for payments under this section shall be:

1. The applicant shall be the head of household;

2. The applicant's primary residence must be a rental residential dwelling;

3. The applicant's household must include a qualifying child. A qualifying child means: a member of the applicant's household who is a child under the age of 18 with a blood lead level of five to nine

micrograms of lead per deciliter of blood who resides with the applicant at least nine months of the year;

4. The applicant must provide evidence of the existence of a lead dust hazard by submitting laboratory results of lead dust wipes taken from the primary residence within 60 days of the date of application;

5. If specialized cleaning is performed, the applicant must agree to follow-up dust wipe testing 30, 60 and 90 days following cleaning and must perform any necessary cleaning if follow-up dust wipe testing shows elevated lead dust levels; and

6. If the LHCA Fund obtains a lead inspection/risk assessment, the results must be provided to the property owner and the appropriate regulatory agency enforcing property maintenance codes in the jurisdiction.

(b) In lieu of (a)1 through 4 above, the Department shall also consider applicants qualified under N.J.A.C. 5:48-2.14, Relocation due to immediate risk, or 5:48-3, Emergency Lead Poisoning Relocation Fund, for lead dust hazard removal to maintain a household in residency rather than temporarily relocating the household.

5:48-4.2 Housing Assistance for Lead-safe Living Opportunities (HALLO) Program

(a) The HALLO Program will provide funds through a request for proposal process to eligible non-profit organizations to provide a full-time employee who will serve as a housing assistant to supplement existing human resources assigned to medical case management of families with children with an elevated blood lead level to deal specifically with the family's housing and shelter needs. This would include:

1. Individualized housing needs assessment;

2. Housing counseling;

3. Family budget counseling;

4. The development of an individualized housing plan;

5. Lead-safe housing location;

6. Referrals to agencies which provide housing and utility assistance both short and long-term; and

7. Assisting the household in applying for housing assistance programs such as Section 8 Rental Assistance Program and heating assistance programs and applying for the ELPR and REEL Programs.

(b) The HALLO Program housing assistant will identify through a systematic review of public records housing that was constructed post 1978 and provide that information to the Department for publication on the Lead Safe Housing Registry.

(a)

**DIVISION OF FIRE SAFETY**

**Uniform Fire Code; Fire Code Enforcement; High Level Alarms; Standards for Fire Service Training and Certification; Standard for the Certification of Fire Protection Equipment Contractors; Fire Service Incident Management System; Residential Disability Identification Emblems**

**Proposed Readoptions: N.J.A.C. 5:70, 5:71, 5:72, 5:73, 5:74, 5:75 and 5:76**

Authorized By: Charles A. Richman, Acting Commissioner, Department of Community Affairs.

Authority: N.J.S.A. 52:27D-198, 219, 25d, 25k, 25gg and 25hh, and 52:17B-139.12.

Calendar Reference: See Summary below for explanation of exception to calendar requirements.

Proposal Number: PRN 2009-355.