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This file includes all Regulations adopted and published through the New Jersey Register, Vol. 54 No. 14, July 18, 2022

NJ - New Jersey Administrative Code > TITLE 5. COMMUNITY AFFAIRS > CHAPTER 17. LEAD HAZARD EVALUATION AND ABATEMENT CODE

Title 5, Chapter 17 -- Chapter Notes

Statutory Authority

CHAPTER AUTHORITY:

[N.J.S.A. 52:27D-427](#).

History

CHAPTER SOURCE AND EFFECTIVE DATE:

Effective: August 8, 2017.

See: [49 N.J.R. 2919\(b\)](#).

CHAPTER HISTORICAL NOTE:

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

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

Chapter 17, Retirement Community Full Disclosure Requirements, was repealed by R.1989 d.317, effective June 19, 1989.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

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

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

Chapter 17, Lead Hazard Evaluation and Abatement Code, was readopted as R.2006 d.9, effective November 30, 2005. See: [37 N.J.R. 563\(a\)](#), [38 N.J.R. 125\(b\)](#).

Chapter 17, Lead Hazard Evaluation and Abatement Code, was readopted as R.2010 d.216, effective September 15, 2010. See: [42 N.J.R. 1121\(a\)](#), [42 N.J.R. 2407\(b\)](#).

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 17, Lead Hazard Evaluation and Abatement Code, was scheduled to expire on September 15, 2017. See: [43 N.J.R. 1203\(a\)](#).

Chapter 17, Lead Hazard Evaluation and Abatement Code, was readopted, effective August 8, 2017. See: Source and Effective Date.

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Research References & Practice Aids

CHAPTER EXPIRATION DATE:

Chapter 17, Lead Hazard Evaluation and Abatement Code, expires on August 8, 2024.

LAW REVIEW AND JOURNAL COMMENTARIES:

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

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

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[N.J.A.C. 5:17-1.1](#)

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§ 5:17-1.1 Title; scope; intent

(a) This chapter, adopted pursuant to P.L. 1993, c.288, Lead-Based Paint Hazard Abatement and Lead-Based Paint Abatement Contractor Certification Act, shall be known and shall be cited throughout the rules as "[N.J.A.C. 5:17](#)" and, when referred to in this part of the rules, may be cited as "this chapter."

(b) Unless otherwise specifically provided, all references to article or section numbers or to provisions not specifically identified by number, shall be construed to refer to such article, section, or provision of this chapter.

(c) This chapter controls the abatement of lead-based paint hazards and the certification of lead-based paint hazard evaluation or abatement contractors.

(d) This chapter seeks to provide and ensure public safety, health, and welfare insofar as they are affected by the identification and abatement of lead-based paint hazards. It is not intended to, nor shall it be construed to, conflict with or limit the applicability of the lead exposure in construction standards promulgated by the Occupational Safety and Health Administration (OSHA), [29 C.F.R. 1926.62](#).

(e) The removal, repair, encapsulation, or enclosure of the lead-based paint or lead-contaminated soil shall require a construction permit issued pursuant to the State Uniform Construction Code Act ([N.J.S.A. 52:27D-119](#) et seq.). Any encapsulation or enclosure materials or methods shall conform to the construction requirements of the Uniform Construction Code (UCC) except that there shall be no requirement to increase the size of door or window openings.

(f) The Departments of Health and Labor, pursuant to P.L. 1993, c.288, and agreements between the Departments, shall share information about certifications and abatements pursuant to this Chapter.

1. In instances in which a child with an elevated blood lead level is identified pursuant to Chapter XIII of the State Sanitary Code ([N.J.A.C. 8:51](#)), that code shall control inspection, risk assessment and abatement of premises identified as contributing to the elevated blood lead level.

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§ 5:17-1.2 Definitions

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

"ASTM" means the American Society for Testing and Materials.

"Business firm" means and includes any corporation, company, association, society, firm, partnership or joint stock company, or any sole proprietor, engaged in, advertising, or holding itself out to be in the business of lead evaluation or lead abatement.

"Child occupied facility" means a building, or a portion of a building, constructed prior to 1978, that is visited regularly by the same child, six years of age or under. Such facilities include, but are not limited to, day care centers, preschools and kindergarten classrooms.

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

"Commercial building" means any building or portion thereof used primarily for commercial or industrial activity, which is generally not open to the public, or occupied or visited by children, including, but not limited to, warehouses, factories, storage facilities, aircraft hangars, garages, and wholesale distribution facilities. For purposes of applying these rules, commercial building shall not include offices or other similar spaces within such buildings.

"Commissioner" means the Commissioner of the Department of Community Affairs.

"Composite sampling" means an economical, but less specific, method of sampling for lead-based paint hazards by analyzing dust from several surfaces or soil from different locations together.

"Department" means the Department of Community Affairs.

"Encapsulant" means a coating or rigid material that relies on adhesion to a lead-based painted surface and is not mechanically fastened to the substrate.

"Encapsulation" means a process to make lead-based paint inaccessible by providing a barrier between the lead-based paint and the environment, where the primary means of attachment for the encapsulant is bonding of the product used to the surface covered either by the product itself or through the use of an adhesive.

"Enclosure" means the installation of a rigid, durable barrier that is mechanically attached to building components, with all edges and seams sealed with caulk or other sealant and having a design life of at least 20 years.

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"HEPA" means high efficiency particulate air.

"HEPA sander" means an electric sander equipped with a specially designed shroud or containment system where all exhaust air is passed through a HEPA filter.

"HEPA vacuum blasting" means abrasive blasting with a shroud under the vacuum that is attached to the blast head where all exhaust air is passed through a HEPA filter.

"HEPA vacuum needle gun" means a needle gun that removes paint by the force of metal needles rapidly pounding against the painted surface attached to a vacuum where all exhaust air is passed through a HEPA filter.

"HUD Guidelines" means the most recent version of the "Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing" prepared by the United States Department of Housing and Urban Development, Office of Healthy Homes and Lead Hazard Control and available from the U.S. Department of Housing and Urban Development (HUD), 451 7th Street, S.W., Washington, DC 20410 or by calling 1-800-245-2691. Copies may also be obtained from the HUD website at www.hud.gov/offices/lead/guidelines/hudguidelines/index.cfm.

"Inspector/risk assessor" means a person certified by the New Jersey Department of Health as such.

"Interim controls" means a set of measures designed to reduce temporarily human exposure or likely exposure to lead-based paint hazards, including specialized cleaning, repairs, maintenance, painting, temporary containment, ongoing monitoring of lead-based paint hazards or potential hazards, and the establishment and operation of management and resident education programs, or as the term is defined under [42 U.S.C. § 4851b](#).

"Lead abatement" means a set of measures designed to permanently eliminate lead-based paint hazards in accordance with standards established by the commissioner in compliance with standards promulgated by the appropriate Federal agencies. Such term includes:

1. The removal of lead-based paint and lead-contaminated dust, the permanent containment or encapsulation of lead-based paint, the replacement of lead-painted surfaces or fixtures, and the removal or covering of lead-contaminated soil; and
2. All preparation, cleanup, disposal, and post-abatement clearance testing activities associated with such measures.

"Lead abatement clearance certificate" means the certificate issued by the construction official pursuant to [N.J.A.C. 5:23-2.23\(p\)](#) at the end of a lead abatement project.

"Lead evaluation" means a surface-by-surface investigation to determine the presence of lead-based paint and the provision of a report explaining the results of the investigation.

"Lead hazard control work" means work to make housing lead-safe, or to mitigate through the use of interim controls as permitted under Federal law and as defined in [42 U.S.C. § 4851b](#), or to eliminate permanently lead-based hazards by abatement on a premises by a person certified to perform lead abatement work pursuant to sections 1 through 12 of P.L. 1993, c.288 and sections 14 through 24 of P.L. 1993, c.288.

"Lead screening" means an abbreviated lead-based paint hazard evaluation performed in accordance with the requirements established by this chapter for such testing, including N.J.A.C. 5:17-3 Appendices 3-A and 3-B.

"Lead-based paint" means paint or other surface coating material that contains lead equal to or in excess of 1.0 milligrams per centimeter squared or in excess of 0.5 percent by weight, or such other level as may be established by Federal law.

"Lead-based paint hazard" means any condition that causes exposure to lead from lead-contaminated dust or soil or lead-contaminated paint that is deteriorated or present in surfaces that would result in adverse human health effects.

"Lead-free" means having no lead-based paint on any surface within a dwelling unit, common area or building.

"Lead-free interior" means having no lead-based paint on any interior surface within a dwelling unit, common area or building. For the purpose of this definition, interior surface shall include any part of a door or window system that is accessible from the inside of the building while the window or door is in the closed position. Door thresholds shall be considered interior components. Window wells shall be considered exterior components and shall be smooth and cleanable.

"Lead-hazard free" means the absence of any condition that causes exposure to lead from lead-contaminated dust, lead-contaminated soil, or lead-contaminated paint that is deteriorated or present in accessible surfaces, friction surfaces, or impact surfaces that would result in adverse human health effects.

"Lead-hazard free certificate" means a certificate that is issued by a certified firm upon completion of a risk assessment to confirm that housing is lead hazard free.

"[micro]g" means micrograms of lead per.

"N.J.A.C." means the New Jersey Administrative Code.

"N.L.L.A.P." means the U.S. Environmental Protection Agency National Lead Laboratory Accreditation Program.

"Owner" means building owner or his agent. In the case of evaluation and testing services, "owner" shall include the client of the evaluation firm if other than the owner.

"Patch test" means a field test procedure in which a small area of the existing lead-based paint film is prepared and the encapsulant product is applied or installed and cured in the manner intended for the large-scale job and then tested to determine adhesion and surface integrity.

"Plastic sheeting" means a minimum of six mil thick polyethylene (plastic) sheeting unless the text specifies otherwise.

"Superstructure" means a large steel or other industrial structure, such as a bridge or water tower, which contains no habitable space. It is synonymous with "industrial steel structure."

"Surface" means an area such as an interior or exterior wall, ceiling, floor, door, door frame, window sill, window frame, porch, stair, handrail and spindle, or other abradable surface, soil, furniture, a carpet, a radiator or a water pipe.

"UCC" means the New Jersey Uniform Construction Code, [N.J.A.C. 5:23](#).

"Window" means the entire window system, including the sash, the stop and parting beads, and the window jambs.

"Window well" means the window trough. It is also synonymous with window stool, defined in ASTM Standards E1605-94 as flat, horizontal molding fitted over the sill, on the window interior, between jambs, that comes in contact with the bottom rail of the (lower) operating sash and the window sill.

"XRF" means x-ray fluorescence, a radiological method of in-place testing for the presence of lead-based paint on surfaces.

History

HISTORY:

Amended by R.1997 d.302, effective July 21, 1997 (operative September 24, 1997).

See: [29 N.J.R. 2202\(a\)](#), [29 N.J.R. 3242\(b\)](#).

Added "Commercial building" and "Superstructure".

Amended by R.2001 d.328, effective September 17, 2001.

See: [33 N.J.R. 1807\(a\)](#), [33 N.J.R. 3307\(a\)](#).

Inserted "Child occupied facility" and "Clearance technician".

Amended by R.2005 d.144, effective May 16, 2005.

See: [36 N.J.R. 2106\(a\)](#), [37 N.J.R. 1754\(c\)](#).

Rewrote the section.

Amended by R.2006 d.177, effective May 15, 2006.

See: [37 N.J.R. 1698\(a\)](#), [37 N.J.R. 1931\(a\)](#), [38 N.J.R.2115\(b\)](#).

Inserted the definition of "Lead-free interior".

Administrative correction.

See: [43 N.J.R. 616\(a\)](#).

Annotations

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§ 5:17-1.3 Resource materials

Additional information on evaluating and abating lead hazards may be obtained from the following sources: American Society for Testing Materials, 1916 Race Street, Philadelphia, Pennsylvania 19103; The National Center for Lead-Safe Housing, 10227 Wincopin Circle, Suite 205, Columbia, Maryland 21044, (410) 992-0712; The National Institute of Building Sciences, 1201 L Street, NW, Suite 400, Washington, DC 20005-4024, (202) 289-7800; and the Steel Structures Painting Council, The Crane Building, 40 24th Street, 6th Floor, Pittsburgh, Pennsylvania 15222.

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§ 5:17-2.1 Certification required

(a) Effective January 1, 1996, no individual, partnership, corporation or other business entity shall engage in either the business of lead evaluation or the business of lead abatement, unless certified by the Department in accordance with section 15 of P.L. 1993, c.288 ([N.J.S.A. 52:27D-428](#)) and these rules.

1. For lead abatement jobs performed on superstructures where public bidding procedures are applicable, projects with an advertisement date that precedes September 24, 1997 may proceed without a certified lead abatement contractor.

(b) Any individual, corporation, partnership or other business entity seeking certification in accordance with these rules shall either be certified or shall employ individuals certified by the Department of Health in accordance with section 3 of P.L. 1993, c.288 ([N.J.S.A. 26:2Q-3](#)) (see [N.J.A.C. 8:62](#)) and shall designate a person, certified as a lead abatement supervisor by the Department of Health, at each job site to be responsible for ensuring compliance with the requirements of P.L. 1993, c.288 and of these rules.

(c) Contractor certification shall not be required for the following individuals or activities:

1. An owner undertaking work on his or her own premises using his or her own employees, provided that those employees are certified by the Department of Health;

2. A homeowner performing lead abatement work himself or herself on a dwelling unit that he or she owns and occupies as a primary place of residence;

3. Any business firm engaging in painting, woodworking, structural renovation or other indoor or outdoor contracting services that may result in the disturbance of paint, provided that the firm does not hold itself out as certified by the Department or otherwise represent that it has specialized competency to perform lead evaluation or abatement work; or

4. A person with proof that he or she has completed a State-approved or HUD-sponsored training class to be a "clearance technician," when that person is taking a dust wipe sample in the work area following renovation, remodeling, repair or maintenance work; provided, however, that the activities that may be performed without evaluation contractor certification shall be limited to performing dust wipe sampling in the work area and providing a report with the results of the dust wipe analysis. A clearance technician is not qualified to perform evaluation, and is not qualified to perform clearance after a lead abatement, unless the clearance technician is employed by a certified evaluation contractor.

(d) A corporation, partnership or other business entity may be denied certification if any stockholder, director, officer, partner or other person having an economic interest in the organization shall have violated any of the provisions of these rules or been denied certification for cause. This provision shall also apply to any business organization having a parent or subsidiary relationship to any such business organization.

(e) Local health departments or other public agencies performing lead evaluations shall not be required to obtain contractor certification to perform evaluations within their jurisdictions.

History

HISTORY:

Amended by R.1997 d.302, effective July 21, 1997 (operative September 24, 1997).

See: [29 N.J.R. 2202\(a\)](#), [29 N.J.R. 3242\(b\)](#).

Added (a)1.

Amended by R.2001 d.328, effective September 17, 2001.

See: [33 N.J.R. 1807\(a\)](#), [33 N.J.R. 3307\(a\)](#).

In (c), added 4.

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Penalty was properly assessed against respondent after he engaged in lead abatement without required State certification in violation of [N.J.A.C. 5:17-2.1\(a\)](#), failed to obtain a permit as required by [N.J.A.C. 5:17-5.2\(a\)](#), failed to provide 10 day Notice of beginning of the work under [N.J.A.C. 5:17-5.1\(b\)](#), failed to comply with the requirement that no residents be allowed in the building during abatement pursuant to [N.J.A.C. 5:17-4.3\(b\)4iii](#), and did not conduct the cleaning, inspection and final clearance sampling to ensure safety as required by [N.J.A.C. 5:17-9.1\(b\)](#). [Dep't. of Cmty. Affairs, Bureau of Code Serv. v. Fadia St. Juste, OAL DKT. No. CAF 12185-12, 2014 N.J. AGEN LEXIS 316](#), Initial Decision (June 5, 2014).

[Initial Decision \(2006 N.J. AGEN LEXIS 1022\)](#) adopted, which concluded that denial of respondent's application for certification as a lead abatement contractor was justified because respondent had not provided proof of the insurance coverage required by [N.J.A.C. 5:17-2.3\(b\)9](#). [Dep't of Community Affairs, Bureau of Code Services v. Easterling, d/b/a Miss Fix-It, OAL Dkt. No. CAF 10175-06, Final Decision \(January 8, 2007\)](#).

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§ 5:17-2.2 Conflict of interest

(a) No business firm shall be certified to offer lead evaluation or lead abatement services if any person who is a proprietor, general partner, officer, director, employee, or shareholder or limited partner in the firm is employed as an official or inspector by any agency, public or private, enforcing the State Uniform Construction Code Act or, except as otherwise provided in paragraph(a)2 below, is employed by any public health department or agency in the State of New Jersey.

1. This section shall not apply to the ownership of stock or other investment instrument in any corporation listed on any national stock exchange.

2. Any other provision of this subsection to the contrary notwithstanding, a business firm may be certified to offer lead evaluation services only, despite the fact that a person who is a proprietor, general partner, officer, director, employee, or shareholder or limited partner in the firm is employed by a public health department or agency in the State of New Jersey. In any such case, the business firm shall not engage in the business of lead evaluation within the area of jurisdiction of the public health department or agency by which any such person is employed and shall not have any relationship to any individual or business firm performing lead abatement services.

(b) There shall be no relationship between the individuals or business firms performing lead abatement services other than clearance testing at a job site and the individuals or business firms performing clearance testing at the same job site.

(c) Except as otherwise provided in (a)2 and (b) above, nothing contained in this section shall be deemed to prevent a business firm from offering both evaluation and abatement services, or from offering all abatement services, including clearance testing.

(d) For evaluation services rendered for the purpose of complying with the requirements of [N.J.A.C. 5:10](#), of any other applicable maintenance code or of another State or local law, there shall be no personal, professional or economic relationship between the individual(s) or business firm performing the lead evaluation services and the property owner other than the contract to perform lead evaluation services.

History

HISTORY:

Amended by R.2005 d.144, effective May 16, 2005.

See: [36 N.J.R. 2106\(a\)](#), [37 N.J.R. 1754\(c\)](#).

Added (d).

Amended by R.2008 d.287, effective October 6, 2008.

See: [40 N.J.R. 1421\(a\)](#), [40 N.J.R. 5575\(a\)](#).

Rewrote (b); and in (c), substituted "(a)2 and (b)" for "paragraph (a)2" and "or from offering all abatement services, including clearance testing" for "provided that the disclosure required in (b) above is made for any job where that firm performs both evaluation and abatement".

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§ 5:17-2.3 Application for certification

(a) Every application for certification as either a lead evaluation contractor or a lead abatement contractor, or both, shall be made on the appropriate form prescribed by the Commissioner and shall be accompanied by a nonreturnable fee of \$ 2,518. In the case of firms seeking certification to perform both evaluation and abatement work, two fees shall be paid.

1. Business firms applying to perform abatement on both buildings and superstructures may submit one application for both. Certified business firms wishing to add steel structures to their certification may do so by submitting such documentation as may be required by the Department, including a listing of the New Jersey Department of Health and Senior Services certified workers and supervisors in the superstructures disciplines, information concerning their training and refresher training, their ability to use different types of equipment, experience of the firm and of its workers and supervisors in the field of lead abatement, and information concerning any activities that might create a conflict of interest, as defined in [N.J.A.C. 5:17-2.2](#). No separate application or application fee shall be required to add superstructures to a contractor's certification for lead evaluation or abatement.

(b) Every application for certification shall include the following:

1. The full name and address of the business. In the case of a corporation, the name entered on the application shall be the same as that registered with the Secretary of State. In all cases, the address entered on the application shall be the street number, street name, municipality, the post office serving the property, if different from the municipality, and the zip code, of the location of the primary office of the applicant's business organization. In no case shall the address be only the address of an agent or only a post office box. It shall, in all cases, be the address at which the proprietor, or the designated representative of the business organization who is certified by the Department of Health in accordance with section 3 of P.L. 1993, c.288 ([N.J.S.A. 26:2Q-3](#)) and is responsible for compliance with P.L. 1993, c.288 can usually be found;

2. The name and address of an agent upon whom service upon the business organization may be made within the State of New Jersey. The agent shall be either an individual who is a resident of the State of New Jersey or a corporation maintaining an office within the State of New Jersey;

3. The business organization's telephone number;

4. The business organization's Federal Taxpayer Identification Number and New Jersey Unemployment Insurance Number, if any;

5. The name, address and home telephone number, and date of birth of each person having at least a 10 percent ownership interest in the business organization;

6. Information concerning the experience of the applicant, and of the person certified by the Department of Health and designated as being responsible for compliance with P.L. 1993, c.288, in the State of New Jersey, including the number of years in the lead evaluation and/or lead abatement

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business and the municipalities in which such business has been carried on during the three years immediately preceding the date of application;

7. A list of the employees who will be involved in performing evaluation or abatement tasks, together with their New Jersey Department of Health Certification Number and the discipline(s) in which they are certified;

8. Any criminal convictions against the business or against any person having an interest in the business and the disposition thereof; and

9. Proof of insurance as follows: a minimum of \$ 1 million in commercial general liability coverage written on an occurrence basis without a sunset clause or provision by an entity admitted or otherwise approved to write policies in New Jersey by the New Jersey Department of Insurance and with an "A" or better rating from A.M. Best. Insurance coverage meeting this requirement shall be in effect during the entire time that a contractor remains certified and cannot be allowed to lapse.

i. For purposes of submitting the application for certification, a copy of the policy cover sheet showing the contractor name, the policy number, the effective dates, the amount of coverage and the name of the entity issuing the policy shall be accepted as proof of insurance.

ii. Existing insurance policies written by entities that have at least a "C plus" rating from A.M. Best shall be accepted as meeting this requirement; provided that, upon expiration of that policy or upon renewal of the contractor's certification, whichever occurs first, the contractor shall obtain insurance that meets the requirements in (b)9 above.

(c) Each applicant for certification shall disclose in the application any relationship with any other business organization engaged in lead evaluation and/or lead abatement or in the supply of goods, services or materials for lead evaluation or abatement or in any other work for which a permit is required pursuant to the Uniform Construction Code, [N.J.A.C. 5:23](#), and shall further disclose all interests of any officer, partner, director, shareholder or employee in any other business organization engaged in lead evaluation and/or lead abatement or in the supply of goods, services or materials for lead evaluation or abatement or in any other work for which a permit is required pursuant to the Uniform Construction Code, [N.J.A.C. 5:23](#).

History

HISTORY:

Amended by R.1996 d.543, effective December 2, 1996.

See: [28 N.J.R. 3995\(a\)](#), [28 N.J.R. 5069\(a\)](#).

Amended by R.1997 d.302, effective July 21, 1997 (operative September 24, 1997).

See: [29 N.J.R. 2202\(a\)](#), [29 N.J.R. 3242\(b\)](#).

Added (a)1.

Amended by R.2002 d.260, effective August 5, 2002.

See: [34 N.J.R. 1572\(a\)](#), [34 N.J.R. 2781\(c\)](#).

In (a), substituted "\$ 1,800" for "\$ 1,500" and deleted the third and fourth sentences in the introductory paragraph.

Amended by R.2009 d.77, effective March 2, 2009.

See: [40 N.J.R 5895\(a\)](#), [41 N.J.R. 1009\(b\)](#).

In the introductory paragraph of (a), substituted "\$ 2,268" for "\$ 1,800".

Amended by R.2014 d.149, effective October 6, 2014.

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See: [46 N.J.R. 898\(a\)](#), [46 N.J.R. 2024\(a\)](#).

In the introductory paragraph of (a), substituted "\$ 2,518" for "\$ 2,268".

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[Initial Decision \(2006 N.J. AGEN LEXIS 1022\)](#) adopted, which concluded that denial of respondent's application for certification as a lead abatement contractor was justified because respondent had not provided proof of the insurance coverage required by [N.J.A.C. 5:17-2.3\(b\)](#)⁹. Dep't of Community Affairs, Bureau of Code Services v. Easterling, d/b/a Miss Fix-It, OAL Dkt. No. CAF 10175-06, Final Decision (January 8, 2007).

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[N.J.A.C. 5:17-2.4](#)

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§ 5:17-2.4 Issuance of certification

- (a) Upon receipt of a completed application, the Department shall either issue the certification or deny it in accordance with these rules within 30 days.
- (b) The certification shall remain valid, unless suspended or revoked in accordance with these rules, for a two year period ending with the expiration date indicated thereon. If the business is transferred to another legal entity, the contractor certification issued by the Department shall not be transferable.
1. The Department shall be notified in writing when any employee who is certified by the Department of Health and is designated as having responsibility for ensuring compliance with P.L. 1993, c.288 ceases to be associated with the business organization. In any such case, the certification shall expire and become invalid unless another person certified by the Department of Health is substituted and the Department of Community Affairs is so notified in writing within 10 days of the change.
 2. Any other change in the information submitted to the Department with the application for certification shall be reported to the Department in writing within 30 days of the change.
- (c) The certification shall specify whether the holder is certified as a lead evaluation contractor, a lead abatement contractor, or both.
- (d) A certification may be renewed for additional two-year periods. Applications for renewal shall be made upon forms provided by the Commissioner, shall be accompanied by a fee of \$ 2,518 and shall be subject to the same conditions as an original application.
1. Applications for recertification may be made during the 90 day period before the certification expiration date or the 90 day period after the certification expiration date; except that if a business firm applies after the certification expiration date, the firm shall not perform any services for which certification is required until the certification is renewed. If a certification has expired for more than 90 days, the business firm shall be required to obtain a new certification.
- (e) A copy of the certification shall be conspicuously displayed for public review in the office of a firm engaged in the business of abating lead-based paint hazards or conducting lead evaluations. Additionally, the certification number shall be displayed on all business vehicles and at all lead abatement or evaluation jobs in progress.

History

HISTORY:

Amended by R.2002 d.260, effective August 5, 2002.

See: [34 N.J.R. 1572\(a\)](#), [34 N.J.R. 2781\(c\)](#).

In (d), substituted "\$ 1,800" for \$ 1,500" in the introductory paragraph.

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Amended by R.2009 d.77, effective March 2, 2009.

See: [40 N.J.R. 5895\(a\)](#), [41 N.J.R. 1009\(b\)](#).

In the introductory paragraph of (d), substituted "\$ 2,268" for "\$ 1,800".

Amended by R.2014 d.149, effective October 6, 2014.

See: [46 N.J.R. 898\(a\)](#), [46 N.J.R. 2024\(a\)](#).

In the introductory paragraph of (d), substituted "\$ 2,518" for "\$ 2,268".

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[N.J.A.C. 5:17-2.5](#)

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§ 5:17-2.5 Denial, suspension, imposition of conditions upon or revocation of certification

(a) A certification may be denied, suspended, limited or revoked, depending on the nature and severity of the offense, if the certification holder or applicant, or an officer, partner, director, shareholder or employee of the certification holder or applicant, has at any time:

1. Willfully made a misstatement or omission of material fact in an application for certification or renewal of certification, or in providing other information required by the Department or by a local enforcing agency enforcing the State Uniform Construction Code;
2. Misrepresented qualifications for certification, or fraudulently obtained certification;
3. Willfully committed fraud in the business of lead evaluation or lead abatement or in any other business involving work subject to the Uniform Construction Code, [N.J.A.C. 5:23](#);
4. Engaged in practices during lead abatement work contrary to safe procedures established therefor, or otherwise practiced lead evaluation or lead abatement in a grossly negligent manner;
5. Engaged in the business of lead evaluation and/or lead abatement without having certification from the Department to do so, or employed persons to perform lead evaluation or lead abatement work who were not then certified pursuant to section 3 of P.L. 1993, c.288 ([N.J.S.A. 26:2Q-3](#)) to perform such work;
6. Failed to comply with applicable permit and/or certificate requirements, or otherwise violated, or abetted another to violate, or hindered or delayed the Department in the enforcement of, the State Uniform Construction Code Act, as supplemented by sections 14 through 24 of P.L. 1993, c.288, including these rules adopted pursuant thereto; or
7. Refused to make a certification available when directed to do so by the Department, or otherwise violated, or abetted another to violate, any order of the Commissioner issued pursuant to the State Uniform Construction Code Act, as supplemented by sections 14 through 24 of P.L. 1993, c.288.

(b) Whenever the Department shall find cause to deny an application for certification, or to suspend or revoke a certification, it shall notify the applicant or certification holder of the reasons therefor, in writing, and shall provide an opportunity for a hearing pursuant to the Administrative Procedure Act, [N.J.S.A. 52:14B-1](#) et seq., and the Uniform Administrative Procedure Rules, [N.J.A.C. 1:1](#), when a request for a hearing is filed within 15 days of the date of notice.

(c) Denial of, suspension of, imposition of conditions upon, revocation of, or refusal to renew a certification shall not limit the Department from pursuing against the applicant or certificate holder any other lawful remedy available to the Department.

(d) A business firm whose certification has been revoked shall be ineligible to apply for certification for three years from the date of revocation. This ineligibility shall extend to any other business firm having any

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proprietor, officer, director, general partner, or shareholder or limited partner with at least a 10 percent interest in common with the business firm whose certification was revoked.

(e) Pursuant to Section 24 of P.L. 1993, c.288, the Department of Community Affairs will delegate to the Department of Labor, through a Memorandum of Understanding to be entered into between the Departments, enforcement authority over business firms performing lead hazard abatement in buildings or structures that do not contain dwelling units. Interfering with the Department of Labor in the exercise of its enforcement authority under this agreement or failing to comply with any order issued by the Department of Labor under this agreement shall be deemed to be grounds for denial, suspension, imposition of conditions upon or revocation of certification as described in (a) above.

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§ 5:17-2.6 Civil penalties

(a) No person shall, either knowingly or purposely:

1. Obstruct, hinder, delay or interfere by force or otherwise with the Department in the exercise of any power or the discharge of any function or duty pursuant to the provisions of sections 14 through 24 of P.L. 1993, c.288;
2. Prepare, utter or render any false statement, report, document, plan or specification permitted or required pursuant to sections 14 through 24 of P.L. 1993, c.288; or
3. Refuse or fail to comply with a ruling, action, order or notice of the Commissioner pursuant to sections 14 through 24 of P.L. 1993, c.288.

(b) Any person who shall violate any provision of (a) above shall be subject to a civil penalty not exceeding \$ 1,000 for the first offense and not exceeding \$ 5,000 for each subsequent offense. If the violation is of a continuing nature, each day that it continues shall constitute an additional and separate violation.

(c) A person shall be deemed to have violated or caused to be violated the provisions of sections 14 through 24 of P.L. 1993, c.288 if an officer, agent or employee under his or her control has violated or caused to be violated any such provision. If any such person is a corporation, all officers, directors and shareholders having at least a 10 percent interest shall be jointly and individually liable for any violation by the corporation.

(d) Pursuant to Section 24 of P.L. 1993, c.288, the Department of Community Affairs will delegate to the Department of Labor, through a Memorandum of Understanding to be entered into between the Departments, enforcement authority over business firms performing lead hazard abatement in buildings or structures that do not contain dwelling units. Interfering with the Department of Labor in the exercise of its enforcement authority under this agreement shall be deemed to be a violation of (a) above and shall carry the same penalties as described in (b) and (c) above.

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§ 5:17-3.1 Contract documents--testing and evaluation

(a) Prior to testing and evaluation, an inspector/risk assessor shall enter into a contract with the owner or client which explains:

1. The extent of the testing and evaluation, including, but not limited to, the method and number of samples to be taken;
2. Any special responsibilities or precautions which owners or occupants need to be aware of during testing;
3. The estimated duration and cost of the testing and evaluation;
4. Whether the services to be provided include testing for the presence of lead-based paint only or risk assessment. If the services to be provided include risk assessment, the contract shall specify the extent of any recommendations to be made at the completion of the testing/evaluation, including whether additional testing may be recommended. It shall be made clear to the owner whether additional testing is required by Federal or State law.
5. If composite samples are to be taken, a statement that composite samples will be used and a brief explanation of this sampling method.
6. For multiple dwellings, a statement as to whether the sampling plan will employ random or worst-case sampling and an explanation of the methodology to be used.

(b) Prior to testing and evaluation, an inspector/risk assessor shall inform the owner that all testing and evaluation can be forgone if all painted surfaces are to be abated as if they were covered with lead-based paint.

(c) For residential structures, the inspector/risk assessor shall first determine if the structure pre-dates 1978. For structures built on or after January 1, 1978, no testing/evaluation shall be performed unless the owner acknowledges in writing that he or she has been informed that such structures are considered lead-safe and that the owner is requesting testing/evaluation as a special precaution.

(d) If an inspector/risk assessor determines that a residential structure was built before 1978 and finds that all painted surfaces are in intact condition, he or she shall offer to perform a less comprehensive lead screening prior to deciding whether to recommend further testing or evaluation.

1. The cost of the screenings shall be disclosed.
2. Lead screening shall be performed in accordance with U.S. Environmental Protection Agency rules (40 CFR 745) included here as subchapter Appendix 3-A, incorporated herein by reference.
 - i. At the owner's option, or if otherwise required by law, the screening may include a survey for proximate environmental lead sources and soil, water or air tests for lead. However, if the inspector/risk assessor undertakes these additional tests, a signed statement shall be required

from the owner acknowledging that he or she has been informed that these tests, absent other evidence of contamination, are not currently required under Federal or State law.

(e) In the case of lead evaluation performed in connection with a lease or transfer of real estate subject to the Federal Requirements for Disclosure of Known Lead-Based Paint Hazards in Housing, if the results of initial testing or screening are negative (no lead-based paint is detected), then no risk assessment or further testing shall be recommended by the contractor performing this evaluation.

1. The contractor shall obtain authorization from the owner or client before proceeding with a risk assessment.

(f) A copy of the firm's certification and/or qualifications shall be supplied at the owner's request.

History

HISTORY:

Amended by R.1996 d.543, effective December 2, 1996.

See: [28 New Jersey Register 3995\(a\)](#), [28 New Jersey Register 5069\(a\)](#).

Administrative correction.

See: [32 New Jersey Register 834\(a\)](#).

Amended by R.2005 d.144, effective May 16, 2005.

See: [36 New Jersey Register 2106\(a\)](#), [37 New Jersey Register 1754\(c\)](#).

Rewrote the section.

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§ 5:17-3.2 Testing and evaluation

(a) All testing and evaluation services shall be performed in accordance with the three standards listed below, as appropriate. In addition, for post-abatement clearance testing, [N.J.A.C. 5:17-9.1](#) shall be followed.

1. Chapters 5, 7 and 15 of the HUD Guidelines;
2. The guidelines of the Steel Structures Painting Council referenced in [N.J.A.C. 5:17-1.3](#); and
3. Rules adopted by the U.S. Environmental Protection Agency at 40 C.F.R. 745.

(b) For testing and evaluation undertaken at the owner's option, the extent of the testing and evaluation to be performed shall be as defined in the contract with the owner as per [N.J.A.C. 5:17-3.1\(a\)](#)1. The standards listed in (a) above shall dictate the method of testing and sample collection. They shall serve as a guide for the number and location of samples to be taken. The actual number and location of samples taken shall be as per the contract with the owner or client.

(c) For testing and evaluation undertaken for the purpose of complying with the requirements of [N.J.A.C. 5:10-6.6](#), [5:15-4.2](#), [5:27-4.10](#), [5:28-2.1](#) or of any other applicable maintenance code, the method of testing and evaluation and the number and location of samples to be tested shall be in accordance with the standards listed in (a) above and shall include the elements prescribed in the appendices listed below.

1. Lead screening for this purpose shall be performed in accordance with the rules adopted by the U.S. Environmental Protection Agency at 40 C.F.R. 745, included as subchapter Appendix 3-A.
2. Risk assessment for this purpose shall be performed in accordance with the rules adopted by the U.S. Environmental Protection Agency at 40 C.F.R. 745, included as subchapter Appendix 3-B, incorporated herein by reference. For purposes of performing a risk assessment, "floors," as specified in [40 C.F.R. 745.227\(d\)](#), shall include both carpeted and uncarpeted surfaces.

(d) The inspector/risk assessor shall disclose sample sites to the owner and to any tenants. Owner-occupants or tenants shall be given an opportunity to show the inspector/risk assessor areas which they suspect to be lead hazards. The inspector/risk assessor shall confirm the location and use of rooms with the occupants.

(e) For investigations performed by local health departments involving a child with an elevated blood lead level, Department of Health rules, [N.J.A.C. 8:51](#), shall govern.

History

HISTORY:

Amended by R.1996 d.543, effective December 2, 1996.

N.J.A.C. 5:17-3.2

See: [28 New Jersey Register 3995\(a\)](#), [28 New Jersey Register 5069\(a\)](#).

Amended by R.2005 d.144, effective May 16, 2005.

See: [36 New Jersey Register 2106\(a\)](#), [37 New Jersey Register 1754\(c\)](#).

Rewrote the section.

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§ 5:17-3.3 Certification to perform evaluation services; standards

(a) All evaluation and testing for lead based paint hazards shall be conducted by inspector/risk assessors trained as per [N.J.A.C. 8:62](#) and certified pursuant to these regulations.

1. For lead hazard abatement performed in response to an evaluation done in connection with a lease or transfer of real estate subject to the Federal Requirements for Disclosure of Known Lead Based Paint and/or Lead Based Paint Hazards in Housing (24 C.F.R. Part 38 and 40 C.F.R. Part 745), the clearance testing shall be performed by the same contractor that performed the initial evaluation or by another evaluation contractor of the buyer's choice.

(b) All laboratories which process or evaluate samples shall be recognized under the USEPA National Lead Laboratory Accreditation Program (NLLAP) or an equivalent independent national accreditation program, to analyze lead in paint, dust and soil samples.

(c) The contractor shall allow the Department access to the job site at any time while evaluation is ongoing. The contractor shall also make available to the Department, upon request, any documentation relevant to the job. The Department of Health and Senior Services shall be accorded the same access to job sites and documentation in administering its enforcement responsibilities.

History

HISTORY:

Amended by R.1996 d.543, effective December 2, 1996.

See: [28 New Jersey Register 3995\(a\)](#), [28 New Jersey Register 5069\(a\)](#).

Administrative correction.

See: [32 New Jersey Register 834\(a\)](#).

Amended by R.2005 d.144, effective May 16, 2005.

See: [36 New Jersey Register 2106\(a\)](#), [37 New Jersey Register 1754\(c\)](#).

Deleted (d).

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§ 5:17-3.4 Additional testing requirements

- (a) XRF testing shall be performed in compliance with the HUD Guidelines and with N.J.A.C. 7:28-4 using accepted manufacturers' recommended calibration techniques and substrate corrections.
- (b) Dust wipe sampling shall be done as per the HUD Guidelines and any requirements imposed by the certified laboratory that will analyze the samples.
- (c) Anodic stripping voltammetry (ASV) may be used to test surfaces in accordance with manufacturer's recommendations, ASTM standard E2051-01, and any applicable Federal protocols that may be developed.
- (d) Carpet shall be tested by dust wipe, by vacuum sampling in accordance with the U.S. Environmental Protection Agency report "Residential Sampling for Lead: Protocols for Dust and Soil Sampling," March 29, 1995, incorporated herein by reference. The report may be ordered through the US EPA website www.epa.gov/opptintr/lead/leadtpbf.htm.
- (e) An inspector/risk assessor or an owner or occupant may use chemical spot tests for initial pre-tests; however, chemical spot tests shall not form the basis of any screening, testing or evaluation or abatement activity performed under this chapter.
- (f) Any other test methods may be used if documentation is first submitted to the Department, and the Department, based on test data or acceptance by a Federal authority, approves the method for use.

History

HISTORY:

Amended by R.2005 d.144, effective May 16, 2005.

See: [36 N.J.R. 2106\(a\)](#), [37 N.J.R. 1754\(c\)](#).

Rewrote the section.

Amended by R.2021 d.008, effective January 19, 2021.

See: [52 N.J.R. 497\(a\)](#), [53 N.J.R. 123\(a\)](#).

In (b), inserted "and any requirements imposed by the certified laboratory that will analyze the samples".

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§ 5:17-3.5 Lead hazards

(a) The following lead dust levels resulting from a lead screening shall indicate that a full evaluation shall be recommended in the report produced by the inspector/risk assessor:

1. Floor wipes in excess of 10 [mu]g/square foot; or
2. Window sill wipes in excess of 100 [mu]g/square foot.

(b) The following lead dust levels shall indicate lead hazards:

1. Floors--equal to or greater than 10 [mu]g/square foot;
2. Interior window sills--equal to or greater than 100 [mu]g/square foot;
3. Window wells -- equal to or greater than 400 [mu]g/square foot.

History

HISTORY:

Amended by R.2001 d.328, effective September 17, 2001.

See: [33 N.J.R. 1807\(a\)](#), [33 N.J.R. 3307\(a\)](#).

Added (d) and (e).

Amended by R.2005 d.144, effective May 16, 2005.

See: [36 N.J.R. 2106\(a\)](#), [37 N.J.R. 1754\(c\)](#).

Rewrote the section.

Administrative Correction.

See: [38 N.J.R. 4692\(a\)](#).

Amended by R.2021 d.008, effective January 19, 2021.

See: [52 N.J.R. 497\(a\)](#), [53 N.J.R. 123\(a\)](#).

In (a)1, substituted "10" for "25"; in (a)2, substituted "100" for "125"; in (b)1, substituted "10" for "40"; and in (b)2, substituted "100" for "250".

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§ 5:17-3.6 Reports and certificates

(a) Report: At the completion of all testing and evaluation, as per this subchapter, an inspector/risk assessor shall provide the owner with a complete report of all testing performed and all results.

1. The report shall include:
 - i. The date(s) of inspection;
 - ii. The address of the building(s) and unit numbers (if applicable);
 - iii. The date of construction of the building(s);
 - iv. The name, address and telephone number of the owner;
 - v. The name and signature of each inspector/risk assessor conducting testing (including the New Jersey Department of Health and Senior Services certification number);
 - vi. The name and signature of each clearance technician collecting samples;
 - vii. The name, address and telephone number of the firm employing the inspector/risk assessor(s) and clearance technician(s);
 - viii. The name and address of each laboratory conducting analysis of collected samples;
 - ix. Each testing device and/or sampling procedure employed and the serial number of any XRF device used;
 - x. The precise locations of all components and surfaces on components tested or sampled;
 - xi. All data collected using onsite testing devices; and
 - xii. The results of all tests performed.
2. A copy of this report shall be made available to the Department upon request.

(b) If, upon performance of an inspection of all painted surfaces in accordance with this chapter, a unit or building is determined to be lead-free, the certified lead evaluation firm shall issue certification on a form prescribed by the Department to the owner and, upon request, to any enforcing agency having jurisdiction to enforce lead safety standards at the premises. The certified lead evaluation firm shall report issuance of all such certifications to the Department in such form and manner as may be prescribed by the Department.

1. The certificate or report shall be signed and dated and shall identify the building, common area(s) or dwelling unit(s) to which it applies.
2. In order to be certified as lead free, the paint shall be tested for lead content through XRF testing, paint chip analysis or another method of testing the lead content of paint permitted pursuant to this chapter. All such testing shall be performed in accordance with the requirements of this chapter and the protocols established in the HUD Guidelines.

(c) If, upon performance of an inspection and risk assessment in accordance with this chapter, a unit or building is determined to be free of lead-based paint hazards, the certified lead evaluation firm shall issue a certification on a form prescribed by the Department to the owner, and, upon request, to any enforcing agency having jurisdiction to enforce lead safety standards at the premises. The certified lead evaluation firm shall report issuance of all such certifications to the Department in such form and manner as may be prescribed by the Department.

1. The certificate or report shall be signed and dated, shall identify the building, common area(s) and dwelling unit(s) to which it applies. The certificate or report also shall include a statement cautioning the owner regarding the need to perform on-going evaluation and maintenance to ensure that the painted surfaces remain in a hazard free condition.

(d) Recommendations: If providing recommendations was part of the contract between the inspector/risk assessor and the owner or if the provision of a plan for lead hazard control work is required pursuant to [N.J.A.C. 5:10-6.6](#), [5:15-4.2](#), [5:27-4.10](#), [5:28-2.1](#) or any other applicable maintenance code, the inspector/risk assessor, based on the results, shall outline for the owner options for lead hazard control work to address any lead hazards or potential lead hazards found.

History

HISTORY:

New Rule, R.2005 d.144, effective May 16, 2005.

See: [36 N.J.R. 2106\(a\)](#), [37 N.J.R. 1754\(c\)](#).

Amended by R.2006 d.177, effective May 15, 2006.

See: [37 N.J.R. 1698\(a\)](#), [37 N.J.R. 1931\(a\)](#), [38 N.J.R. 2115\(b\)](#).

Added the last sentence in the introductory paragraphs of (b) and (c).

Administrative correction, effective November 23, 2021.

See: [53 N.J.R. 2138\(b\)](#).

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APPENDIX 3-A

LEAD SCREENING

(New Jersey Requirements Added in Italics)

Environmental Protection Agency

40 CFR 745.227(c), Work practice standards for conducting lead-based paint activities: target housing and child-occupied facilities, Lead hazard screen

745.227(c) Lead hazard screen

(1) A lead hazard screen shall be conducted by a risk assessor certified pursuant to [N.J.A.C. 5:17](#).

(2) If conducted, a lead hazard screen shall be conducted as follows:

(i) Background information regarding the physical characteristics of the residential dwelling or child-occupied facility and occupant use patterns that may cause lead-based paint exposure to one or more children age six years and under shall be collected.

(ii) A visual inspection of the residential dwelling or child-occupied facility shall be conducted to:

(A) Determine if any deteriorated paint is present, and

(B) Locate at least two dust sampling locations.

(iii) If deteriorated paint is present, each surface with deteriorated paint, which is determined using documented methodologies, to be in poor condition and to have a distinct painting history, shall be tested for the presence of lead.

(iv) In residential dwellings, two composite dust samples shall be collected, one from the floors and the other from the windows, in rooms, hallways or stairwells where one or more children, age 6 and under, are most likely to come in contact with dust.

(v) In multi-family dwellings and child occupied facilities, in addition to the floor and window samples required in paragraph (c)(2)(iv) of this section, the risk assessor shall also collect composite dust samples from common areas where one or more children, age 6 and under, are most likely to come into contact with dust.

(3) Dust samples shall be collected and analyzed in the following manner:

(i) All dust samples shall be taken using documented methodologies that incorporate adequate quality control procedures.

(ii) *All collected dust samples shall be analyzed by persons certified pursuant to [N.J.A.C. 5:17](#) and analyzed in accordance with N.J.A.C. 5:17-3, Evaluation and Testing.*

(4) Paint shall be sampled in the following manner:

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- (i) The analysis of paint to determine the presence of lead shall be conducted using documented methodologies which incorporate adequate quality control procedures; and/or
 - (ii) *All collected paint chip samples shall be analyzed by persons certified pursuant to [N.J.A.C. 5:17](#) and analyzed in accordance with N.J.A.C. 5:17-3, Evaluation and Testing.*
- (5) The risk assessor shall prepare a lead hazard screen report, which shall include the following information:
- (i) The information required in a risk assessment report as specified in *Appendix 3-B*, including paragraphs (d)(11)(i) through (d)(11)(xiv), and excluding paragraphs (d)(11)(xv) through (d)(11)(xviii) of this section. Additionally, any background information collected pursuant to paragraph (c)(2)(i) of this section shall be included in the risk assessment report.

History

HISTORY:

New Rule, R.2005 d.144, effective May 16, 2005.

See: [36 New Jersey Register 2106\(a\)](#), [37 New Jersey Register 1754\(c\)](#).

Annotations

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[N.J.A.C. 5:17-3 APPENDIX 3-B](#)

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APPENDIX 3-B

RISK ASSESSMENT

(New Jersey Requirements Added in Italics)

40 CFR 745.227(d), Work practice standards for conducting lead-based paint activities: target housing and child-occupied facilities, Risk assessment

745.227(d) Risk assessment

(1) **A risk assessment shall be conducted only by a person certified pursuant to [N.J.A.C. 5:17](#).**

(2) A visual inspection for risk assessment of the residential dwelling or child-occupied facility shall be undertaken to locate the existence of deteriorated paint, assess the extent and causes of the deterioration, and other potential lead-based paint hazards.

(3) Background information regarding the physical characteristics of the residential dwelling or child-occupied facility and occupant use patterns that may cause lead-based paint exposure to one or more children age 6 years and under shall be collected.

(4) The following surfaces which are determined, using documented methodologies, to have a distinct painting history, shall be tested for the presence of lead:

- (i)** Each friction surface or impact surface with visibly deteriorated paint; and
- (ii)** All other surfaces with visibly deteriorated paint.

(5) In residential dwellings, dust samples (either composite or single-surface samples) from the interior window sill(s) and floor shall be collected and analyzed for lead concentration in all living areas where one or more children, age 6 and under, are most likely to come into contact with dust.

(6) For multi-family dwellings and child-occupied facilities, the samples required in paragraph (d)(4) of this section shall be taken. In addition, interior window sill and floor dust samples (either composite or single-surface samples) shall be collected and analyzed for lead concentration in the following locations:

- (i)** Common areas adjacent to the sampled residential dwelling or child-occupied facility; and
- (ii)** Other common areas in the building where the risk assessor determines that one or more children, age six and under, are likely to come into contact with dust.

(7) For child-occupied facilities, interior window sill and floor dust samples (either composite or single-surface samples) shall be collected and analyzed for lead concentration in each room, hallway or stairwell utilized by one or more children, age 6 and under, and in other common areas in the child-occupied facility where one or more children, age 6 and under, are likely to come into contact with dust.

(8) Soil samples shall be collected and analyzed for lead concentrations in the following locations:

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- (i) Exterior play areas where bare soil is present;
 - (ii) The rest of the yard (i.e., nonplay areas) where bare soil is present; and
 - (iii) Dripline/foundation areas where bare soil is present.
- (9) Any paint, dust, or soil sampling or testing shall be conducted using documented methodologies that incorporate adequate quality control procedures.
- (10) *Any collected paint chip, dust, or soil samples shall be analyzed by persons certified pursuant to [N.J.A.C. 5:17](#) and analyzed in accordance with N.J.A.C. 5:17-3, Evaluation and Testing.*
- (11) The certified risk assessor shall prepare a risk assessment report which shall include the following information:
- (i) Date of assessment.
 - (ii) Address of each building.
 - (iii) Date of construction of buildings.
 - (iv) Apartment number (if applicable).
 - (v) Name, address, and telephone number of each owner of each building.
 - (vi) Name, signature, and certification of the certified risk assessor conducting the assessment.
 - (vii) Name, address, and telephone number of the certified firm employing each certified risk assessor.
 - (viii) Name, address, and telephone number of each recognized laboratory conducting analysis of collected samples.
 - (ix) Results of the visual inspection.
 - (x) Testing methods and sampling procedure for paint analysis employed.
 - (xi) Specific locations of each painted component tested for the presence of lead.
 - (xii) All data collected from on-site testing, including quality control data and, if used, the serial number of any XRF device.
 - (xiii) All results of laboratory analysis on collected paint, soil, and dust samples.
 - (xiv) Any other sampling results.
 - (xv) Any background information collected pursuant to paragraph (d)(3) of this section.
 - (xvi) To the extent that they are used as part of the lead-based paint hazard determination, the results of any previous inspections or analyses for the presence of lead-based paint, or other assessment of lead-based paint-related hazards.
 - (xvii) A description of the location, type, and severity of identified lead-based paint hazards and any other potential lead hazards.
 - (xviii) A description of interim controls and/or abatement options for each identified lead-based paint hazard and a suggested prioritization for addressing each hazard. If the use of an encapsulant or enclosure is recommended, the report shall recommend a maintenance and monitoring schedule for the encapsulant or enclosure.

History

HISTORY:

N.J.A.C. 5:17-3 APPENDIX 3-B

New Rule, R.2005 d.144, effective May 16, 2005.

See: [36 New Jersey Register 2106\(a\)](#), [37 New Jersey Register 1754\(c\)](#).

Annotations

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[N.J.A.C. 5:17-4.1](#)

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§ 5:17-4.1 Specification and drawing

- (a) Prior to the commencement of any lead abatement project, the owner shall consent in writing to the scope of the project and to the methods to be employed during the abatement.
- (b) A sketch plan of the abatement site shall be prepared and made available to the owner and to any occupants who shall remain in the structure during abatement. The sketch plan shall clearly show:
1. Work areas, labeled to show all surfaces to be abated, which shall not be accessible to occupants;
 2. Barriers, if any, which separate the work area from occupied areas;
 3. Occupied areas, including bathroom facilities with a route of access to these facilities, and emergency egress route(s), if occupants are to be present during abatement;
 4. Workers' changing, handwashing and/or shower, toileting and eating areas;
 5. Waste disposal route;
 6. Waste storage area or dumpster if abatement will require more than one day;
 7. Location of any special equipment; and
 8. Any other information which occupants or the contractor would need to know to ensure safe and responsible activity during the abatement.
- (c) Prior to any abatement, the occupants shall be relocated, if required, and they shall be supplied with information about lead hazards and about the abatement work being performed.
1. For limited abatements, during which occupants' safe access to bathroom facilities and emergency egress routes remains uninterrupted, occupants shall be given lead hazard information.
 2. For all abatements, occupants shall be instructed how to remove, wrap, and secure personal belongings including furniture, appliances, carpeting, draperies and other items which require relocation or protection during the abatement.
- (d) Prior to an abatement, the owner shall correct all structural deficiencies affecting the work area.
- (e) The entire work area shall be HEPA vacuumed to remove existing dust, paint chips and debris.
- (f) When waste shall be left at a site overnight, a secure area such as a plastic-lined room or area or a locked dumpster shall be set aside for this purpose.

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[N.J.A.C. 5:17-4.2](#)

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§ 5:17-4.2 Abatement classification

- (a) An abatement shall be classified as an interior or exterior worksite.
- (b) Interior worksites shall be classified as Level 1, 2, 3 or 4, as described in [N.J.A.C. 5:17-4.3\(c\)](#), based on typical applications, time limit for the abatement, resident location, barrier system, warning signs, ventilation systems, furniture, clean up requirements and dust sampling.
- (c) Exterior worksites shall be classified as Level 1, 2 or 3, as described in [N.J.A.C. 5:17-4.3\(c\)](#), based on typical applications, time limit for the abatement, resident location, barrier systems, playground considerations, security, signs, weather, clean up and porches.
- (d) Contractors shall follow the procedures specified in [N.J.A.C. 5:17-4.3\(c\)](#).

Annotations

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[N.J.A.C. 5:17-4.3](#)

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§ 5:17-4.3 Worksite levels

- (a) Each lead abatement shall be designated as one or more of the following:
1. Interior worksite, preparation Level 1, 2, 3 or 4;
 2. Exterior worksite, preparation Level 1, 2 or 3; or
 3. Window treatment or replacement preparation.
- (b) For each of the interior levels specified in subsection (a) above, worksite preparation shall be performed as follows:
1. Interior worksite, preparation Level 1:
 - i. Typical application: Dust removal and any abatement disturbing no more than two square feet of painted surface per room;
 - ii. Time limit: One work day;
 - iii. Resident location: Inside dwelling, but outside work area. Residents shall have secure passage to bathroom facilities and to emergency egress route(s). Alternatively, residents can leave the dwelling during the work;
 - iv. Barrier system: Single layer of plastic sheeting on floor extending five feet in all directions beyond the perimeter of the surface area to be treated. A low physical barrier, such as furniture or wood planking, shall be provided to prevent inadvertent access by residents. This barrier shall not be mechanically fastened.
 - v. Warning signs: Required at entry to room, but not on building unless exterior work is also underway;
 - vi. Ventilation system: Dwelling ventilation system turned off, but vents need not be sealed with plastic sheeting if they are more than five feet away from the surface being treated. Negative pressure zones are not required, unless large supplies of fresh air must be admitted into the work area to control exposures to other hazardous substances, for example, solvent vapors; and
 - vii. Furniture: Left in place uncovered unless it is within five feet of working surface. If within five feet, furniture shall be sealed with plastic sheeting or moved for paint treatment. No covering is required for dust removal.
 2. Interior worksite, preparation level 2:
 - i. Typical application: Any abatement method disturbing between two and 10 square feet of painted surface per room;
 - ii. Time limit: One work day;

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- iii. Resident location: Inside dwelling, but outside work area. Residents shall have secure passage to bathroom facilities and to emergency egress route(s). Alternatively, residents may leave the dwelling during the work;
 - iv. Barrier system: Two layers of plastic sheeting on entire floor. Plastic sheeting forming a primitive airlock flap shall be placed on all doorways. The primitive air lock shall be constructed using two sheets of plastic. The first one shall be taped to the floor and the two sides of the doorway. A slit approximately six feet in length shall be cut down the middle of the plastic sheeting. Do not begin the slit at the top and do not cut the slit all the way down to the floor. The second sheet of plastic sheeting shall be taped across the top of the doorway so that it acts as a flap. The flap shall open into the work area. Doors secured from inside the work area need not be sealed;
 - v. Warning signs: Required at entry to room, but not on building unless exterior work is also underway;
 - vi. Ventilation system: Turned off and all vents in room sealed with plastic sheeting. Negative pressure zones are not required, unless large supplies of fresh air must be admitted into the work area to control exposure to other hazardous substances, for example, solvent vapors; and
 - vii. Furniture: Removed from work area. Large items can be sealed with taped plastic sheeting and left in work area.
- 3. Interior worksite, preparation Level 3:**
- i. Typical application: Any abatement method disturbing between two and 10 square feet of painted surface per room;
 - ii. Time limit: Five days;
 - iii. Resident location: Outside the dwelling, but can return in evening after day's work and cleanup are completed. Residents shall have secure passage to bathroom facilities and to emergency egress route(s). Alternatively, residents can leave until all work is completed;
 - iv. Barrier system: Two layers of plastic sheeting on floors. Plastic sheeting with primitive airlock flap, as described in (b)2iv above, shall be provided on all doorways to work areas. Doors secured from inside the work area need not be sealed. Overnight barrier shall be locked or firmly secured;
 - v. Warning signs: Posted at main and secondary entryway;
 - vi. Ventilation system: Turned off and all vents in room sealed with plastic sheeting. Negative pressure zones are not required, unless large supplies of fresh air must be admitted into the work area to control exposure to other hazardous substances, for example, solvent vapors; and
 - vii. Furniture: Removed from work area. Large items can be sealed with taped plastic sheeting and left in work area.
- 4. Interior worksite, preparation Level 4:**
- i. Typical application: Any abatement method disturbing more than 10 square feet per room (not including windows);
 - ii. Time limit: None;
 - iii. Resident location: Outside the dwelling for duration of project; cannot return until clearance has been achieved;
 - iv. Barrier system: Two layers of plastic sheeting on floors. If entire unit is being treated, cleaned, and cleared, individual room doorways need not be sealed. If only a few rooms are being treated, all doorways shall be sealed with a primitive airlock flap, described in (b)2iv above, to avoid cleaning entire dwelling. Doors secured from inside the work area need not be sealed;
 - v. Warning signs: Posted at building exterior near main and secondary entryways;

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- vi.** Ventilation system: Turned off and all vents in room sealed with plastic sheeting. Negative pressure zones are not required, unless large supplies of fresh air must be admitted into the work area to control exposure to other hazardous substances, for example, solvent vapors; and
- vii.** Furniture: Removed from work area. Large items can be sealed with taped plastic sheeting and left in work area.

(c) For each of the exterior levels specified in (a) above, worksite preparation shall be performed as follows:

1. Exterior Worksite, preparation Level 1:

- i.** Typical applications: Any abatement method disturbing less than 10 square feet of exterior painted surface/dwelling. Not appropriate for window treatment;
- ii.** Time limit: One day;
- iii.** Resident location: Inside dwelling for duration of project until cleanup has been completed. Alternatively, can leave until all work has been completed;
- iv.** Barrier system: For first story, one layer of plastic sheeting on ground shall extend 10 feet out in all directions from all working surfaces. For each additional story to be abated, plastic sheeting shall extend an extra three feet. When the plastic sheeting is punctured to anchor ladders, the plastic sheeting at the feet of the ladder shall be taped so that debris does not fall below the plastic sheeting. When the ladder is moved, any punctures in the plastic sheeting shall be sealed with tape. For all other exterior plastic surfaces, protect plastic sheeting with boards to prevent puncture from falling debris, nails, etc., if necessary. The plastic sheeting shall be secured to the side of the building with tape or other anchoring system so that there are no gaps between the plastic sheeting and the building. The edges of the plastic sheeting shall be anchored in place. All windows in the dwelling shall be kept closed. The contractor shall advise the occupants of all neighboring buildings that windows within 20 feet and that face the work area should be kept closed;
- v.** Security: Erect temporary fencing or barrier tape at a 20 foot perimeter around entryway of building or less if distance to next building or sidewalk is less than 20 feet. Use a locked dumpster, covered truck, or locked room to store debris before disposal; and
- vi.** Signs: Post warning signs on the building and at a 20 foot perimeter around building or less if distance to next building or sidewalk is less.

2. Exterior worksite, preparation Level 2:

- i.** Typical applications: Any abatement method disturbing between 10 and 50 square feet of exterior painted surface/dwelling;
- ii.** Time limit: None;
- iii.** Resident location: Relocated from dwelling during workday, but return after daily cleanup has been completed;
- iv.** Barrier system: For first story, one layer of plastic sheeting on ground shall extend 10 feet out in all directions from all working surfaces. For each additional story to be abated, plastic sheeting shall extend an extra three feet. When the plastic sheeting is punctured to anchor ladders, the plastic sheeting at the feet of the ladder shall be taped so that debris does not fall below the plastic sheeting. When the ladder is moved, any punctures in the plastic sheeting shall be sealed with tape. For all other exterior plastic surfaces, protect plastic sheeting with boards to prevent puncture from falling debris, nails, etc. if necessary. The plastic sheeting shall be secured to the side of the building with tape or other anchoring system so that there are no gaps between the plastic sheeting and the building. The edges of the plastic sheeting shall be anchored in place. All windows in the dwelling shall be kept closed. The contractor shall advise the occupants of all neighboring buildings that windows within 20 feet and that face the work area should be kept closed;

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- v. Security: Erect temporary fencing or barrier tape at a 20 foot perimeter around entryway of building or less if distance to next building or sidewalk is less than 20 feet. Use a locked dumpster, covered truck, or locked room to store debris before disposal; and
- vi. Signs: Post warning signs on the building and at a 20 foot perimeter around building or less if distance to next building or sidewalk is less.

3. Exterior worksite, preparation Level 3:

- i. Typical applications: Any abatement method disturbing more than 50 square feet of exterior painted surface per dwelling;
- ii. Time limit: None;
- iii. Resident location: Relocated from dwelling for duration of project until final clearance is achieved or may return after daily cleanup has been completed;
- iv. Barrier system: For first story, one layer of plastic sheeting on ground shall extend 10 feet out in all directions from all working surfaces. For each additional story to be abated, plastic sheeting shall extend an extra three feet. When the plastic sheeting is punctured to anchor ladders, the plastic sheeting at the feet of the ladder shall be taped so that debris does not fall below the plastic sheeting. When the ladder is moved, any punctures in the plastic sheeting shall be sealed with tape. For all other exterior plastic surfaces, protect plastic sheeting with boards to prevent puncture from falling debris, nails, etc. if necessary. The plastic sheeting shall be secured to the side of the building with tape or other anchoring system so that there are no gaps between the plastic sheeting and the building. The edges of the plastic sheeting shall be anchored in place. All windows in the dwelling shall be kept closed. The contractor shall advise the occupants of all neighboring buildings that windows within 20 feet and that face the work area should be kept closed;
- v. Security: Erect temporary fencing or barrier tape at a 20 foot perimeter around entryway of building or less if distance to next building or sidewalk is less than 20 feet. Use a locked dumpster, covered truck, or locked room to store debris before disposal; and
- vi. Signs: Post warning signs on the building and at a 20 foot perimeter around building or less if distance to next building or sidewalk is less.

(d) Preparation for window treatment or replacement shall be performed as follows:

- 1. Window replacement from the interior of the building:
 - i. Appropriate application: Any window treatment or replacement;
 - ii. Time limit: None;
 - iii. Resident location: Inside dwelling, but outside work area. Residents shall have secure passage to bathroom facilities and to emergency egress route(s). Alternatively, residents may leave the dwelling during the work;
 - iv. Barrier system: One layer of plastic sheeting on floor extending five feet out in all directions from window being treated/replaced. Two layers of plastic sheeting shall be taped to the outside wall covering the window opening. Plastic sheeting forming a primitive airlock flap shall be placed on all doorways. The primitive air lock shall be constructed using two sheets of plastic. The first one shall be taped to the floor and the two sides of the doorway. A slit, approximately six feet in length, shall be cut down the middle of the plastic sheeting. The slit shall not extend all the way to the top or all the way to the floor. The second sheet of plastic shall be taped across the top of the doorway so that it acts as a flap. The flap shall open into the work area. Doors secured from inside the work area need not be sealed;
 - v. Warning signs: Required at entry to room, but not on building unless exterior work is also underway;

- vi. Ventilation system: Turned off and all vents in room sealed with plastic sheeting. Negative pressure zones are not required, unless large supplies of fresh air must be admitted into the work area to control exposure to other hazardous substances, for example, solvent vapors; and
 - vii. Furniture: Removed from work area. Large items can be sealed with taped plastic sheeting and left in work area.
2. Window replacement from the exterior of the building:
- i. Appropriate application: Any window treatment or replacement;
 - ii. Time limit: None;
 - iii. Resident location: Remain inside dwelling until project has been completed. Alternatively, residents may leave until all work has been completed;
 - iv. Barrier system: For windows on the first story, one layer of plastic sheeting on ground extending five feet out in all directions from window being treated/replaced. For windows on upper stories, the plastic sheeting shall be extended an additional three feet per story. Two layers of plastic sheeting shall be taped to the interior wall covering the window opening. When the plastic sheeting is punctured to anchor ladders, the plastic sheeting at the feet of the ladder shall be taped so that debris does not fall below the plastic sheeting. When the ladder is moved, any punctures in the plastic sheeting shall be sealed with tape. For all other exterior plastic surfaces, protect plastic sheeting with boards to prevent puncture from falling debris, nails, etc. if necessary. The plastic sheeting shall be secured to the side of the building with tape or other anchoring system so that there are no gaps between the plastic sheeting and the building. The edges of the plastic sheeting shall be anchored in place. All windows in the dwelling shall be kept closed. The contractor shall advise the occupants of all neighboring buildings that windows within 20 feet and facing the work area should be kept closed;
 - v. Security: Erect temporary fencing or barrier tape at a 20 foot perimeter around the building or less if distance to next building or sidewalk is less than 20 feet. Use a locked dumpster, covered truck, or locked room to store debris before disposal; and
 - vi. Signs: Post warning signs on the building and at a 20 foot perimeter around building or less if distance to next building or sidewalk is less.
- (e) For all worksites, damaged or torn plastic sheeting or other barriers shall be promptly repaired or replaced.
- (f) To establish a baseline soil lead level for all exterior worksites, preabatement composite soil samples, consisting of at least five sub-samples, shall be taken next to the foundation or from the dripline below any exterior surface to be abated, unless this information is available from a current risk assessment. With the owner's consent, analysis of preabatement soil samples may be delayed until postabatement soil samples have been collected, analyzed, and compared to clearance standards.
- (g) Porches and other building elements that project into the space between the work area and the ground shall be covered with plastic sheeting.
- (h) Exterior abatement shall not be conducted if wind speeds are greater than 20 miles per hour. Work shall stop and clean up shall occur before rain begins.
- (i) Where exterior abatement is to be performed, playground equipment shall be removed from the work area and adjacent areas. Large items may be sealed with taped plastic sheeting. All movable items shall be moved to a 20 foot distance from the work area.

Annotations

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Case Notes

Penalty was properly assessed against respondent after he engaged in lead abatement without required State certification in violation of [N.J.A.C. 5:17-2.1\(a\)](#), failed to obtain a permit as required by [N.J.A.C. 5:17-5.2\(a\)](#), failed to provide 10-day Notice of beginning of the work under [N.J.A.C. 5:17-5.1\(b\)](#), failed to comply with the requirement that no residents be allowed in the building during abatement pursuant to [N.J.A.C. 5:17-4.3\(b\)](#)4iii, and did not conduct the cleaning, inspection and final clearance sampling to ensure safety as required by [N.J.A.C. 5:17-9.1\(b\)](#). [Dep't. of Cmty. Affairs, Bureau of Code Serv. v. Fadia St. Juste, OAL DKT. No. CAF 12185-12, 2014 N.J. AGEN LEXIS 316](#), Initial Decision (June 5, 2014).

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[N.J.A.C. 5:17-4.4](#)

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§ 5:17-4.4 Air equipment

(a) Negative air, at a rate of 10 air exchanges per hour, shall be required only when dry sanding or abrasive blasting are used. Dry sanding or abrasive blasting shall be allowed only by variation granted pursuant to [N.J.A.C. 5:17-5.3](#).

(b) Windows, doors, chimneys and other vents or openings shall be closed during abatement. If ventilation is required because of the needs of occupants, or because of chemical fumes, HEPA equipment to filter exhaust and supply clean outside air shall be used.

Annotations

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§ 5:17-5.1 Duties of the contractor

- (a) The certified contractor shall be responsible for ensuring compliance with all applicable provisions of this chapter.
- (b) Prior to beginning an abatement job, the contractor shall apply for a permit under the UCC and shall provide the owner and the occupants with a description of the scope of work and information about lead-based paint hazards.
1. Additionally, the contractor shall notify the Department of Community Affairs 10 working days prior to the anticipated start of work. This notification shall include the name and certification number of the contractor, the location where the work is to be performed, and a brief description of the scope of work. The notification shall be sent to the following address: Department of Community Affairs, PO Box 821, Trenton, NJ 08625 or sent by email to lead.notifications@dca.nj.gov.
 2. For lead abatement jobs to be performed on superstructures, or in commercial buildings, the contractor shall provide a 10 day notice to the Department as described in (b)1 above, but shall be exempt from the requirement to apply for a permit under the UCC set forth in (b) above.
- (c) Following completion of the abatement job, the contractor shall certify to the owner, in writing, that all lead-based paint hazards that were part of the scope of work have been abated in accordance with the requirements of this chapter. Where the scope of work included encapsulation or enclosure, the contractor shall provide the owner with information regarding ongoing inspection and maintenance requirements and any other precautions necessary to maintain the integrity of the enclosure or encapsulant.
1. A copy of this certification shall be filed with the local enforcing agency having jurisdiction under the UCC prior to the issuance of a lead abatement clearance certificate. The local enforcing agency shall also receive a copy of any information provided to the owner regarding enclosure or encapsulation performed and the location(s) of enclosures or encapsulants within the building.
 - i. Exception: No filing with the local enforcing agency having jurisdiction under the UCC shall be required for lead abatement jobs performed on superstructures or in commercial buildings.
 2. In addition to the written certification to the owner, described above, the contractor shall retain a final report on each job which shall include: the start and completion dates of the abatement, the names and addresses of any other abatement firms working at the site including the names of the supervisors, the name, address and signature of each inspector/risk assessor conducting clearance testing, the date(s) and results of clearance testing, the name of each laboratory that conducted the analyses, a detailed written description of the abatement (the scope of work required in (b) above may be used to meet the requirement for a written description of the abatement provided that any deviations from the scope of

N.J.A.C. 5:17-5.1

work are described in the final report). A copy of this report shall be made available to the Department upon request.

- (d) The contractor certification number shall be displayed at the job site. All employees involved in lead abatement at the job site shall be certified by the Department of Health and shall carry evidence of such certification.
- (e) The contractor shall allow the Department access to the job site at any time while evaluation or abatement are on-going, including preparation, clean-up, and testing. The contractor shall also make available to the Department, upon request, any documentation relevant to the job. The Department of Health and the Department of Labor shall be accorded the same access to job sites and documentation in administering their enforcement responsibilities.
- (f) The contractor shall ensure that a supervisor certified by the New Jersey Department of Health is on the job site at all times that abatement work is being performed and that all evaluation or abatement tasks are performed only by individuals certified by the Department of Health to perform those tasks.
1. A supervisor is not required to be present at the job site for jobs designated as Interior worksite, preparation level 1 pursuant to [N.J.A.C. 5:17-4.3\(b\)](#)1 or Exterior worksite, preparation level 1 pursuant to [N.J.A.C. 5:17-4.3\(c\)](#)1 if adjacent properties are at least 20 feet from the work area. However, the contractor shall designate a supervisor to be responsible for such jobs and the supervisor shall be available to the workers at all times that the job is ongoing.

History

HISTORY:

Amended by R.1997 d.302, effective July 21, 1997 (operative September 24, 1997).

See: [29 N.J.R. 2202\(a\)](#), [29 N.J.R. 3242\(b\)](#).

Added (b)2 and (c)1i.

Administrative correction, effective November 23, 2021.

See: [53 N.J.R. 2138\(b\)](#).

Annotations

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Case Notes

Penalty was properly assessed against respondent after he engaged in lead abatement without required State certification in violation of [N.J.A.C. 5:17-2.1\(a\)](#), failed to obtain a permit as required by [N.J.A.C. 5:17-5.2\(a\)](#), failed to provide 10-day Notice of beginning of the work under [N.J.A.C. 5:17-5.1\(b\)](#), failed to comply with the requirement that no residents be allowed in the building during abatement pursuant to [N.J.A.C. 5:17-4.3\(b\)](#)4iii, and did not conduct the cleaning, inspection and final clearance sampling to ensure safety as required by [N.J.A.C. 5:17-9.1\(b\)](#). [Dep't. of Cmty. Affairs, Bureau of Code Serv. v. Fadia St. Juste, OAL DKT. No. CAF 12185-12, 2014 N.J. AGEN LEXIS 316](#), Initial Decision (June 5, 2014).

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§ 5:17-5.2 Permits required

(a) Effective January 1, 1996, a permit under the UCC shall be obtained for any work intended to abate lead hazards. Additionally, a permit under the UCC shall be obtained for any related construction work requiring a permit.

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Case Notes

Penalty was properly assessed against respondent after he engaged in lead abatement without required State certification in violation of [N.J.A.C. 5:17-2.1\(a\)](#), failed to obtain a permit as required by [N.J.A.C. 5:17-5.2\(a\)](#), failed to provide 10-day Notice of beginning of the work under [N.J.A.C. 5:17-5.1\(b\)](#), failed to comply with the requirement that no residents be allowed in the building during abatement pursuant to [N.J.A.C. 5:17-4.3\(b\)4iii](#), and did not conduct the cleaning, inspection and final clearance sampling to ensure safety as required by [N.J.A.C. 5:17-9.1\(b\)](#). [Dep't. of Cmty. Affairs, Bureau of Code Serv. v. Fadia St. Juste, OAL DKT. No. CAF 12185-12, 2014 N.J. AGEN LEXIS 316](#), Initial Decision (June 5, 2014).

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§ 5:17-5.3 Variations

(a) Any variation from the requirements of this chapter shall be requested in writing only from the Department and shall be accompanied by a nonrefundable fee of \$ 120.00 paid by check or money order, payable to the "Treasurer, State of New Jersey."

(b) The request for variation shall include:

1. A statement of the requirements of the chapter from which a variation is sought;
2. A statement of the manner by which strict compliance with these provisions would result in practical difficulties; and
3. A statement of the alternative proposed which adequately protects the health, safety and welfare of the occupants or intended occupants and the public generally and which adequately prevents contamination of the environment.

(c) The Department shall grant or deny variations in writing within 20 working days of a complete request for variation. When a variation is approved, the owner shall provide a copy of the approval to the local enforcing agency having jurisdiction under the UCC.

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§ 5:17-5.4 Occupancy during abatement

(a) Occupancy during abatement shall be allowed only as described in this chapter. Where abatement work will be ongoing for more than one day, and the occupants will be returning at night, cleaning shall be performed as follows at the end of the workday:

1. For interior abatement jobs, HEPA vacuum, wet wash, and HEPA vacuum again treated surfaces and floors extending five feet in all directions from the treated surface. If occupants are to have access to the work area, the top layer of plastic shall be removed from the floor and discarded. For dust removal work alone, a HEPA vacuum and wet wash cycle is adequate. Floors in adjacent area(s) used as a pathway to the work area shall also be HEPA vacuumed and wet washed.
2. For exterior abatement jobs, the entrance to be used by occupants shall be made clear and free of any potential lead hazards or sources of contamination.
3. Lead-contaminated debris shall be stored outside the dwelling unit in a secure, locked area.

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§ 5:17-6.1 Lead-based paint removal

(a) The following paint removal methods are prohibited:

1. Open flame burning or torching:
 - i. Using cutting torches to remove fire escapes, railings or other metal components coated with lead-based paint is also prohibited unless the paint is first removed four inches out from the area to be cut.
2. The use of heat guns operating above 1,100 degrees Fahrenheit;
3. Machine sanding or grinding without a HEPA-equipped exhaust tool;
4. Uncontained hydroblasting or high pressure washing;
5. Abrasive blasting or sandblasting without a HEPA vacuum-equipped exhaust tool;
6. The use of methylene chloride chemical paint removers; and
7. The use of dry scraping.
 - i. Exception to (a)7 above: Dry scraping is permitted if the surfaces are near electrical outlets or for scraping accompanying heat gun use. In either case, the area to be dry scraped shall not exceed two square feet.

(b) Heat guns not prohibited by (a)2 above shall not be used for areas exceeding two square feet. In addition to the other worksite preparation requirements of this chapter, the following shall be done prior to heat gun use:

1. A fully-charged ABC 20 pound (minimum) fire extinguisher shall be provided within 100 feet of each work area; and
2. It shall be verified that the existing electrical supply is adequate for the heat gun(s) or portable generators to power the heat gun(s) shall be provided.

(c) The applicable steps listed in (c)1 through 7 below shall be followed for the mechanical paint removal method chosen to abate lead hazards:

1. For use of HEPA sanding with a shroud, the shroud shall be in contact with the surface at all times;
2. For use of a HEPA vacuum power sander, the sandpaper shall be flat on the surface at all times;
3. For HEPA vacuum blasting, the blast head shall remain in contact with the surface at all times. HEPA vacuum blasting shall be used for metal, brick, concrete or other masonry surfaces only;
4. For HEPA vacuum needle gun, the shroud shall remain in contact with the surface at all times. HEPA vacuum needle guns shall be used for metal surfaces only.

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5. For wet scraping, all loose and flaking paint shall be removed by working a few square feet at a time. The surface shall be lightly misted, then a paint scraper shall be used to remove loose material which shall be deposited on the plastic sheeting. Scrapers shall be kept razor sharp to minimize abrasion and gouging;
6. For offsite paint removal, building components shall be misted with water prior to removal. Treated components shall remain offsite or wrapped in plastic until any onsite dust-generating activities are concluded and clean up has taken place. Before reinstallation, treated components shall be cleaned utilizing the standard HEPA vacuum/wet wash/HEPA vacuum cycle to remove any residues. Components shall be completely dry and the pH shall be checked prior to repainting; and
7. For on-site paint removal, the chemical paint remover shall be applied following manufacturer's instructions:
 - i. Softened paint shall be removed using a scraper, putty knife, or wetted steel wool and the material removed shall be deposited in a water-tight and corrosion-proof container.
 - ii. Alkali neutralization and residue removal shall be performed following manufacturer's instructions or accepted practice;
 - iii. Following neutralization, all surfaces shall be scrubbed with a high phosphate detergent or its functional equivalent to remove visible residues. An original detergent container and/or the data sheet with information on the use of the product shall be available for inspection at the worksite; and
 - iv. For wood surfaces or components, the entire neutralization and cleaning process shall take place without allowing the surface to dry.

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§ 5:17-6.2 Building component replacement

(a) The following steps or a similar procedure that minimizes the disturbance of paint and the generation of dust shall be followed for all building component replacement intended to abate lead hazards:

1. Turn off and disconnect all electrical circuits present inside or near the component to be removed;
2. Lightly mist the component to be removed. Do not apply water to components containing electrical circuits;
3. Using a utility knife or other sharp instrument, carefully score all affected painted seams;
4. Remove any screws or other fasteners;
5. Using a flat pry instrument and a hammer, carefully pry the affected building component away from the surface to which it is attached. The pry bar should be inserted into the seam at the nail or other fastening device at one end of the component and prying pressure applied. This process should be repeated at each subsequent fastening location until the end of the component is reached and the component is freed;
 - i. Use a pry point pad or softener, if necessary, to minimize damage to adjoining substrates;
6. Carefully remove or bend back all nails (or other fastening devices) and wrap removed components and nails in plastic sheeting and seal with duct tape;
 - i. Exception to (a)6 above: Wrapping components in plastic is not required if the dwelling is vacant and the pathway to the truck or other waste containment site is lined with plastic;
7. HEPA vacuum any dust that may have accumulated behind the component removed;
8. New lead-free components shall not be brought into the work area until all dust-generating activity is complete and the dust has been cleaned up by at least one HEPA vacuuming;
9. If new lead-free components are to be applied to lead painted walls, ceilings, floors or any other lead-painted surface, regardless of whether it has been enclosed, caulk shall be applied to the perimeter of the back side of the replacement component to seal it before installation;
10. Replacement components shall be installed using standard carpentry practices; and
11. In the case of windows and doors, no friction surfaces coated with lead-based paint shall remain unless these components have been enclosed in accordance with the requirements of this chapter or unless all lead-based paint has been removed from these components in accordance with the requirements of this chapter.
 - i. Exception to (a)11 above: If it can be determined clearly that hazardous levels of lead on metal doors and frames reside only in the primers, and that the primers were factory-applied and are in sound condition, then the primers themselves need not be abated or removed. Doors shall be operating properly, free from impact or abrasion between moving parts that will damage any

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surfaces. Any damage to the primer resulting from sample collection shall be repaired immediately in a manner that restores the integrity of the primer coat.

(b) All replacement components installed shall comply with all applicable provisions of the Uniform Construction Code ([N.J.A.C. 5:23](#)) except that the size of window and door openings shall not be required to be increased.

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§ 5:17-6.3 Enclosure methods

(a) All materials used for enclosure shall comply with all applicable provisions of the Uniform Construction Code ([N.J.A.C. 5:23](#)).

(b) Drywall, fiberboard or its functional equivalent may be used for interior wall enclosure. Moisture-resistant greenboard shall be used in damp areas. The following steps shall be followed for interior wall enclosure intended to abate lead hazards.

1. Turn off and disconnect all electrical circuits present in the area to be enclosed;
2. Prior to enclosure, repair all structurally unsound substrates and water leaks that will affect the integrity of the enclosure;
3. Use construction adhesive to glue the drywall in place;
4. Screw the drywall to the studs behind the existing wall. Screws shall be long enough to go through the drywall, the plaster, the wire mesh or lath, and bite an inch into the stud or structure. Furring strips or hat channels may be used as needed;
5. Use extension rings to bring out electrical devices flush with the new drywall and retrofit any HVAC registers;
6. Wherever the drywall meets wood framing or any other component, including electrical devices, pipes and HVAC registers, the seams shall be sealed with a silicon caulk or other sealant that has at least a 10 year warranty;
7. Tape and finish the drywall;
8. Enclosures installed shall not protrude beyond the depth of door or window frames or other trim pieces; and
9. If paneling is used to enclose surfaces painted with lead-based paint, all joints and edges shall be fully supported to prevent flexing that might compromise the seal of the seams.

(c) The following steps shall be followed for interior ceiling enclosure intended to abate lead hazards:

1. Turn off and disconnect all electrical circuits present in the area to be enclosed;
2. Repair all structurally unsound substrates and water leaks prior to enclosure;
3. Screw a metal hat channel or furring channel to the plaster. Screws shall be long enough to penetrate the hat channel, plaster or other substrate and wire mesh holding the plaster and to bite firmly into the joist;
4. Affix the drywall to the hat channel;
5. Use extension rings to bring out electrical devices flush with the new drywall and retrofit any HVAC registers;

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6. Wherever the drywall meets wood framing or any other component, including electrical devices, pipes and HVAC registers, the seams shall be sealed with a silicon caulk or other sealant that has at least a 10 year warranty;
 7. Tape and finish the drywall;
 8. Where there is a cast-in-place concrete ceiling, the certification of an architect or engineer as to whether the existing ceiling will hold the additional weight of the enclosure shall be required; and
 9. Acoustical lay-in panels (drop ceilings) shall not be used for lead-based paint enclosures.
- (d) The following steps shall be followed for the enclosure of floors intended to abate lead hazards:
1. Remove dirt and loose paint in accordance with the requirements of this chapter;
 2. Remove shoe molding, if any, along the baseboard;
 3. Cover old flooring using one-half inch or thicker plywood or other equivalent underlayment. All plywood sheets shall be installed flush with each other. Gaps shall be filled with flash patching cement. All nails shall be hammered flush and all dirt HEPA vacuumed thoroughly;
 - i. When the plywood is to be covered by vinyl floor covering, a row of nails or screws shall be run through the old flooring a few inches apart in a straight line over each joist prior to putting down the plywood.
 - ii. When the plywood is to be covered by carpeting, a bead of caulk shall be run at the edge of every sheet of plywood before it is set in place and all gaps shall be filled with flash patching cement.
 - iii. When the floor to be enclosed is poured slab or cast-in-place concrete, the surface shall be predrilled to accept each screw that anchors the plywood enclosure. A structural engineer shall be consulted for situations other than slab on grade construction; and
 4. Joints at vertical surfaces shall be covered by quarter-round or equivalent molding. Metal thresholds shall be placed at all doorways after the vinyl flooring or carpeting is installed.
- (e) The following steps shall be followed for the enclosure of stairs intended to abate lead hazards:
1. Remove dirt and loose paint in accordance with the requirements of this chapter; and
 2. Completely cover steps with vinyl treads and risers. The vinyl shall be stapled and glued with floor adhesive. Long staples shall be used to reinforce the tread cover and at the end of the vinyl that butts up tight to the wood riser of the next step.
 - i. Metal bull nosing may be used in place of vinyl at wear points.
 - ii. Plywood may be used to cover step risers and squared off treads. Plywood may also be used for additional protection, supplementing the vinyl covers.
 - iii. If the steps to be enclosed are pre-cast concrete, the surface shall be pre-drilled to accept each screw that anchors the enclosure.
- (f) The following steps shall be followed for miscellaneous interior building component enclosure intended to abate lead hazards:
1. Turn off and disconnect all electrical circuits present in the area to be enclosed;
 2. Pipes shall be enclosed with casting tape which shall be applied so that it overlaps itself or they shall be enclosed with a drywall box following the procedure described in (a) above;
 3. Interior or exterior door frames shall be enclosed using preformed metal door buck covers or their equivalent. All seams shall be caulked;

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4. Knee walls, painted structural supports and trim such as baseboards and other items shall be enclosed with plywood or its equivalent. All plywood shall be cut to fit tightly, sealed with adhesive and nailed. All seams shall be caulked; and
 5. Windows shall be enclosed using snap-in aluminum or vinyl tracks. Track covers shall be pressed into a bead of caulk at each seam.
 - i. Painted sashes may be planed to remove lead-based paint and reinstalled.
 - ii. Friction surfaces on windows shall not be painted.
 - iii. Exterior window sills shall be covered with metal or other material cut to fit and screwed into place. The material shall be pressed into a bead of caulk at the seams.
- (g) The following steps shall be followed for exterior wall enclosure intended to abate lead hazards:
1. Turn off and disconnect all electrical circuits present in the area to be enclosed;
 2. Repair all structurally unsound substrates and water leaks prior to enclosure;
 3. Cover all exterior painted surfaces with rigid or cloth dust barriers.
 - i. Do not cover vents with cloth or other covering; and
 4. Install vinyl or aluminum siding, any board product intended for exterior use, natural or synthetic brick or stone veneers or stucco. All seams shall be caulked and back caulked.
 - i. Aluminum coil stock may be used on soffits, facia, barge board, decorative crown moldings, door and window frames, parapets and other moldings. All seams shall be caulked and back caulked.
- (h) Other enclosure products may be used provided that they meet the performance requirements of this chapter.

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§ 5:17-6.4 Encapsulation

(a) Encapsulation products or systems to be used for lead-based paint hazard abatement shall be warranted by the manufacturer to perform for at least 20 years.

1. Encapsulants shall meet all applicable fire, health and environmental regulations.
2. The material safety data sheet (MSDS) shall be obtained from the manufacturer for all encapsulants tested or applied.
3. Residential paints and canvas-backed vinyl wallpaper shall not be used for encapsulation of lead-based paint unless they meet the performance requirements of this chapter.

(b) Prior to the application of any encapsulant, a determination shall be made as to whether the surface or component is suitable for encapsulation. Encapsulants shall not be applied to friction or impact surfaces, deteriorated components or severely deteriorated paint films.

1. Exception to (b) above: Interior floor and stair surfaces may be encapsulated with a rigid floor covering (for example, vinyl tile) that is adhesively bonded to the surface.
2. The condition of existing paint films shall be assessed by performing a visual evaluation, checking for surface deterioration and determining interfacial and other film integrity properties. Standard ASTM procedures shall be used to rate the degree of these conditions.

(c) Patch tests shall be performed for each surface preparation procedure and encapsulant. A successful patch test of the surface preparation and the encapsulant on the surface to which it will be applied shall be made before an encapsulant is applied to a surface.

1. For liquid-applied systems, the patch size shall be six inches by six inches. The area prepared for the patch test shall be at least two inches larger in each direction than the area to be encapsulated.
 - i. Three inch by three inch patches may be used for fiber-reinforced wall covering and for areas where the shape of the component makes use of a larger test patch impossible.
2. At least one test patch shall be applied to each type of component in each room where the encapsulant is to be used.
3. A logbook shall be kept documenting the location, application method, wet film thickness, if appropriate, and environmental conditions (temperature and relative humidity) for each patch test.
4. A visual evaluation of each patch test shall be performed and the results recorded in the logbook. The encapsulant coating shall be inspected for wrinkling, blistering, cracking, cratering, or bubbling.
5. An adhesive evaluation of each patch test shall be performed using one of the following three methods and the results recorded in the logbook.
 - i. "X"-Cut Method:

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(1) Using a sharp cutting tool, an "X" shall be inscribed in the center of the patch after the encapsulant system has cured according to the manufacturer's recommendations. Each cut line shall be one and one-half inches to two inches long and shall be made through all layers down to the substrate.

(2) If the cut does not go through the patch to the base substrate, a second "X" cut shall be made in a different location.

(3) The point of the cutting tool shall be placed at the intersection of the two cut lines and used to attempt to peel or lift the patch from the existing topcoat. If more than a one-half inch square portion or section of the patch can be removed from the existing topcoat, then the encapsulant fails the patch test.

ii. Patch edge method:

(1) A cut shall be made adjacent to the edge of the patch, through as thick a layer of the encapsulant as possible, to the base substrate.

(2) If the cut does not go through the patch to the base substrate, a second cut shall be made in a different location.

(3) The point of the knife shall be placed under the encapsulant at the cut, attempting to peel or lift the patch. If more than a one-half inch square portion or section of the patch can be removed from the existing topcoat, then the encapsulant fails the patch test.

iii. Soundness method:

(1) A three-eighths inch by three inch bead of construction adhesive shall be applied to the central portion of the face of an eight inch square piece of gypsum wallboard. The wallboard shall then be pressed onto the six inch by six inch patch. The curing time recommended by the adhesive manufacturer shall be observed.

(2) An attempt shall be made to pull the wallboard square away from the painted surface. If the paper backing of the wallboard remains on the adhesive on the painted surface, the patch passes the test.

(d) In addition to the other worksite preparation requirements of this chapter, surface preparation shall be performed as follows and shall replicate the surface preparation used for the successful patch test:

1. Surfaces to be encapsulated shall be cleaned with non-sudsy degreasers or other appropriate cleaning products. The surface shall be rinsed thoroughly;
2. Smooth, glossy surfaces shall be roughened as allowed by this chapter to improve adhesion as recommended by the encapsulant manufacturer;
3. Loose paint shall be removed by wet scraping;
4. Exposed base substrates shall be cleaned or prepared for encapsulation as needed; and
5. Any leaks or sources of moisture shall be eliminated. Where nonreinforced coatings are to be used, cracks shall be filled with a caulking, patching, or sealing compound compatible with the encapsulant and the substrate to which it is applied.

(e) Coatings shall be applied following the manufacturer's instructions. Encapsulant application shall be performed as it was for the successful patch test.

1. Environmental conditions shall be as specified in the manufacturer's instructions and shall be as close as possible to the conditions that existed during the successful patch test.
2. Mixing and/or thinning of liquid encapsulants shall be performed in accordance with the manufacturer's directions.

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3. Wet film thickness gauges shall be used to ensure that liquid encapsulants are applied according to the manufacturer's recommended thicknesses.
 4. The manufacturer's instructions shall be followed for the application of fabric if required with the use of reinforced liquid encapsulants.
- (f) Adhesively bonded coverings shall be applied following the manufacturer's instructions. Encapsulant application shall be performed as it was for the successful patch test.
1. Environmental conditions shall be as specified in the manufacturer's instructions and shall be as close as possible to the conditions that existed during the successful patch test.
 2. Wherever possible, permanent, clay-based adhesive shall be used.
 3. Adhesively bonded floor tile shall be installed according to the manufacturer's instructions.
- (g) Following encapsulation and the curing time specified by the manufacturer, all encapsulated surfaces and components shall be visually inspected for signs that the encapsulant is not adhering. If problems are noted, then appropriate corrective measures shall be taken.
- (h) In addition to the logbook of patch test results described in (c) above, the following documentation shall be maintained by the contractor and shall be supplied to the building owner and to the occupant if other than the owner. This information shall be made available at the job site upon request of the Department:
1. The type of encapsulant used and product name;
 2. The exact location(s) to which encapsulants were applied;
 3. The product label and/or a copy of the manufacturer's technical product information;
 4. The MSDS for all products used;
 5. A description of the procedures followed, including surface preparation, environmental conditions and wet and dry film thickness for liquid encapsulants.
 6. The name, address and certification number of the contractor;
 7. The date of application; and
 8. A recommended schedule for inspection of the encapsulated surfaces for signs of failure.

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§ 5:17-7.1 Soil interim controls or abatement

- (a) An inspector/risk assessor shall fulfill the requirements as described in (b) and (c) below only if any of these conditions exist:
1. A site to be remediated contains bare play areas which are designated play areas or which contain children's play equipment or which areas are commonly used and known to be used by children as play areas;
 2. Lead based paint is known or suspected to be on a building exterior and is known or suspected to be a health hazard or source of interior contamination;
 3. Soil is known or suspected from prior usage to be contaminated with lead; or
 4. The owner requests soil testing.
- (b) The inspector/risk assessor shall recommend a soil sampling strategy of at least the following:
1. For a residential yard or playground, a composite sample of no more than 10 sub-samples of bare play areas if there are such areas;
 2. A composite sample of no more than 10 sub-samples for a residential, daycare or school building along the building drip line;
 3. A sample method to collect the top one-half inch of soil from areas to be sampled, and to include, but not oversample, paint chips or other contaminated debris in the soil; and
 4. For sites other than residential, daycare or school uses, the inspector/risk assessor shall work with the owner to recommend an appropriate strategy.
- (c) After receiving results of the sampling in (b) above from a qualified NLLAP certified laboratory or an equivalent independent national accreditation program, the inspector/risk assessor shall recommend at least the following interim controls or permanent abatement strategy:
1. Any areas testing more than or equal to 5,000 [mu] g/g lead shall be permanently abated by a method such as soil removal or paving; however, this requirement shall not supersede any Federal or State regulation which applies to any designated waste site or industrial area;
 2. Any area expected to be used by children testing between 2,000 [mu] g/g and 5,000 [mu] g/g shall be permanently abated by a method such as paving over or soil removal. Areas where contact by children is unlikely may be treated with interim controls; and
 3. Any area expected to be used by children testing between 400 [mu] g/g and 2,000 [mu] g/g shall be permanently abated as noted in (c)1 or 2 above, or may be subjected to interim controls.
 - i. Interim controls may include a change in usage pattern by moving play equipment, walkways or the like and planting thorny bushes or other ground cover, or installing fencing or other barriers to prevent use of contaminated areas.

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ii. In low traffic areas, live ground cover, such as grass or shrubbery, or other cover such as clean soil, bark, or gravel may be used as an interim control. Clean soil or other cover shall be at least six inches in depth and shall be shown to contain not more than 200 [mu] g/g of lead.

iii. A plan for interim controls shall include a maintenance schedule to monitor use and to ensure that plantings and installations remain in place.

(d) After receiving results of the sampling in (b) above from a qualified NLLAP certified laboratory or an equivalent independent national accreditation program, the inspector/risk assessor shall recommend interim controls or permanent abatement, at the site of residential buildings or other child occupied facilities, so that:

1. The arithmetic mean of children's bare soil play areas shall be less than 400 [mu] g/g of lead when composites are analyzed;
2. The arithmetic mean of all other bare soil areas shall be less than 1,200 [mu] g/g of lead when composites are analyzed; and
3. Any soil removed pursuant to (d)1 or 2 above shall not be used as topsoil at any residential site or at the site of any child occupied facility.

History

HISTORY:

Amended by R.2001 d.328, effective September 17, 2001.

See: [33 New Jersey Register 1807\(a\)](#), [33 New Jersey Register 3307\(a\)](#).

Added (d).

Annotations

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§ 5:17-8.1 Post abatement cleaning-interior work areas

- (a) To allow the lead dust to settle, post abatement cleaning shall begin no sooner than one hour after the lead hazard abatement project has been completed.
- (b) Cleaning shall take place when the abatement project has been completed and before abated surfaces are painted or sealed.
 - 1. Removal of plastic sheeting shall be done as follows:
 - i. Plastic sheeting used in the abatement area shall be removed first. Plastic sheeting used to isolate the abatement area shall be removed only when all other plastic sheeting has been removed;
 - ii. Immediately prior to removal, plastic sheeting shall be misted with water to hold down dust. If necessary, to prevent debris from falling on unprotected floors, moistened debris on plastic sheeting covering floors shall be swept toward the middle of the plastic sheeting prior to folding;
 - iii. Plastic sheeting shall be removed by folding the ends toward the middle to trap any dust residue;
 - iv. The plastic sheeting shall be placed in double four mil or single six mil plastic bag(s) that are then sealed with duct tape and removed from the project area for disposal; and
 - v. The plastic sheeting shall be removed in the following order:
 - (1) Upper level plastic sheeting, such as that on cabinets and counters;
 - (2) The top layer of the floor plastic sheeting;
 - (3) Vent cover and doorway plastic sheeting;
 - (4) Bottom layer of floor plastic sheeting; and
 - (5) Plastic used to isolate the abatement project.
 - 2. Work clothing and equipment shall be decontaminated as follows:
 - i. Work clothing shall be placed in a bag. The bag shall be labeled and sealed for transport to a laundry facility equipped to clean lead contaminated clothing or shall be discarded with other project waste;
 - ii. All tools shall be wiped down with rags or sponges using trisodium phosphate or other detergent solution formulated to bind lead. An original, marked container showing the nature of the formula and any necessary precautions shall be available at the work site. The name of the product used and its manufacturer shall be included in the records retained by the contractor;
 - iii. Disposable supplies such as mop heads, sponges, and rags shall be sealed and shall be disposed of as allowed by the New Jersey Department of Environmental Protection; and

- iv. Durable equipment such as power and hand tools, generators, and vehicles shall be HEPA vacuumed and then washed with a detergent solution as required in (b)2ii above prior to removal from the work site.
3. The abatement area(s) shall be vacuumed with a HEPA vacuum cleaner as follows:
- i. HEPA vacuuming shall be sequenced to avoid passing through rooms already cleaned. The entryway shall be vacuumed last; and
 - ii. In each room, vacuuming shall begin with the ceiling and shall proceed down the walls. Every surface shall be vacuumed including, but not limited to, ceiling, walls, windows, window sills, exterior sills, window wells, doors, heating and air conditioning equipment, fixtures, such as light fixtures, and built-in appliances. Floors shall be the final surface vacuumed.
4. The abatement area(s) shall be wet washed with a detergent solution as required in (b)2ii above prepared in accordance with manufacturer's instructions.
- i. In each room, the wet wash process shall begin with the ceiling and work down to the floor following the sequence in (b)3i and ii above.
 - ii. String mops and mop buckets with wringers are required for wet washing floors. Sponge mops shall not be used.
5. When dry, the abated area(s) shall be HEPA vacuumed again, following the sequence in (b)3i and ii above.
6. As an alternative to the HEPA vacuum, wet wash, HEPA vacuum cycle described in (b)3 above, a HEPA spray cleaner vacuum may be used.
- (c) A preliminary visual inspection shall be conducted to ensure that all surfaces described in the scope of work have been abated and that there is no visible lead dust or residue.
1. If the visual inspection is unsatisfactory, the HEPA vacuum, wet wash, HEPA vacuum cycle described in (b)3 through 5 above shall be repeated.
 2. If the visual inspection is satisfactory, any other construction work that will disturb lead-based paint surfaces shall be completed.
- (d) All abated surfaces, such as walls, ceilings, and woodwork, shall be primed with an appropriate primer. Those areas shall then be painted or stained and sealed. Surfaces subjected to repeated friction, such as window sashes, jambs, sills, and wells, shall be painted with a final coat of high gloss enamel or clear sealer.
1. Surfaces enclosed with vinyl, aluminum coil stock, or other materials that are traditionally not painted, and new replacement components are exempt from this provision.
- (e) After the painting or sealing has been completed, a final cleaning of the area is required unless dust clearance tests were already passed prior to painting or sealing. The final cleaning shall follow the HEPA vacuum, wet wash, HEPA vacuum cycle described at (b)3 through 5 above.
1. Surfaces newly painted with latex paint are exempt from the final wet wash. However, those surfaces must be HEPA vacuumed.

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§ 5:17-8.2 Post abatement cleaning-exterior work areas

- (a) To allow the lead dust to settle, post abatement cleaning shall begin no sooner than one hour after the lead hazard abatement project has been completed.
- (b) Cleaning shall take place when the abatement project has been completed and before abated surfaces are painted or sealed.
1. Removal of plastic sheeting shall be done as follows:
 - i. Immediately prior to removal, plastic sheeting shall be misted with water to hold down dust. If necessary to prevent debris from falling on unprotected ground, moistened debris on plastic sheeting covering floors shall be swept toward the middle of the plastic sheeting prior to folding;
 - ii. Plastic sheeting shall be removed by folding the ends toward the middle to trap any dust residue; and
 - iii. The plastic sheeting shall be placed in double four mil or single six mil bag(s) that are then sealed with duct tape and removed from the project area for disposal.
 2. Work clothing and equipment shall be decontaminated as follows:
 - i. Work clothing shall be placed in a bag. The bag shall be labeled and sealed for transport to a laundry facility equipped to clean lead contaminated clothing or shall be discarded with other project waste;
 - ii. All tools shall be wiped down with rags or sponges using trisodium phosphate or other detergent solution formulated to bind lead. An original, marked container showing the nature of the formula and any necessary precautions shall be available at the work site. The name of the product used and its manufacturer shall be included in the records retained by the contractor;
 - iii. Disposable supplies shall be sealed and shall be disposed of as allowed by the New Jersey Department of Environmental Protection; and
 - iv. Durable equipment such as power and hand tools, generators, and vehicles shall be HEPA vacuumed and then washed with a detergent solution as required in (b)2ii above prior to removal from the work site.
- (c) A preliminary visual inspection shall be conducted to ensure that all surfaces described in the scope of work have been abated and that there is no visible lead dust or residue.

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[N.J.A.C. 5:17-9.1](#)

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§ 5:17-9.1 Final inspection and clearance testing

- (a) To allow lead dust to settle, the final inspection and clearance testing shall begin no sooner than one hour after the final cleaning is completed.
- (b) The final inspection shall consist of a visual inspection to verify that all abated surfaces have been replaced, painted, or sealed, and the collection of environmental samples to ensure that the work area has been effectively cleaned.
1. Wipe samples shall be taken from the abated area, one sample from within 10 feet outside the containment area and one sample from any nearby high traffic area.
 2. When an abatement project involves exterior abatement work, soil samples shall be collected around the foundation of the structure and in any play areas that could have been affected by the work. All soil samples shall be composite samples as described in (d) below.
- (c) Single surface samples, which shall consist of one sample in a single, hard, rinsable container, shall be required for all abatement projects.
1. Single surface sampling shall follow the methodology at [N.J.A.C. 5:17-3.3\(d\)](#) of this chapter.
 2. Single surface sampling shall comply in number and location with Table 9.1 below.
- (d) Composite clearance samples, which shall consist of no more than four subsamples in a single container, are allowed for abatement projects where similar lead hazard control treatments were used in multiple rooms of the same dwelling. Composite sampling shall be performed in accordance with [N.J.A.C. 5:17-3.4\(c\)](#).
- (e) The following lead dust levels are acceptable for clearance:
1. Floors--100 [micro]g/square foot;
 2. Interior window sills--500 [micro]g/square foot; and
 3. Window wells, exterior concrete, rough surfaces--800 [micro]g/square foot.
- (f) The following lead dust levels are acceptable for clearance at residential buildings and child occupied facilities:
1. Floors--less than 10 [micro]g/square foot;
 2. Interior window sills--less than 100 [micro]g/square foot;
 3. Window wells--less than 400 [micro]g/square foot.
- (g) Random sampling is permitted in multifamily buildings with 10 or more dwelling units where the units are similarly configured and have had comparable lead control activity, performed at the same time and using the same abatement contractor. The units to be tested shall not be selected until all abatement activity and cleaning have been completed.

(h) Field spiked samples shall be submitted and analyzed in accordance with the requirements of [N.J.A.C. 5:17-3.3\(d\)](#).

(i) All clearance samples shall be analyzed at a laboratory participating in the NLLAP program or an equivalent independent national accreditation program.

TABLE 9.1

Recommended Minimum Number and Location of Clearance Dust Samples for All Abatement and Interim Control Work

Clearance Category	Category Description	Number and Location of Single-Surface Wipe Samples in Each Area *	Number and Location of Composite Wipe Samples
1	Interior treatments within dwelling	Two dust samples from every room in dwelling (whether treated or untreated): - One interior window sill or window trough, alternating between rooms, - One floor AND - For common areas, one for every 2,000 ft ² of a common area room floor (if present).	Three composite samples for every batch of four rooms (whether treated or untreated): - One floor composite - One interior window sill composite - One window trough composite AND - For common areas, one floor subsample for every 2,000 ft ² (if present); up to 8,000 ft ² can be sampled for each composite.
2	Interior treatments With containment (plastic sheeting as airlock on doors)	Same as Category 1, but only in every <i>treated</i> room AND, One floor sample outside the containment area but within 10 feet of the airlock to determine the effectiveness of the containment system. This extra single-surface sample is recommended in 20 percent of the treated dwellings in multifamily housing and <i>all</i> single-family homes. - For Common Areas, one floor sample for every 2,000 ft ² and one floor sample outside	Same as Category 1, but only in every <i>treated</i> room AND, One floor sample outside the containment area but within 10 feet of the airlock to determine the effectiveness of the containment system. (This extra single-surface sample is recommended in 20 percent of the treated dwellings in multifamily housing and <i>all</i> single-family homes.) - For Common Areas, one floor subsample for every 2,000 ft ² (up to 8,000 ft ² for each

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	between		composite)
	treated and untreated areas)	containment.	and one floor sample outside containment.
3	Exterior treatments	Two dust samples as follows: - At least one dust sample on a horizontal surface in part of the outdoor living area (e.g., a porch floor or entryway), and - One window trough sample on each floor where exterior work was performed. An additional trough sample should be collected from a few lower floors to determine if troughs below the area were contaminated by the work above.	Two dust samples as follows: - One composite on a horizontal surface in part of the outdoor living area (e.g., a porch floor or entryway), and - One window trough composite for every 4 floors where exterior work was performed, including lower floors where exterior work was not done, if present.
4	Soil Treatment	One sample from the entryway.	One sample from the entryway.

* A room includes a hallway or a stairway. If no window is present, collect just one floor sample. When a closet is treated, the room to which it is attached should be tested. A closet is not considered to be a separate room.

SOURCE: PRE-PUBLICATION COPY: Guidelines For The Evaluation And Control of Lead-Based Paint Hazards in Housing, The National Center for Lead-Safe Housing, February 1995.

History

HISTORY:

Amended by R.2001 d.328, effective September 17, 2001.

See: [33 N.J.R. 1807\(a\)](#), [33 N.J.R. 3307\(a\)](#).

Rewrote (f).

Amended by R.2021 d.008, effective January 19, 2021.

See: [52 N.J.R. 497\(a\)](#), [53 N.J.R. 123\(a\)](#).

In (f)1, substituted "10" for "40"; and in (f)2, substituted "100" for "250".

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Case Notes

Penalty was properly assessed against respondent after he engaged in lead abatement without required State certification in violation of [N.J.A.C. 5:17-2.1\(a\)](#), failed to obtain a permit as required by [N.J.A.C. 5:17-5.2\(a\)](#), failed to provide 10 day Notice of beginning of the work under [N.J.A.C. 5:17-5.1\(b\)](#), failed to comply with the requirement that no residents be allowed in the building during abatement pursuant to [N.J.A.C. 5:17-4.3\(b\)4iii](#), and did not conduct the cleaning, inspection and final clearance sampling to ensure safety as required by [N.J.A.C. 5:17-9.1\(b\)](#). [Dep't. of Cmty. Affairs, Bureau of Code Serv. v. Fadia St. Juste, OAL DKT. No. CAF 12185-12, 2014 N.J. AGEN LEXIS 316](#), Initial Decision (June 5, 2014).

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§ 5:17-10.1 Waste disposal

Waste disposal shall comply with regulations promulgated by the New Jersey Department of Environmental Protection. The contractor shall record the name of the waste hauler or the site(s) where the waste was taken if the contractor did not use a waste hauler.

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§ 5:17-11.1 Abatement jobs on superstructures

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

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

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

History

HISTORY:

New Rule, R.1997 d.302, effective July 21, 1997 (operative September 24, 1997).

See: [29 New Jersey Register 2202\(a\)](#), [29 New Jersey Register 3242\(b\)](#).

Annotations

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