

Lead Management – Compliance Guide for General Contractors

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According to the Centers for Disease Control and Prevention, there is no identified safe blood lead level. Exposure to lead can lead to multiple health problems for children, including damage to the nervous system and brain; behavior and learning problems such as ADHD; slowed growth and development; and hearing and speech problems. To prevent childhood lead-based paint exposure, the United States Environmental Protection Agency's (EPA) Renovation, Repair and Painting (RRP) regulations went into effect in 2010. Many general contractors quickly made efforts to comply with the regulations for conducting work in residences and child-occupied facilities built before 1978.¹ This regulation did not replace existing lead regulations, and to date, due to differences in regulatory goals, a general contractor following the EPA's RRP regulation may not be in compliance with the existing Occupational Safety and Health Administration (OSHA) lead standard for the construction industry (29 CFR 1926.62, 1993), OSHA hazard communication standard (29 CFR 1910.1200), and other EPA regulations.

Why would this happen? One reason is that the EPA's RRP addresses paint containing 0.5% lead or greater, which is defined as "lead-based paint." The RRP regulations are designed to protect children under six years old. The OSHA lead standards, intended for worker protection, do not define the concentration of lead in coatings or paints that would be considered "lead-containing," since worker exposure is more dependent on the method of disturbance during renovation or demolition than on the concentration of lead in the paint.

Due to the confusion created by multiple standards regulating lead paint, Chubb Global Risk Advisors is providing the following summary to assist general contractors in complying with the provisions of the OSHA Lead and Hazard Communication regulations, as well as EPA regulations covering licensing of lead abatement personnel, the proper packaging and disposal of waste, and clearance testing requirements.



OSHA Lead Standard²

OSHA's lead standard for the construction industry applies to all construction activities where an employee may be exposed to lead during the course of their work day. Employers are required to conduct an exposure assessment when airborne concentrations could exceed the airborne Action Level (AL) specified below. The EPA RRP regulation does not address acceptable airborne lead concentrations. Instead it specifies contractor training requirements, public notification requirements, and work practice requirements when impacting lead-based paint in pre-1978 residential or child-occupied buildings. The main elements of the OSHA lead standard are as follows:

- A Permissible Exposure Limit (PEL) of 50 µg/m³ (micrograms per cubic meter) averaged over an 8-hour period;
- An AL of 30 µg/m³ averaged over an 8-hour period, regardless of use of respiratory protection;
- Specifies the use engineering controls and work practices where feasible, to reduce worker exposure to lead;
- Requires that employees observe good personal hygiene practices, such as washing hands before eating and decontamination prior to leaving the worksite;
- Requires that employees be provided with protective clothing and, where necessary, with respiratory protection in accordance with the OSHA Respiratory Protection Standard 29 CFR 1910.134;
- Requires that employees exposed to high levels of lead be enrolled in a medical surveillance program; and
- Requires that all surfaces remain as free of lead contamination as practicable, typically 200 µg/ft² (micrograms per square foot).³

Airborne lead concentrations are determined based on the employer-required exposure assessments collected during construction activities that disturb lead-containing surfaces. Representative samples are collected from employees that are performing the same job with similar potential lead exposures of similar duration and intensity.

OSHA – Hazard Communication Standard⁴

OSHA's Hazard Communication Standard (HAZCOM) 29 CFR 1910.1200, requires building owners to inform contractors performing renovation or demolition work which may disturb surfaces containing paint with any lead content so that they can protect their workers. The contractor disturbing the lead containing surfaces must comply with the above Lead in Construction regulation.

EPA – Differences in Licensing in Renovation and Abatement⁵

As an employer, it is important to understand the difference between a renovation project and a lead abatement project. Renovation can result in the disturbance of lead paint during the course of a typical work day, but it is not intended to permanently eliminate lead-based paint hazards. Renovation work requires training, certification, and lead-safe practices according to the EPA's RRP Rule, should the project occur at pre-1978 residential or child-occupied buildings.



Abatement is the intentional and permanent elimination of lead-based paint and lead-based paint hazards. Only state-certified/licensed contractors using certified/licensed employees can conduct the lead abatement. Contractors that have RRP Rule certification cannot conduct lead abatement unless they also maintain state-issued certification as abatement contractors.

EPA - Differences in Waste Disposal Depending on the Location of the Job

Any paint and/or debris assumed or known to contain lead must be disposed of according to local, state, and federal regulations. EPA notes that their “policy statement⁶ allows contractor-generated lead-based paint waste from residences to be disposed of as household waste. Household waste is regular garbage or trash that is disposed of as municipal waste, and managed according to state and local requirements. Residents are already entitled to manage their own lead-based paint waste in this manner.”

However, the waste from commercial (non-residential) construction projects is not exempted and a Toxicity Characteristic Leaching Procedure (TCLP) test would need to be performed on the waste to determine disposal requirements.

EPA - Differences in Dust Wipe Clearance Testing Requirements Depending on the Location of the Job

The United States Department of Housing and Urban Development (HUD) requires quantitative clearance wipe testing following renovation or repair work in pre-1978 homes receiving federal assistance, which are regulated under the Lead Safe Housing Rule. Contractors must determine whether the home is federally-assisted and then utilize a certified lead-based paint inspector, risk assessor, or lead dust sampling technician to arrange for clearance testing.⁷ It is worth noting that on June 21, 2019, EPA finalized a rule strengthening quantitative clearance wipe testing limits.⁸ These limits change “dust-lead hazard standards from 40 µg/ft² and 250 µg/ft² to 10 µg/ft² and 100 µg/ft² on floors and window sills.”

Quantitative clearance wipe testing, which would be required for HUD-regulated locations or following a lead abatement in a child-occupied residence or facility, is optional under the RRP Rule following a renovation. RRP contractors typically use a qualitative cleaning verification card in order to verify that their clean-up has been sufficient. It should also be noted that some states and localities may also require quantitative clearance wipe testing according to the EPA standards, so it is necessary to consider the jurisdiction where work is being conducted in order to determine the method and personnel required to conduct clearance testing.

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