

COMMON QUESTIONS CONCERNING THE LEAD BASED PAINT REGULATIONS

Note: The source of funding for a project involving Lead-based Paint activities may have additional requirements that would alter the responses to the questions below. Check with the funding entity for additional information. (e.g. HUD requirements are dependent on the amount of funding a single residence receives as to the use of abatement trained personnel on a renovation.)

Who has the authority to enforce the lead-based paint regulations in Mississippi?

Miss. Code Ann. § 49-17-501 to 531 give enforcement authority to the Mississippi Commission on Environmental Quality and through them to the Mississippi Department of Environmental Quality.

What is the general scope and applicability of Mississippi's Regulations for Lead-Based" Paint Activities"?

The regulations contain procedures and requirements for the accreditation of lead-based paint activities training programs, procedures and requirements for the certification of inspectors, risk assessors, project designers, supervisors, renovators, dust sampling technicians, workers and firms engaged in lead-based paint activities in target housing and child-occupied facilities and work practice standards for performing such activities.

What is "lead-based paint"?

"Lead-based paint" means paint or other surface coatings that contain lead equal to or in excess of 1.0 milligrams per square centimeter or more than 0.5 percent by weight. All paint in Target Housing and Child-Occupied Facilities must be considered to contain lead unless testing by a certified inspector, risk assessor or renovator demonstrates otherwise.

What is meant by "lead-based paint activities"?

"Lead-based paint activities" means, in the case of target housing and child-occupied facilities, the performance of a lead-based paint inspection, risk assessment, renovation, or abatement.

What is meant by "target housing"?

"Target housing" means any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless one or more children age 6 years or under resides or is expected to reside in such housing for the elderly or persons with disabilities) or any 0-bedroom dwelling.

What is meant by "child-occupied facility"?

"Child-occupied facility", as the term applies to abatements, means a building or portion of a building constructed prior to 1978, visited regularly by the same child, 6 years of age or under, on at least two different days within any week (Sunday through Saturday period), provided that each day's visit lasts at least 3 hours and the combined weekly visit lasts at least 6 hours, and the combined annual visits last at least 60 hours. Child-occupied facilities may include, but are not limited to, day-care centers, preschools and kindergarten classrooms. Child-occupied facilities may be located in target housing or in public or commercial building.

"Child-occupied facility", as the term applies to renovations, means the same as above except that the age restriction only applies for children who are less than 6 years of age

What is meant by "abatement"?

"Abatement" means any measure or set of measures designed to permanently eliminate lead-based paint hazards. Abatement includes, but is not limited to:

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

However, abatement does not include renovation, remodeling, painting or repainting, landscaping or other activities, when such activities are not designed to permanently eliminate lead-based paint hazards, but, instead, are designed to repair, restore, or remodel a given structure or dwelling, even though these activities may incidentally result in a reduction or elimination of lead-based paint hazards. Furthermore, abatement does not include interim controls, operations and maintenance activities, or other measures and activities designed to temporarily, but not permanently, reduce lead-based paint hazards.

What is meant by "renovation"?

"Renovation" means the modification of any existing structure, or portion thereof, that results in the disturbance of painted surfaces, unless that activity is performed as part of an abatement. The term "renovation" includes (but is not limited to): The removal, modification, or repair of painted surfaces or painted components (e.g., modification of painted doors, surface restoration, window repair, surface preparation activity (such as sanding, scraping, or other activities that may generate paint dust)); the removal of building components (e.g., walls, ceilings, plumbing, windows); weatherization projects (e.g., cutting holes in painted surfaces to install blown-in insulation or to gain access to attics, planning thresholds to install weather-stripping), and interim controls that disturb painted surfaces. A renovation performed for the purpose of converting a building, or part of a building, into target housing or a child-occupied facility is a renovation. The term renovation does not include minor repair and maintenance activities.

What is meant by "renovator"?

"Renovator" means an individual who either performs or directs or supervises workers who perform renovations. A "certified renovator" is a renovator who has successfully completed a renovator course accredited by EPA or an EPA-authorized State or Tribal program and has been certified to perform renovations in the state of Mississippi.

Does a person have to be certified in order to work as a worker on a renovation project?

No. A worker working on a lead-based paint renovation project is trained on site by a certified renovator to perform the required lead-based paint renovation tasks. Only on-site training by the certified renovator is required. However, an individual must successfully complete the two-day accredited lead-based paint worker training course and be certified as a worker in order to work on a lead-based paint abatement project.

What is meant by "lead-based paint hazard"?

"Lead-based paint hazard" means 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 as identified by the United States Department of Health and Human Services; Centers for Disease Control and Prevention pursuant to the federal Toxic Substances Control Act (TSCA) section 403.

Who must be certified to perform lead-based paint activities?

The regulation states "No person may engage in lead-based paint activities in target housing or child-occupied facilities as an inspector, risk assessor, project designer, supervisor, renovator, dust sampling technician, worker, or firm on or after the effective date of these regulations, unless applicable initial or renewed certificates to so engage in lead-based paint activities have been issued to such persons by the Mississippi Commission on Environmental Quality and are currently in effect".

Can an individual perform lead-based paint activities in their own home?

Persons who perform lead-based paint activities within residential dwellings they own and occupy are exempt from the regulations unless the residential dwelling is occupied by a person or persons other than the owner or owner's immediate family while these activities are being performed, or a child residing in the building has been identified as having an elevated blood lead level as determined by the United States Department of Health and Human Services; Centers for Disease Control and Prevention. The residential dwelling must be the owner's primary residence.

What is meant by "residential dwelling"?

"Residential dwelling" means (1) a detached single family dwelling unit, including attached structures such as porches and stoops; or (2) a single-family dwelling unit in a structure that contains more than one separate residential dwelling unit, which is used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of one or more persons. Note: The regulation may extend to the disturbing of paint on out buildings when such activity would pose a health risk to the occupants of the "residential dwelling".

Are project notifications required?

Yes, the MDEQ project notification form must be submitted to the MDEQ Lead Section, six (6) working days prior to commencement of the activity.

Do the regulations require specific work practice standards to be followed when performing lead-based paint activities in target housing and child-occupied facilities?

Yes, the work practice standards to be followed when performing lead-based paint activities in target housing and child-occupied facilities are located in 11 Miss. Admin. Code, Pt. 2, Ch. 9, Rule 9.5.

What are the certification requirements in order for a person to be certified to perform lead-based paint activities?

Certification requirements vary depending on the certification being applied for. Each certification discipline requires successful completion of the required training course(s) specific to the discipline. Additional requirements could include education, professional and related work experience, depending on the discipline. 11 Miss. Admin. Code, Pt. 2, Ch. 9, Rule 9.4 contains the requirements for the different certification disciplines. As previously stated in the guidance, a renovation worker is not required to be certified only proper training on site by a certified renovator.

Are the regulations applicable to lead-based paint activities performed by governmental agencies?

Yes. The regulations apply to anyone performing work in Target Housing or Child-Occupied Facilities except as allowed by the regulations.

When did the regulations become effective?

August 31, 1998 for "abatement activities".
March 31, 2010 for "renovation activities".

What are the job responsibilities of a certified inspector?

A certified inspector conducts an inspection to determine the presence of lead-based paint and provides a report explaining the results of the investigation. This investigation is limited to the use of EPA approved test methods including the use of an XRF instrument or taking paint chip samples. A certified inspector also samples for the presence of lead in dust and soil for the purposes of clearance testing.

What are the job responsibilities of a certified risk assessor?

A certified risk assessor conducts an investigation to determine the existence, nature, severity and location of lead-based paint hazards and provides a report explaining the results of the investigation. The investigation includes the use of EPA approved test methods including the use of an XRF instrument, taking paint chip samples, taking dust wipe samples or taking soil samples. A risk assessor also samples for the presence of lead in dust and soil for the purposes of clearance testing.

Can a certified lead-based paint inspector perform a Lead Hazard Screen or a Risk Assessment?

No. Lead hazard screens and risk assessments can only be performed by a certified risk assessor.

Can a certified risk assessor perform lead-based paint inspections?

Yes, as provided for in 11 Miss. Admin. Code, Pt. 2, Ch. 9, Rule 9.5.B.1, certified risk assessors can perform the same lead-based paint inspections as those performed by a certified inspector.

Is certification required if an individual will not be taking samples of lead-based paint, but will be taking samples of dust and soil?

Yes. Certification as a risk assessor is required to take samples of dust and soil to identify lead hazards. A certified inspector may take dust and soil samples for clearance purposes only. A certified dust sampling technician can take dust sampling for renovation clearance purposes.

Must a certified supervisor also be certified as a worker in order to perform as a worker on abatement projects?

No. The training that a Certified Supervisor receives exceeds the training that a Certified Worker receives. A Certified Supervisor may act as a Certified Worker without obtaining the Worker Certification.

Note: If an individual wishes to obtain the Worker Certification, they must complete the training for the Worker and file the application with the appropriate fee..

What must an individual do to maintain their lead-based paint certification in order to perform lead-based paint abatement activities?

In order to maintain certification an individual must:

- a. Successfully complete refresher training in each discipline every three (3) years following successful completion of the initial training course. If an individual does not successfully complete the required refresher training course before the expiration date (or before the three (3) year anniversary) of their latest previous training, the individual must fully retake the initial training course in order to be re-certified.
- b. Renew certificate(s) annually during the period of required training.
- c. Certified individual must apply to and be re-certified by the Commission in the discipline every three (3) years.

Must an occupant protection plan be prepared for all abatement activities involving residential dwellings and child-occupied facilities even if the occupants have been moved out during the abatement activities?

Yes, 11 Miss. Admin. Code, Pt. 2, Ch. 9, Rule 9.5.E.5. states:

A written protection plan shall be developed for all abatement projects and shall be prepared according to the following procedures:

- a. The occupant protection plan shall be unique to each residential dwelling or child occupied facility and be developed prior to the abatement. The occupant protection plan shall describe the measures and management procedures that will be taken during the abatement to protect the building occupants from exposure to any lead-based paint hazards.
- b. A certified supervisor or project designer shall prepare the occupant protection plan.

Is playground equipment located on the playground of child-occupied facilities and multi family dwellings subject to the Regulations for Lead-Based Paint Activities?

Yes, since the playground equipment is considered "common area". Common area as defined in the regulations means a portion of a building that is generally accessible to all occupants. Such an area may include, but is not limited to, hallways, stairways, laundry and recreational rooms, playgrounds, community centers, garages, and boundary fences.

What clearance levels must be met when performing lead-based paint abatement activities that are subject to the State's lead-based paint regulations?

The United States Environmental Protection Agency (EPA) has issued a final regulation under section 403 of the Toxic Substances Control Act (TSCA), as amended by the Residential Lead-Based Paint Hazard Reduction Act of 1992, establishing new residential lead dust cleanup levels (clearance levels). The revised clearance levels for lead in dust which became effective on March 6, 2001, are as follows:

- 40 $\mu\text{g}/\text{ft}^2$ for floors
- 250 $\mu\text{g}/\text{ft}^2$ for interior window sills
- 400 $\mu\text{g}/\text{ft}^2$ for window troughs.

The regulation also established the following hazard standards for bare residential soil:

- 400 ppm by weight for play areas or 400 $\mu\text{g}/\text{g}$
- an average of 1200 ppm or 1200 $\mu\text{g}/\text{g}$ in the remainder of the yard.

The clearance levels have been adopted by the Mississippi Lead-Based Paint Program and must be met when performing lead-based paint abatement activities subject to the State's lead-based paint regulations.

How can a person obtain additional information concerning the State's lead-based paint program?

For copies of the regulations or other information, please contact the Department's Lead Section at (601) 961-5171 or toll free at 1-877-671-7139