

Frequently Asked Questions on Lead-Based Paint
Office of Housing and Community Partnerships (OHCP)
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Q: How can I get a copy of the U.S. Department of Housing and Urban Development's (HUD's) regulations on lead-based paint (Final Rule) or other related materials regarding lead-based paint, such as the ODOD/ODH Interagency Agreement?

A: The regulations, along with a number of other documents are available on OHCP's website at: <http://www.odod.state.oh.us/cdd/ohcp/Lead.htm>, including HUD's Interpretive Guidance which provides important policy guidance on the regulations. You can also request a hard copy of these documents by faxing a specific request to Mike Burns at (614) 752-4575.

Q: I am a grant recipient of HUD funds. Am I currently required to abide by the HUD Final Rule on lead-based paint?

A: Yes, the last extension of the effective date of the Final Rule expired on January 10, 2002. **HUD has just approved (as of May 7, 2002) a further extension for Ohio until May 31, 2002.** During this time period, you may still operate under the regulations that were in effect prior to the HUD Final Rule of 9/15/1999. Any contracts signed during January 10, 2002 to May 6, 2002 would need to follow HUD's Final Rule, as will any contracts signed after May 31, 2002. This means that any commitment of funds (e.g., award letter to a homeowner) signed when the Final Rule was in effect will need to abide by all the requirements of those regulations. Unless your community will be covered by the Ohio Department of Development's (ODOD's) Interagency Agreement with the Ohio Department of Health, grantees will need to use licensed lead-abatement personnel for any lead-based paint hazard mitigation activity that involves HUD funds. Community included in the Interagency Agreement will soon will be allowed to use persons who successfully completed the one-day Renovator's and Remodeler's Training Program to perform non-abatement work, rather than being limited to licensed lead-abatement personnel.

Q: What is the purpose of the Interagency Agreement between the Ohio Department of Development and the Ohio Department of Health?

The purpose of the ODOD/ODH Interagency Agreement is to allow ODOD's housing grantees that receive HUD funds to implement the HUD regulations without being restricted by the current state lead law. That law, as applied by the Ohio Department of Health, did not allow non-abatement lead hazard control work (i.e., interim controls) to be performed by persons who complete the HUD-approved Renovator's and Remodeler's training program, and instead required all such work to be done by licensed lead-abatement personnel. This issue became critical when the Final Rule became effective after January 10, 2002 (see previous answer for more information on this issue). The rule required housing programs to integrate lead hazard control into their HUD-assisted housing programs, which meant programs would need to use licensed abatement personnel. But the lack of licensed lead-abatement personnel, meant many local housing programs needed to have local contractors

trained through the Renovation and Remodeling training to implement their housing programs. Although state legislation is pending that would change state law to conform to the HUD regulations and permit Renovator's And Remodeler's contractors to perform interim controls, that legislation has not yet been enacted, and the process will take time. The ODOD/ODH Interagency Agreement is a temporary measure that allows participants to follow the HUD regulations as if the proposed state legislation were in effect. This permits grantees to use contractors who have successfully completed the Renovation and Remodeling training for rehabilitation and interim control work as required by the HUD regulations, and also allows for the use of clearance technicians rather than licensed inspectors or risk assessors. However, unlike the state law, the Interagency Agreement can be terminated by ODOD or ODH at any time, so making a permanent change to the state law is vitally important.

Q: After successfully completing the Renovator's and Remodeler's Training, can a person begin performing HUD-assisted housing rehabilitation?

A: A person must first submit a form (available from ODH at http://www.odh.state.oh.us/Forms/lp_prevfrms.htm) that will enable them to be listed with ODH. After the person is listed with ODH, they may begin to perform work under the interagency agreement. These forms will be distributed at OHCP-sponsored Renovator's And Remodeler's training programs.

Q: What is the status of the Interagency Agreement?

A: Currently the implementation of the Interagency Agreement has been delayed to resolve problems stemming from the lack of funding for ODH staff to perform oversight and monitoring. We hope to have this issue resolved soon.

Q: Is my community covered by the ODOD/OHCP Interagency Agreement?

A: To be covered by the Interagency Agreement, a community must first submit a Local Implementation Plan to OHCP, signed by the Chief Elected Official. Communities that have submitted a plan are listed on OHCP's website at <http://www.odod.state.oh.us/cdd/ohcp/liplist.pdf>. Upon receipt of a Local Implementation Plan, OHCP will incorporate the terms of the Interagency Agreement into an existing grant agreement through an amendment or into any new grant agreements.

Q: If my community is not covered by the ODOD/ODH Interagency Agreement, can it be?

A: Yes, the ODOD/ODH Interagency Agreement can be amended to include communities at any time, so long a complete Local Implementation Plan is submitted to OHCP.

Q: If I took the EPA-approved 5-day contractor training, can I work on rehab jobs covered by the Interagency Agreement?

ODH will grandfather anyone who:

- 1) Is currently licensed as a lead abatement worker or a lead abatement contractor;
- 2) Has successfully completed an Ohio approved lead abatement worker or a lead abatement contractor course;
- 3) Successfully completed a National Association of Remodeling Industry (NARI) course in Ohio;
- 4) Successfully completed the Lead-Based Paint Maintenance Training Program prepared by NETA for HUD prior to January 9, 2002.

Proof of attendance such as a certificate from the course will be required.

Other trainings/certifications will be considered on a case-by-case basis. For clarification, contact Dan Chatfield of ODH, at (614) 644-8649.

Q: I took the training to become a licensed inspector, but never applied for the license. Can I use this training to perform clearance examinations?

ODH will grandfather in individuals who want to become clearance technicians if they have successfully completed a lead inspector or lead risk assessor course conducted by an ODH-approved training provider.

However, there is a time limit to the “grandfathering.” For example, if the person took training more than two years ago and never were licensed in the discipline, they will need to at least take the clearance technician training to be approved under the terms of the interagency agreement.

Q: Do Clearance Technicians (a.k.a., Clearance Examiners) perform the same type of clearance examinations as licensed inspectors or Risk Assessors?

A: No. HUD’s Final Rule on lead-based paint requires clearance examinations performed on abatement projects to be performed by licensed inspectors and risk assessors. However, section 35.1340(b)(iv) allows clearance technicians to perform clearance examinations **without the approval of a licensed risk assessor or licensed inspector** provided... it is “for a single-family unit or individual units and associated common areas in multi-family projects.” Note that under the ODOD/ODH Interagency Agreement, ODH has established a process of registration so that ODH can list clearance technicians, which must be done before a person performs any clearance examinations. Registration forms are available from the Ohio Department of Health.

Q: The HUD Final Rule appears to require that Risk Assessors sign-off on the reports of clearance technicians. Is this correct?

A: The HUD regulations do require that, where there is no state established system of certifying clearance technicians, then a Risk Assessor does need to sign-off on the reports of clearance technicians. However, under the ODOD/ODH Interagency Agreement, ODH will receive applications from persons who have been trained and will list (and can de-list) clearance technicians. In HUD's opinion, this satisfies this oversight requirement, and therefore sign-off by a Risk Assessor is not required. However, it would be a good practice for a knowledgeable person, such a Risk Assessor, to oversee work done by a newly trained clearance technician. This would probably include visiting the site on the first few jobs and observing that the clearance technician is following proper procedures.

Q: The HUD regulations state the "Lead-Based Paint Maintenance Training Program" is acceptable. Does this meet ODOD/ODH Interagency Agreement requirements?

A: Generally, the answer is no. The Interagency Agreement specifically states that **persons doing housing rehabilitation must take the Renovator's and Remodeler's Lead-Based Paint Training Program.** The reason for this is that the maintenance training is a different course, with different manuals and targeted to people doing maintenance and very minor repairs. OHCP believes that, considering the training is only one day, persons doing housing rehabilitation must attend the training designed for those who will perform that type of work. Therefore, persons performing activities covered by the Interagency Agreement must successfully complete the Renovator's and Remodeler's training. The only exception is that persons who took the maintenance training program prior to the date of the Interagency Agreement (1/9/2002) will be allowed to perform housing rehabilitation work under the Interagency Agreement, but are strongly encouraged to take the Renovator's and Remodeler's training.

Q: Can I use the Renovator's And Remodeler's training for privately-funded housing rehabilitation projects?

A: No!! The only rationale for applying these techniques would be to mitigate existing or possible lead hazards and current state law limits this to be performed only by licensed abatement personnel.

Q: Do subcontractors need to attend the Renovator's And Remodeler's training?

Not necessarily. Much of the work of a HVAC, electrical, plumbing or other special trades probably will not disturb painted surfaces, or may fall under the De Minimus levels as set forth in 24 C.F.R. 35.1350 (d). In some cases, there may be a need to substantially disturb a painted surface, but this could be resolved by having this part of the work completed by the general contractor's trained personnel, who would follow safe work practices. The responsibility rests with the general contractor to make certain that either the subcontractors have the necessary training or, if not, that the subcontractor is not performing work that would violate the regulations, and that such work is completed by trained personnel.

Q: What are the requirements for writing rehabilitation work specifications for non-abatement lead-hazard control work involving HUD funds?

A: There are no requirements or restrictions in the HUD regulations on this issue. However, OHCP is requiring that, at a minimum a rehabilitation specialist successfully complete the Renovator's and Remodeler's training, and it is strongly recommended that they take either the Licensed Contractor or Licensed Risk Assessor training. (Taking either of these courses will make it unnecessary to take the Renovator's and Remodeler's training.)

Q: The HUD regulations allow for Standard Treatments to be completed without involvement of a Risk Assessor, however, the Interagency Agreement requires a Risk Assessment. Does a Risk Assessor need to be used?

A: Yes. OHCP believes it would be inadvisable for communities to prepare work specifications without involvement of a trained person. In addition, standard treatments do not allow any latitude in the application of interim controls, which may greatly increase the cost of lead hazard mitigation.