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24 CFR §35
29 CFR §1910
29 CFR §1926

LEAD SAFETY

Acronyms:

HCD: Boise City Housing and Community Development
PDS: Boise City Planning and Development Services
AHP: Boise City Affordable Home Ownership Program
HUD: U.S. Department of Housing and Urban Development
EPA: U.S. Environmental Protection Agency
OSHA: U.S. Department of Labor Occupational Safety and Health Administration
CFR: Code of Federal Regulations
FR: Federal Registry
XRF: X-Ray Fluorescence Analyzer
Pb: Lead
LBP: Lead Based Paint
RRP: EPA, Renovate, Repair and Paint Program
LSHR: HUD, Lead Safe Housing Rule
NLLAP: National Lead Laboratory Accreditation Program
CDBG: Community Development Block Grant Program
HOME: Home Investment Partnerships Program

Definitions:

Pre-1978 Housing is housing constructed prior to January 1st, 1978. It can be single family homes, apartments or other buildings used for living quarters. Certain exclusions apply including, zero-bedroom dwellings and housing for elderly or disabled persons (unless a child under 6 lives there).

Child-occupied facility means a building, or portion of a building, constructed prior to 1978, visited regularly by the same child, under 6 years of age, 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 visits last 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 buildings. With respect to common areas in public or

commercial buildings that contain child-occupied facilities, the child-occupied facility encompasses only those common areas that are routinely used by children under age 6, such as restrooms and cafeterias. Common areas that children under age 6 only pass through, such as hallways, stairways, and garages are not included. In addition, with respect to exteriors of public or commercial buildings that contain child-occupied facilities, the child-occupied facility encompasses only the exterior sides of the building that are immediately adjacent to the child-occupied facility or the common areas routinely used by children under age six (6).

Lead-based paint (LBP) is any paint or surface coating that contains lead equal to or exceeding one milligram per square centimeter (1.0 mg/cm²) or 0.5% by weight.

Residential property means a dwelling unit, common areas, building exterior surfaces, and any surrounding land, including outbuildings, fences and play equipment affixed to the land, belonging to an owner and available for use by residents, but not including land used for agricultural, commercial, industrial or other non-residential purposes, and not including paint on the pavement of parking lots, garages, or roadways.

Zero-bedroom dwelling means any residential dwelling in which the living areas are not separated from the sleeping area. The term includes efficiencies, studio apartments, dormitory or single room occupancy housing, military barracks, and rentals of individual rooms in residential dwellings (see Single room occupancy (SRO)).

Background

The use of Lead-Based Paint (LBP) in residential buildings was banned in the United States by 1978 because of its known health hazards. This law effectively stopped its use in commercial buildings also, but it was still used in some industrial applications such as bridges. Homes and other buildings built prior to 1978 are likely to contain some LBP unless it has already been removed. Similar to asbestos, LBP is not a hazard unless it is deteriorating or it's disturbed. Children under six and pregnant women are the most susceptible to the effects of lead poisoning, but regular healthy adults can also be affected.

Regulation Statement

The City of Boise is committed to complying with all applicable federal legislation and regulations pertaining to the hazards of lead-based paint. This regulation covers commercial and residential buildings owned by the City of Boise. The reason for this regulation is to prevent exposure to lead-based paint hazards and ensure compliance with existing federal regulations. The requirements for compliance with LBP regulations in city owned properties are based on the properties use and age; they can be broken down into three main categories, each regulated by separate rules.

Category 1. Work performed by contractors or trained Housing and Community development staff in Pre-1978 housing and child occupied facilities with HUD funding (Lead Safe Housing Rule-HUD)

Category 2. Work performed by contractors in Pre-1978 housing and child-occupied facilities (Renovation, Repair and Painting Rule- EPA)

Category 3. Work performed by City of Boise personnel or contractors in all other commercial/public facilities (City of Boise Regulation and OSHA)

Category 1: Work performed on Pre-1978 Housing or Child occupied facilities with HUD funding (HUD's Lead Safe Housing Rule requirements)

City personnel without the required EPA and/or HUD training shall not perform work which will disturb painted surfaces in these buildings, unless the paint has been tested and shown not to be LBP.

The U.S. Department of Housing and Urban Development's Lead Safe Housing Rule that is found in the HUD's regulations at 24 CFR Part 35, Subparts B through M, generally applies to work performed in housing units receiving HUD financial assistance, (such as rehabilitation or acquisition). Under the Lead Safe Housing Rule (LSHR), program participants (governmental jurisdiction, non-profit, community organization or the property owner who accepts HUD funds) becomes responsible for compliance with the LSHR.

The level of HUD's specific LSHR requirements for repair and renovation projects depend on the amount of federal assistance. The information listed below and/or found in the following tables will help explain the basic requirements of HUD's Lead Safe Housing Rule 24 CFR Part 35. If the project will disturb less than 2 sq. ft. interior or 20 sq. ft. exterior it is considered a "de Minimis" project and the HUD rule does not apply.

Up to \$5,000 per unit:

Do no harm approach. Lead safety requirements cover only the surfaces being disturbed. Program participants can either test these surfaces to determine if they contain lead-based paint or presume they contain lead-based paint. Work which disturbs painted surfaces known or presumed to contain lead-based paint is done using lead safe work practices, and clearance of the worksite is performed at the end of the job (unless it is a very small "de Minimis" scale project). This ensures that no lead dust hazards remain in the work area.

- Training that meets the EPA's RRP Rule requirements is sufficient for this work.

Greater than \$5,000 and up to \$25,000 per unit:

Identify and control lead hazards. Identify all lead hazards in the affected units and common areas by performing a lead-based paint risk assessment. Control the hazards using interim controls. Participants may skip the risk assessment and presume that all potential lead hazards are present, and then must use standard treatments to address them. In addition to training that meets the EPA's RRP Rule requirements, HUD-approved interim control training (such as the HUD- EPA RRP curriculum) is required for renovators and workers.

Greater than \$25,000 per unit:

Identify and abate lead hazards. Identify all lead hazards at the property by performing a risk assessment and abate all the hazards. Participants may skip the risk assessment and presume all potential lead hazards are present and abate them. This approach requires certified abatement contractors perform the abatement part of the job.

See **Exhibit A** for a more detailed overview of LSHR requirements.

Category 2: Work performed on Pre-1978 Housing or child-occupied facilities Non-HUD Funded (EPA RRP requirements)

Contractors or City of Boise personnel without the required EPA training shall not perform work which will disturb painted surfaces in these buildings, unless the paint has been tested and shown not to be LBP.

For all city owned housing or child-occupied facilities which are not receiving any HUD funding, the EPA Renovation, Repair and Painting Rule or RRP Rule (40 CFR 745 Subpart E) applies. Under the rule, firms performing renovation, repair and painting projects that disturb lead-based paint in homes, child care facilities, and kindergartens built before 1978 must be EPA- or state-certified and must use certified renovators who follow specific work practices to prevent lead contamination. This includes in-house maintenance staff and many types of outside contractors. In order to become certified renovators, individuals must take training from an EPA-accredited training provider. For firms to be certified, they must [submit an application and fee to EPA online](#). **The City of Boise shall hire only EPA certified firms to do work which may disturb paint in these property types.** You must contact Public Works Environmental prior to planning renovations in these types of properties. A compliance guide to the RRP Rule is available at: <https://www.epa.gov/lead/small-entity-compliance-guide-renoate-right-epas-lead-based-paint-renovation-repair-and>

Category 3: Work performed by City of Boise personnel or contractors on all other city owned structures, including commercial and public buildings.

A. General Requirements

Prior to removing or disturbing materials within a commercial or public facility, residential structures, and child-occupied facilities, each department shall identify if these structures contain or are constructed with lead-containing materials. To do this, departments may use lead sampling records maintained by Public Works Environmental, manufacturer's information, laboratory analysis of bulk samples, or records indicating the age and composition of building materials. In addition, Public Works Environmental, the HCD Department, or Risk and Safety Services is available upon request to assist departments with sampling for lead. Building materials can be assessed through sampling and laboratory analysis, or through the use of the City's X-Ray Fluorescence Analyzer (XRF). Results of testing should be made available to Public Works Environmental, Risk and Safety Services, and all departments/personnel involved in the project.

B. Working with Lead

Where the potential for personal exposure to lead particulate and/or fume during repair work exists (reference section C.2. of this regulation for examples of repair work), prior to commencing work, City employees shall verify that no lead-containing materials are present in the building by the means of testing. If test results are positive for lead, commencement of work is prohibited until consulting with Public Works Environmental and/or Risk and Safety Services. Departments shall contract with appropriate vendors or contractors to perform lead abatement.

Project managers who oversee projects for City property shall ensure all contracted lead-based paint renovation, repair or abatement work complies with the appropriate Federal and State Regulations and City Code. They shall also ensure that the appropriate demolition permits and EPA notification forms have been completed.

Employees of the City shall only perform minor repair and maintenance operations of lead-containing material that will not be disturbed. Examples of this type of work include, but are not limited to repainting a lead-based painted surface in good condition. If the scope of work will be more than a minor repair and maintenance to lead-containing material, the department shall request consultation from Public Works Environmental or Risk and Safety Services to determine what additional controls and precautions are necessary. **No employee may perform lead-based paint abatement (intentional removal) of any type.**

If a department suspects a facility may contain lead-containing material:

1. Supervisors or their designee shall coordinate with Risk and Safety Services for the necessary training.
2. Employees shall notify their Supervisors prior to disturbing any surfaces coated in lead-based paint or disturbing any other lead-containing material.
3. Supervisors or their designee shall contact ~~the~~ Public Works Environmental and complete the necessary testing and forms prior to disturbing any lead.
4. Immediately contact the Public Works Environmental and Risk and Safety Services after any accidental, suspected, or known lead release episode.

C. Training Requirements

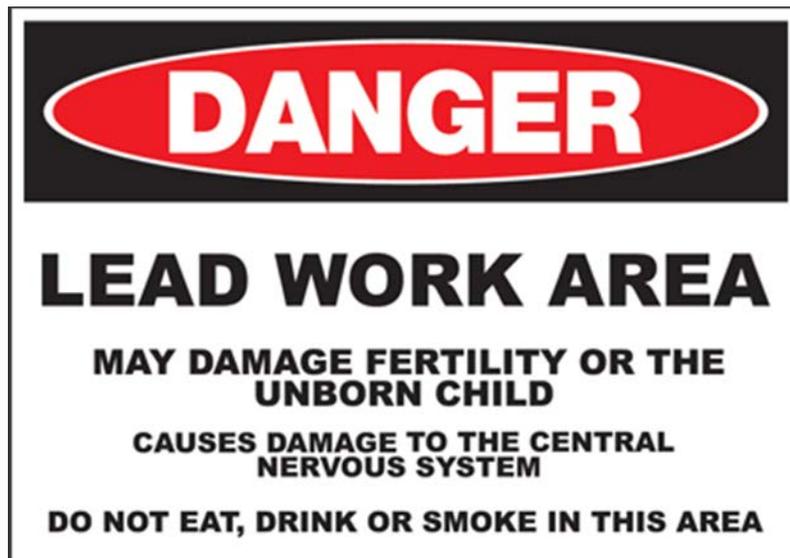
Employees who perform maintenance and custodial work or repair work where lead is present shall participate in training prior to performing duties with potential exposure.

1. **Maintenance and Custodial Work** – Facility employees who perform maintenance and custodial work where they may come in contact with but will not disturb lead shall participate in a Lead Awareness Training on an annual basis including the review of the City's Lead Safety Regulation. Examples of this type of work include painting over lead-based painted wallboard, removal of a lead pipe and/or fitting by the means of unbolting or unscrewing that would not create any airborne lead particulate and/or aerosols.
2. **Repair Work** – Facility employees who may perform repair or renovation work on lead-containing materials shall participate in an 8-hour Renovation, Repair, and Painting Course (Lead Certified Renovator). This training should be conducted by a vendor who is an EPA approved training provider. This training certification is required prior to completing any work involving lead renovation. To remain certified, a renovator must complete a refresher training course before their current certification expires.
 - The expiration date is based on when the course was taken.
 - For recertification, renovators must take a 4-hour refresher training that includes hands-on learning every other time they take the refresher course.
 - Renovators who take the online refresher training will be certified for three years; renovators who take the hands-on training in the refresher course will be certified for five years.
 - If certification expires, the 8-hour course must be taken again to regain certification.

Examples of repair and/or renovation work include any intentional cutting, breaking, scraping, drilling or sanding of lead-coated material, soldering of pipes, ceramic work, welding, cutting, and burning on steel structures where lead-containing coatings or paint are present. Supervisors shall notify and consult with Risk and Safety Services if they will have employees performing repair work on lead-containing material to ensure that they have been provided other necessary training and personal protective equipment (i.e. Respiratory Protection, Hazard Communication). Training for employees can be coordinated through Risk and Safety Services and/or Training and Development.

D. Warning Signs

Departments shall post the following sign in each work area where lead repair and/or renovation is being completed in order to warn others.



E. Personal Protective Equipment and Required Work Procedures

All employees shall wear appropriate personal protective equipment (PPE) when repairing and/or disturbing any lead-containing material. Supervisors shall verify with Risk and Safety Services the PPE provided is adequate for the work being performed.

Any employee repairing and/or disturbing lead containing material:

1. Shall use EPA approved vacuum cleaners with HEPA filters to collect lead-containing debris and dust,
2. Shall use wet methods or wetting agents during all maintenance and clean-up procedures (unless infeasible or creates a greater hazard),

3. Shall promptly clean-up and dispose of wastes and debris contaminated with lead in leak-tight containers,
4. Shall not perform dry sweeping, dusting, shoveling or normal vacuuming of lead-containing material, debris, waste, or dust,
5. Shall not use compressed air to clean surfaces contaminated with lead unless it is used with a EPA approved HEPA ventilation system that can capture the dust cloud, and
6. Shall not sand lead-containing material.
7. Shall follow all applicable EPA Renovation, Repair and Painting (RRP) work practices.

OTHER RELEVANT LEAD BASED PAINT REGULATIONS AND EXEMPTIONS

A. Disposal of LBP Debris

1. Residential Structures – (Household Hazardous Waste Exemption)
In order to facilitate the removal of LBP from residential structures, where it may pose a significant health threat to children, on June 18, 2003 the USEPA published a rule under solid waste regulations that streamlines disposal of LBP debris from residential structures. Under the rule LBP debris from households, whether generated by a do-it-yourselfer or a contractor, may be disposed of at a municipal waste landfill or a construction & demolition (C&D) waste landfill, as defined in 40 CFR §257.2.
2. Commercial Building Demolition – Commercial buildings built before 1978 must be sampled for LBP prior to demolition. If asbestos sampling is needed it should be done at the same time to reduce costs. If LBP is present in the building a determination of whether or not the entire waste stream (the entire building) could be classified as a hazardous waste is required. This can be done by having a consultant sample the painted surfaces and determining if the waste could potentially classify as a hazardous waste.
3. Commercial Building Renovation/Abatement - Small-scale debris that is generated during renovation, maintenance, or abatement activities such as paint chips, vacuum debris and dust, waste wash water and sludge from chemical paint stripping is more likely to exceed the lead toxicity characteristic. Individual wastes such as those described above should either be sampled/analyzed by Toxicity Characteristic Leaching Procedure and then handled/disposed accordingly, or segregated from other large-scale debris and then managed as hazardous waste. Records of sampling procedures and analytical results must be kept for at least 3 years. **This type of waste would only be generated by a contractor because city employees are not trained or authorized to scrape/disturb LBP.**

B. Pre-1978 housing which is leased or sold:

Federal law requires per (24 CFR part 35 and 40 CFR par 745) that sellers and lessors of residential units constructed prior to 1978, except housing for the elderly or persons with disabilities **(unless any child who is less than six year of age resides or is expected to reside in such housing)** or any zero-bedroom dwelling to disclose the presence of known LBP, coated surfaces and/or possible LBP hazards to new purchasers or lessees before they become obligated under a lease or sales contract. Property owners and sellers are also required to distribute the United States Environmental Protection Agency's educational pamphlet *Protect Your Family from Lead in Your Home* and include standard warning language in leases or sales contracts to ensure that parents have the information they need to protect children from lead-based paint hazards.

The City of Boise will make available, for review, any LBP inspection/risk assessment report and/or Environmental Hazards documents on file for the property in question at time of sale and/or lease signing.

The City of Boise will provide a copy of the *Protect Your Family from Lead*, the EPA *Renovate Right* pamphlet and disclose any/all known Environmental Hazards associated to the property at time of lease signing and/or sale.

The City of Boise requires that all new lessees sign for, and acknowledge receipt of the provided LBP documents and/or information provided

C. Emergency Exceptions

For emergency actions immediately necessary to safeguard against imminent danger to human life, health or safety, or to protect property from further structural damage (such as when a property has been damaged by a natural disaster, fire, or structural collapse), occupants shall be protected from exposure to lead in dust and debris generated by such emergency actions to the extent practicable, and certain EPA requirements shall not apply. This exemption applies only to repairs necessary to respond to the emergency. All EPA requirements shall apply to any work undertaken subsequent to, or above and beyond, such emergency actions.