



# **Lead-Based Paint Guide For Applicable Single Family Division Programs**

*April 2020*



*The Minnesota Housing Finance Agency does not discriminate on the basis of race, color, creed, national origin, sex, religion, marital status, status with regard to public assistance, disability, familial status, gender identity, or sexual orientation in the provision of services.*

*An equal opportunity employer.*

*This information will be made available in alternative format upon request.*

## Table of Contents

<b>Overview</b> .....	<b>4</b>
<i>Mission Statement</i> .....	4
<i>Background</i> .....	4
<b>Chapter 1- Applicability</b> .....	<b>5</b>
1.01 <i>Purpose</i> .....	5
1.02 <i>Scope and Applicability</i> .....	5
<b>Chapter 2 – Requirements</b> .....	<b>6</b>
2.01 <i>Introduction</i> .....	6
2.02 <i>Notices and Pamphlet</i> .....	6
2.03 <i>Determining Presence of Lead</i> .....	6
2.04 <i>Lead-Hazard Reduction Strategies</i> .....	7
<b>Appendix A – Lead-Based Paint Guide Process &amp; Checklist</b> .....	<b>9</b>
<i>Section 1: Determination of Exemption</i> .....	9
<i>Section 2: Determination of Need for Lead-Based Paint Assessment</i> .....	9
<i>Section 3: Determining Presence of Lead</i> .....	9
<i>Section 4: Lead-Hazard Reduction Method</i> .....	10
<b>Appendix B – Terms</b> .....	<b>11</b>

## **Overview**

### **Mission Statement**

Housing is the foundation for success, so we collaborate with individuals, communities and partners to create, preserve and finance housing that is affordable.

### **Background**

Minnesota Housing recognizes that lead hazards in housing are a threat to occupant health and safety. Minnesota Housing is committed to meeting Minnesotans' need for safe housing and, therefore, has developed a Lead-Based Paint Policy (the "Policy") as set forth in this Guide.

The Policy requires compliance with 24 C.F.R. Part 35 when providing federal assistance. In addition, programs funded with non-federal funds must address lead hazards when the program requires the treatment of other health hazards. Where lead identification and reduction are required, it must generally be conducted in accordance with the standards of 24 C.F.R. Part 35. Lead Abatement, however, will not be required.

## Chapter 1- Applicability

### 1.01 Purpose

The purpose of the Policy is to reduce exposure of current or future occupants to harmful lead-based paint chips and lead-dust hazards that may already exist in a Home or may inadvertently result from rehabilitation activities.

### 1.02 Scope and Applicability

This Guide applies to assistance provided for the rehabilitation of Homes through the following programs: Rehabilitation Loan Program (RLP), the Emergency and Accessibility Loan Program (ELP), the Community Homeownership Impact Fund (Impact Fund), and the Workforce and Affordable Homeownership Development Program. This is a guide, not a comprehensive reference, for compliance with the Policy.

Administrators must ensure that contractors and subcontractors comply with this Guide.

#### Exemptions

The following are exempt from the Policy.

- Homes built after January 1, 1978.
- Rehabilitation that will not disturb painted surfaces.
- A certified lead-based paint inspector has found that the Home does not have lead-based paint.
- All lead-based paint has been identified and removed from the Home and Clearance has been achieved.
- The De Minimis Levels of painted surface to be disturbed is below the more restrictive of the De Minimis Levels defined in HUD's Lead-Safe Housing Rule ("LSHR") or the EPA's Lead Renovation, Repair, and Painting ("RRP") Rule.

#### Applicable Regulations

Administrators must comply with all applicable regulations, including the EPA Lead RRP Rule and Minnesota's Lead Renovation, Repair and Paint Rule.

- [U.S. Department of Housing and Urban Development - Lead-Safe Housing Rule](#)
- [U.S. Environmental Protection Agency - Lead Renovation, Repair and Painting Rule](#)
- [Minnesota Department of Health - Minnesota's Lead Renovation, Repair and Paint Rule](#)

## Chapter 2 – Requirements

### 2.01 Introduction

If a Home is not exempt from the Policy, Administrators must provide notice and applicable pamphlets and conduct a Visual Assessment and evaluation. If lead-hazards are found or presumed, the Administrator must complete appropriate lead-hazard reduction strategies as described below. See Appendix A for a checklist of these requirements.

### 2.02 Notices and Pamphlet

#### Rehabilitation Activities

For rehabilitation only activities where evaluation, hazard reduction, or both, are undertaken as part of Minnesota Housing funded rehabilitation, the Administrator must provide notice to homeowners of the evaluation of lead-based paint and provide the following pamphlets:

- [\*Protect Your Family from Lead in Your Home\*](#)
- [\*Renovate Right: Important Lead Hazard Information for Families, Child Care Providers, and Schools.\*](#)

#### For Acquisition, Rehabilitation, Resale Activities

For acquisition, rehabilitation, resale activities, once rehabilitation and Clearance is complete, Administrators must give the homebuyer who purchases the Home notice that describes the results of the Clearance examination.

### 2.03 Determining Presence of Lead

#### Projects with Minnesota Housing Assistance under \$5,000

##### Step 1: Visual Assessment for Deteriorated Paint

A Visual Assessment must be conducted by a person trained to identify deteriorated paint prior to the start of rehabilitation. The person(s) conducting the Visual Assessment for deteriorated paint must be trained using the HUD [Visual Assessment Training Module](#).

##### Step 2: Paint Testing

If there is deteriorated paint based on the Visual Assessment, Administrators must either perform paint testing on painted surfaces to be disturbed or replaced during rehabilitation or presume that painted surfaces are coated with lead-based paint. Minnesota Housing does not require paint testing on painted surfaces that will not be disturbed or replaced during rehabilitation.

#### Projects with Minnesota Housing Assistance \$5,000 and above

##### Risk Assessment

A Risk Assessment must be completed to identify lead-based paint hazards in the area where work will be completed. A Risk Assessment is not required for areas that will not be disturbed or replaced during rehabilitation.

The Risk Assessment must be completed by a HUD-certified risk assessor. When completing the Risk Assessment, the risk assessor must use standards at least as protective as the EPA Lead RRP Rule.

## **2.04 Lead-Hazard Reduction Strategies**

If a Visual Assessment, paint testing, or a Risk Assessment find or presume lead-hazards, the following strategies should be followed. These strategies apply to both projects below and above the \$5,000 threshold. Lead abatement is not required for the programs that do not contain federal assistance.

### **Lead Safe Work Practices**

Administrators must implement lead safe work practices during rehabilitation work and repair any paint that is disturbed. At minimum, Administrators must comply with the EPA's Lead RRP Rule regarding training and lead safe work practice requirements.

### **Interim Controls - For Rehabilitation with Minnesota Housing Assistance Over \$5,000**

Interim control measures include paint stabilization of deteriorated paint, dust control, lead-contaminated soil control, and treatments for friction and impacted surfaces where levels of lead dust are above the lower of the HUD or EPA De Minimis Levels. These controls are necessary in areas where rehabilitation work is being conducted. Examples of interim control measures include:

- Repairing all rotted or defective substrates that lead to rapid paint deterioration.
- Stabilizing all deteriorated lead-based paint surfaces.
- Making floors and interior window sills and window troughs smooth and cleanable.
- Eliminating friction surfaces with lead-based paint on windows, doors, stair treads, and floors, when they are generating dust lead hazards.
- Repairing doors and other building components causing impact damage on painted surfaces, if the paint is lead-based paint.
- Treating protruding, chewable surfaces, such as interior window sills, where lead-based paint may be present and there is either visual or reported evidence that children are mouthing or chewing them.
- Dust removal and control – i.e., cleaning surfaces to reduce levels of dust containing lead to acceptable levels. This includes cleaning carpets, if they are contaminated.
- Covering or eliminating access to all bare soil containing excessive levels of lead.

See HUD's [Lead-Based Paint Handbook](#), Chapter 11, Interim Controls, for further details.

### **Clearance – For Rehabilitation with Minnesota Housing Assistance Over \$5,000**

If a painted surface above De Minimis Levels was disturbed and repaired during the rehabilitation work, a Clearance examination of the worksite(s) must be performed after completion of any rehabilitation that disturbed painted surfaces.

A Clearance examination needs to determine that no soil-lead hazards or settled dust exists in the unit. HUD guidelines are found in Chapter 15 of the Lead-Based Paint Handbook, linked above.

Clearance examinations can be performed by any of the following individuals:

- A HUD-certified risk assessor;

## MINNESOTA HOUSING – Lead Paint Guide

- A HUD-certified lead-based paint inspector;
- A person who has successfully completed a training course for sampling technicians (or a discipline of similar purpose and title) that is developed or accepted by the EPA, a state, or tribal program authorized by the EPA that is given by an EPA-accredited trainer or a state or Indian Tribe training in lead-based paint inspection or Risk Assessment, provided a certified risk assessor or a certified lead-based paint inspector approves the work of the sampling technician and signs the report of the Clearance examination;
- A technician licensed or certified by the EPA or a state or Indian Tribe to perform Clearance examinations without the approval of a certified risk assessor or certified lead-based paint inspector; or
- A lead supervisor, although use of a lead supervisor is not required.

## Appendix A – Lead-Based Paint Guide Process & Checklist

### Section 1: Determination of Exemption

- 1) Was the Home built before 1978?  Yes  No  
*If No, the Home is exempt from the Policy.  
If Yes, proceed to Question 2.*
- 2) Is the Home exempt from the Policy?  Yes  No  
*If No, proceed to Section 2  
If Yes, proceed to Question 3.*
- 3) Indicate why the Home is exempt from the Policy:
- Rehabilitation will not disturb painted surfaces.
  - The Home was found by a certified lead-based paint inspector to not have lead-based paint.
  - All lead-based paint has been identified and removed from the Home and Clearance has been achieved.
  - The amount of painted surface to be disturbed is below the HUD or EPA De Minimis Levels.

### Section 2: Determination of Need for Lead-Based Paint Assessment

- 1) Will any painted surface above the HUD or EPA De Minimis Levels be disturbed or repaired during the proposed rehabilitation work?  Yes  No
- 2) Is the Minnesota Housing assistance expected to exceed \$5,000?  Yes  No

*If you answered yes to either of the questions in Section 2, a lead-based paint evaluation must be completed. Proceed to Section 3. If you answered no to both, no further action is required.*

### Section 3: Determining Presence of Lead

- 1) Evaluation method used (check one):
- Conducted paint testing.
  - Conducted paint testing and Visual Assessment.
  - Performed a Risk Assessment (Required if the amount of Minnesota Housing assistance exceeds \$5,000).
  - Presumed lead-based paint and/or lead-based paint hazards were present.
- 2) Notices and pamphlets provided (check all that apply):
- [Protect Your Family from Lead in Your Home](#)
  - [Renovate Right: Important Lead Hazard Information for Families, Child Care Providers, and Schools.](#)
  - Notice of lead-based paint reports

## Section 4: Lead-Hazard Reduction Method

- 1) Hazard reduction methods completed (check all that apply):
  - Lead safe work practices
  - Interim controls (for Minnesota Housing assistance expected to exceed \$5,000)
  - Clearance
  
- 2) If Minnesota Housing assistance exceeds \$5,000, did the individual(s) that disturbed lead-based paint above the more restrictive of the HUD or EPA De Minimis Levels and that completed the Clearance examination have the proper certification\* and training?  Yes  No

\*More information on certification can be found:

[https://www.hud.gov/program\\_offices/healthy\\_homes/enforcement/lshr\\_rrp\\_changes](https://www.hud.gov/program_offices/healthy_homes/enforcement/lshr_rrp_changes)

<https://www.epa.gov/lead/individuals-seeking-lead-abatement-certification>

## Appendix B – Terms

Term	Definition
Administrator	The entity with which Minnesota Housing has a contractual relationship to administer the programs for which this Guide applies. References to Administrators in this Guide apply to contractors and subcontractors that Administrators work with, including but not limited to, contractors and subcontractors who contract directly with homeowners.
Clearance	Clearance is the combined visual and quantitative procedures used to determine that no lead-based paint hazards remain in the area being cleared after lead hazard controls or paint-disturbing rehabilitation or maintenance have occurred
De Minimis Levels	Levels of lead paint that do not exceed the more restrictive of the De Minimis Levels under HUD LSHR or the EPA Lead RRP Rule to determine De Minimis Levels.
EPA	The United States Environmental Protection Agency.
Home	A single family home that is currently owner-occupied or will be owner-occupied after rehabilitation.
HUD	The United States Department of Housing and Development.
Lead RRP Rule	The EPA’s Lead Renovation, Repair, and Painting Rule.
LSHR	HUD’s Lead-Safe Housing Rule.
Minnesota Housing	The Minnesota Housing Finance Agency.
Policy	The Minnesota Housing Lead-Based Paint Policy adopted in 2004.
Risk Assessment	An on-site investigation to determine the existence, nature, severity, and location of lead-based paint hazards and the provision of a report by the individual or firm conducting the Risk Assessment explaining the results of the investigation and options for reducing lead-based paint hazards.
Visual Assessment	A Visual Assessment is a surface-by-surface inspection for deteriorated paint consisting of a visual search for cracking, scaling, chalking, peeling, or chipping paint. The Visual Assessment should also include a search for dust and debris, including paint chips.