

PHA-owned low income public housing project constructed or substantially rehabilitated prior to 1978 is tested and the test results using an x-ray fluorescence analyzer (XRF) are identified as having a lead content greater than or equal to 1.0 mg/cm², or is tested by laboratory chemical analysis (atomic absorption spectroscopy (AAS)) and found to contain .5% lead by weight or more, the PHA shall provide written notification of such result to the current residents, applicants, prospective purchasers, and homebuyers of such units in a timely manner. The PHA shall retain written records of the notification.

[51 FR 27789, Aug. 1, 1986, as amended at 56 FR 15174, Apr. 15, 1991]

§ 965.704 Maintenance obligation.

In family projects constructed prior to 1978 or substantially rehabilitated prior to 1978, the PHA shall visually inspect units for defective paint surfaces as part of routine periodic unit inspections. If defective paint surfaces are found, covering or removal of the defective paint spots as described in § 35.24(b)(2)(ii) of this title shall be required. Treatment shall be completed within a reasonable period of time.

[53 FR 20802, June 6, 1988]

§ 965.705 Insurance coverage.

For the requirements concerning a PHA's obligation to obtain reasonable insurance coverage with respect to the hazards associated with testing for and abatement of lead-based paint, see § 965.215.

[59 FR 31930, June 21, 1994]

§ 965.706 Procedures involving EBLs.

(a) *Procedures where a current resident child has an EBL.* When a child residing in a PHA-owned low income family project has been identified as having an EBL, the PHA shall: (1) Test all surfaces in the unit and applicable surfaces of the PHA-owned or operated child care facility if used by the EBL child for lead-based paint and abate the surfaces found to contain lead-based paint. Testing of exteriors and interior common areas (including non-dwelling PHA facilities which are commonly used by the EBL child under seven

years of age) will be done as considered necessary and appropriate by the PHA and HUD; or (2) assign the family to a post-1978 or previously tested unit which was found to be free of lead-based paint hazards or in which such hazards have been abated as described in this section.

(b) *Procedures where a non-resident child using a PHA-owned or operated child care facility has an EBL.* When a non-resident child using a PHA-owned or operated child facility has been identified as having an EBL, the PHA shall test all applicable surfaces of the PHA-owned or operated child care facilities and abate the surfaces found to contain lead-based paint.

(c) *Testing.* Testing shall be completed within five days after notification to the PHA of the identification of the EBL child. It is strongly recommended, but not required, that PHAs use the testing methods outlined in the Lead-Based Paint: Interim Guidelines for Hazard Identification and Abatement in Public and Indian Housing (Lead-Based Paint Interim Guidelines) for the Comprehensive Improvement Assistance Program (CIAP), and other Public and Indian Housing programs, and issued and published at 55 FR 14555, April 18, 1990, part II, with an amendment of chapter 8 and typographical clarifications at 55 FR 39874, as periodically amended or updated, and other future official departmental issuances related to lead-based paint. A qualified inspector or laboratory shall certify in writing the precise results of the inspection. Testing services available from State, local or tribal health or housing agencies or an organization recognized by HUD shall be utilized to the extent available. If the results equal or exceed a level of 1 mg/cm² or .5% by weight, the results shall be provided to the tenant or the family of the EBL child using PHA owned or operated child care facilities. Testing will be considered an eligible modernization cost under part 968 only upon PHA certification that testing services are otherwise unavailable.

(d) *Hazard abatement requirements—(1) Abatement actions.* Hazard abatement actions shall be carried out in accordance with the following requirements and order of priority:

(i) Unit housing a child with an EBL. Any surface in the unit found to contain lead-based paint shall be treated. Where full treatment of a unit housing an EBL child cannot be completed within five days after positive testing, emergency intervention actions (including removing defective lead-based paint and scrubbing surfaces after such removal with strong detergents) shall be taken within such time. Full treatment of a unit housing an EBL child shall be completed within 14 days after positive testing, unless funding sources are not immediately available. In such event, the PHA may use its operating reserves and, when necessary, may request reimbursement from the current fiscal year CIAP funds, or request the reprogramming of previously approved CIAP funds.

(ii) PHA owned or operated child care facilities used by a child with an EBL. Any applicable surface found to contain lead-based paint shall be treated.

(iii) Interior common areas (including non-dwelling PHA facilities which are commonly used by EBL children under seven years of age) and exterior surfaces of projects in which children with EBLs reside. Abatement shall be provided to all surfaces containing lead-based paint.

(2) *Abatement methods.* PHAs shall select a safe and cost effective treatment for surfaces found to contain lead-based paint, including clean-up procedures, and are strongly encouraged, but not required, to follow those methods specified in the Lead-Based Paint: Interim Guidelines for Hazard Identification and Abatement in Public and Indian Housing (Lead-Based Paint Interim Guidelines), and other future official departmental issuances relating to lead-based paint abatement in effect at the time the surfaces are to be abated. Certain prohibited abatement methods are set forth in 24 CFR 35.24(b)(2)(ii). Final inspection and certification of the treatment shall be made by a qualified inspector, industrial hygienist, or local health official based on clearance levels specified in HUD departmental issuances and guidelines.

[53 FR 20803, June 6, 1988, as amended at 56 FR 15175, Apr. 15, 1991]

§ 965.707 Tenant protection.

The PHA shall take appropriate action in order to protect tenants, including children with EBLs, other children, and pregnant women, from hazards associated with abatement procedures, and is strongly encouraged, but not required, to take actions more fully outlined in the Lead-Based Paint: Interim Guidelines for Hazard Identification and Abatement in Public and Indian Housing (Lead-Based Paint Interim Guidelines) and other future official Departmental issuances related to tenant protection in effect at the time the abatement procedure is undertaken. Tenant relocation may be accomplished with CIAP assistance.

[56 FR 15175, Apr. 15, 1991]

§ 965.708 Disposal of lead-based paint debris.

The PHA shall dispose of lead-based paint debris in accordance with applicable local state or Federal requirements. (See *e.g.*, 40 CFR parts 260 through 271.) Additional information covering disposal practices is contained in the Lead-Based Paint: Interim Guidelines for Hazard Identification and Abatement in Public and Indian Housing (Lead-Based Paint Interim Guidelines) and other future official departmental issuances relating to lead-based paint. In any event, EPA has primary responsibility for waste disposal regulations and procedures.

[53 FR 20803, June 6, 1988, as amended at 56 FR 15175, Apr. 15, 1991]

§ 965.709 Records.

The PHA shall maintain records on which units, common areas, exteriors and PHA child care facilities have been tested, results of the testing, and the condition of painted surfaces by location in or on the unit, interior common area, exterior surface or PHA child care facility. The PHA shall report information regarding such testing, in accordance with such requirements as shall be prescribed by HUD. The PHA shall also maintain records of abatement provided under this subpart, and shall report information regarding such abatement, and its compliance with the requirements of 24 CFR part 35, subpart A and § 965.703 of this part,