



US Army Corps
of Engineers

HTRW Center of Expertise Information - Fact Sheets

US Army Corps of Engineers

HTRW CX Regulatory Fact Sheet FY 04 - 03

Title: Lead; Notification Requirements for Lead-Based Paint Abatement Activities and Training

Date: April 8, 2004

SARS RIN#: 2070-AD31

Action Type: Final rule

Cite: 69 FR 18489

Executive Summary: This rule pertains to lead-based paint abatement activities in target housing and child-occupied facilities and amends Federal regulations in 40 CFR 745 known as "Lead-Based Paint Poisoning and Prevention in Certain Residential Structures". The rule adds procedures for notifying EPA prior to conducting lead-based paint abatement activities and before and after conducting accredited lead-based paint activity course training.

The Federal Register states this applies "only in States and Tribal areas that do not have authorized programs pursuant to 40 CFR 745.324". However, 40 CFR 745.220(c) requires each agency of the Federal Government having jurisdiction over property or a facility engaged in activity which may result in a lead-based paint hazardous to comply.

Army/DoD Impact: Impact of this rule is minimal. It merely requires notifications in limited situations. It applies to lead-based paint abatement activities in target housing, in child-occupied facilities, or as a result of a Federal, State, or local order issued due to elevated blood lead levels, and it applies to lead-based paint abatement activity course training. However, it only applies if efforts are being taken to permanently eliminate lead-based paint hazards. It does not apply to renovation activities or other activities not designed to permanently eliminate lead-based paint hazards (even if these activities incidentally reduce lead-based paint hazards). Neither does it apply to interim controls that temporarily, but do not permanently reduced lead-based paint hazards.

Contractors and/or DoD personnel conducting lead-based paint abatement activities in affected facilities or conducting lead-based paint abatement activity training will need to make notifications to EPA.

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Effective Date: May 10, 2004

Full Text Document Location:

<http://a257.g.akamaitech.net/7/257/2422/14mar20010800/edocket.access.gpo.gov/2004/pdf/04-7980.pdf>

Key Elements of the Proposed Rule:

This rule imposes notification requirements which will assist EPA in tracking lead-based paint abatement and training activities. Prior to conducting lead-based paint abatement activities, certified firms must notify EPA. Prior to conducting training and after

completion of training, training managers of accredited lead-based paint activity courses, are required to notify EPA. This will assist EPA in ensuring a qualified workforce is involved in addressing lead-based paint hazards.

Applicability

This rule applies to lead-based paint abatement activities in "target housing" and "child-occupied facilities" or as a result of a Federal, State, Tribal or local order. "Target housing" is housing constructed prior to 1978. (See 40 CFR 745.223 for complete definition). A "child-occupied facility" 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." Thus, this rule would not normally apply to non-residential buildings where children are not routinely present, such as the majority of DoD administrative or maintenance buildings.

Further, applicability is limited to "abatement" activities and training associated with abatement activities. By definition, 40 CFR 745.223, abatement "does not include renovation, remodeling, 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."

Accredited Training Programs

Requirements for accreditation of training programs is amended to add notification requirements regarding lead-based paint activities courses. Training shall not be provided without the "training manager" first notifying EPA of all lead-based paint activities courses offered. The initial notification must be received by EPA at least 7 business days prior to the start date of the course. Updated notification is required if there are any changes to the original notification including change in date, change in location, or cancellation of the course. If the date changes to an earlier date, the updated notification must be received by EPA at least 7 business days in advance of the training class. If the date changes to a later date, the updated notification must be received by EPA at least 2 business days prior to the training class. Notification of course cancellation must also be received by EPA at least 2 business days prior to the scheduled start date.

Each notification, including updates, must include the following:

- (A) Notification type (original, update, cancellation).
- (B) Training program name, EPA accreditation number, address, and telephone number.

- (C) Course discipline, type (initial/ refresher), and the language in which instruction will be given.
- (D) Date(s) and time(s) of training.
- (E) Training location(s) telephone number, and address.
- (F) Principal instructor's name.
- (G) Training manager's name and signature.

Within 10 business days of completion of the lead-based paint activities training course, the training manager must ensure EPA receives notification containing the following information:

- (A) Training program name, EPA accreditation number, address, and telephone number.
- (B) Course discipline and type (initial/refresher).
- (C) Date(s) of training.
- (D) The following information for each student who took the course (1) name, (2) address, (3) date of birth, (4) course completion certificate number, (5) course test score, and (E) training manager's name and signature.

All of the above notifications can be provided in writing or electronically. Sample notification forms can be obtained from the NLIC at 1-800-424-LEAD(5323), or on the Internet at <http://www.epa.gov/lead>.

Certified Lead-Based Paint Abatement

Prior to conducting lead-base paint abatement activities, certified firms must notify EPA. Ordinarily notification is required at least 5 business days before the start date of any abatement activity. However, when responding to an elevated blood lead level determination or Federal, State, Tribal, or local emergency abatement order, notification can be made as late as the date the abatement activity is started. Notifications must be updated if there are changes including start date, location, cancellation of LBP abatement activities, or when there are other significant changes including, but not limited to, when the square footage or acreage to be abated changes by more than 20%. This updated notification must be received by EPA on or before the start date provided to EPA, or if work has already begun, within 24 hours of the change.

The notification must include the following:

- (A) Notification type (original, updated, cancellation).
- (B) Date when lead-based paint abatement activities will start.
- (C) Date when lead-based paint abatement activities will end (approximation using best professional judgment).
- (D) Firm's name, EPA certification number, address, telephone number.
- (E) Type of building (e.g., single family dwelling, multi-family dwelling, child-occupied facilities) on/in which abatement work will be performed.
- (F) Property name (if applicable).
- (G) Property address including apartment or unit number(s) (if applicable) for abatement work.
- (H) Documentation showing evidence of an EBL determination or a copy of the

Federal/State/Tribal/local emergency abatement order, if using the abbreviated time period as described in paragraph (e)(4)(ii) of this section.

(I) Name and EPA certification number of the project supervisor.

(J) Approximate square footage/acreage to be abated.

(K) Brief description of abatement activities to be performed.

(L) Name, title, and signature of the representative of the certified firm who prepared the notification.