

RULES AND REGULATIONS

This page provides links to rules and regulations for the regulated communities served by the Environmental Lead Program.

The purpose of the Texas Environmental Lead Reduction Rules (TELRR) is to establish the means to control and minimize public exposure to lead by regulating lead-based paint activities in target housing and child-occupied facilities. As a result of these rules being promulgated, it is possible for all Texans to utilize properly trained and certified persons to conduct lead activities in their pre-1978 homes and in child-occupied facilities such as day cares, kindergartens, and preschools. By using trained and certified persons, the consumer can be more confident that the lead-based paint activities are being conducted properly.

The rules require that all lead-based paint activities in target housing and child-occupied facilities be performed by certified individuals. Exclusions to the rules are housing for the elderly or persons with disabilities, unless a child younger than six years of age resides or is expected to reside in that housing, or target housing with zero bedrooms. These rules also do not apply to homeowners performing lead-based paint activities in dwellings that they own, unless the dwelling is occupied by a person or persons other than the owner or the owner's immediate family while the lead activities are being performed.

Lead-Based Paint Inspections and Risk Assessments:

Any lead-based paint inspection conducted in target housing or child-occupied facilities must only be done by a **certified Lead Inspector** or **certified Lead Risk Assessor** in accordance with the TELRR. A lead-based paint inspection is a *surface-by-surface* investigation to determine the presence of lead-based paint in these facilities. Paint chip collection and/or XRF (x-ray fluorescence) analysis are common ways to determine the presence of lead-based paint while chemical test wipe (swab) kits are not acceptable as they give inaccurate results for TELRR purposes. Interpretation of the results of the inspection, including assessing any hazards, can only be done by a **certified Lead Risk Assessor**. In addition, lead hazard screens, and any soil or dust sampling conducted (except for abatement clearance activities), can only be done by a **certified Lead Risk Assessor**. Paint chip, soil, or dust samples must be sent to a *U.S. Environmental Protection Agency (EPA)-Recognized Laboratory (accredited through the National Lead Laboratory Accreditation Program - NLLAP)* for analysis to determine the presence of any lead in the sample. (To inquire about these EPA-recognized laboratories, call the National Lead Information Center toll-free at (800) 424-LEAD (800) 424-LEAD or view the current listing at the EPA website <http://www.epa.gov/lead/pubs/nllaplist.pdf>.) A written lead inspection report must be developed by the certified Lead Inspector or Risk Assessor and include such information as the date of inspection, address of building sampled, and specific locations (building components) tested for lead-based paint. If the intent is to determine the existence, nature, severity, and location of lead-based paint hazards, then an *on-site* risk assessment conducted by a **certified Lead Risk Assessor** would be required (**certified Lead Inspectors cannot perform this activity**). The risk assessment is documented in a *written* report explaining the results of the investigation and options for reducing lead-based paint hazards including a description of interim controls (i.e., operations and maintenance) and/or abatement options for each lead-based paint hazard. If an encapsulant or enclosure is recommended, then a maintenance and monitoring schedule shall be included in the risk assessment report. Copies of all reports prepared by the certified Lead Inspector or Risk Assessor must be provided to the building owner who contracted for its services, in accordance with state rules.

Note: As a point of information, owners of rental properties and owners selling their property must assure that information contained in these reports is given to their prospective tenants or buyers in accordance with Section 1018 of the "Residential Lead-Based Paint Hazard Reduction Act of 1992" and Title 40 of the Code of Federal Regulations, Part 745, Subpart F, "*Disclosure of Known Lead-Based Paint and/or Lead Based Paint Hazards Upon Sale or Lease of Residential Property*" (Additional information, downloadable versions of the required disclosure pamphlet, and example disclosure forms are available at the EPA website www.epa.gov/lead).

Lead-Based Paint Abatements:

All lead-based paint abatements in target housing or child-occupied facilities usually have as a minimum the following certified entities involved: a **certified Lead Firm**; a **certified Lead Abatement Supervisor** to oversee the project; **certified Lead Abatement Workers**; and a **certified Lead Inspector** or **Lead Risk Assessor** to do clearance testing of the abatement. All samples collected in connection with an abatement, including clearance samples, must be sent to an *EPA-Recognized Laboratory* for analysis. *(Although there is no conflict-of-interest prohibition in the TELRR, it is recommended that the certified Lead Inspector or Lead Risk Assessor be a third-party representative to the abatement project, separate from the lead abatement contractor.)* Larger projects may require the services of a **certified Lead Abatement Project Designer**. Certified individuals working on an abatement site are required to have in their possession a current department-issued certification identification (ID) card. Additionally, in accordance with Section 295.212(d)(5) of the TELRR, a **certified Lead Abatement Supervisor** or a **certified Lead Abatement Project Designer** must develop a written Occupant Protection Plan for each abatement project and this document must be at the worksite at all times. Furthermore, according to Section 295.212(d)(6), unless presumed lead, a copy of the **Lead Inspection or Lead Risk Assessment report** prepared for the lead abatement project shall be kept at the worksite by the certified lead abatement firm and be available for department inspection. Specific work practice standards, as referenced in Section 295.212(d)(7) of the TELRR, must be followed at all abatement jobs. Furthermore, **notification of each abatement project**, as per Section 295.214(c) of the TELRR, is required to be made to the DSHS, Environmental Lead Branch, **and** to the appropriate DSHS Regional Office at least *seven (7) working days prior* to the abatement job.

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Exclusions to Abatements:

The TELRR specifically excludes from the definition of abatement any renovation, remodeling, and landscaping activities that 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. However, if activities being conducted are intended to permanently eliminate lead hazards, these activities are considered abatement. This is determined when abatement is specified in project specifications, job write-ups, bid contracts, or similar documents. When the primary purpose of work is rehabilitation or weatherization, these activities are not considered abatement. The TELRR definition of abatement also excludes interim control activities, operations and maintenance activities, or other measures designed to only temporarily, but not permanently, reduce lead-based paint hazards. Furthermore, the definition of abatement excludes demolition of target housing buildings and child-occupied facilities.

Note: As a point of information, if the job is a renovation, according to the federal EPA regulation entitled "*The Lead-Based Paint Pre-Renovation Rule*," a contractor hired to do renovation work must provide the EPA lead pamphlet entitled, "*Protect Your Family*

From Lead in Your Home," and this pamphlet must be given to the housing owner and occupants before renovation starts (confirmation of receipt of this lead pamphlet from the owner and occupants must be obtained by the contractor). A downloadable version of this document is available from EPA's website at: <http://www.epa.gov/lead/pubs/leadprot.htm>.