



## Special Needs Housing Programs and The Lead Safe Housing Regulation

### BASIC EXEMPTIONS AND CLARIFICATIONS

HUD has published interpretive guidance which is available at <http://www.hud.gov/offices/lead>. This guidance outlines the following exemptions to the Lead-Based Paint Regulation:

#### Exemptions:

- **Zero-bedroom units, including single-room occupancy units (SROs)** are exempt from the regulation provided that a child less than six years of age does not reside or is not expected to reside in the same household. This exemption may apply to a shelter if it consists of one large room. (See Interpretive Guidance, Question K1 for more information.)
- **Housing designated exclusively for the elderly or persons with disabilities (including persons with AIDS)**, provided that a child less than six years of age does not reside or is not expected to reside in the same household. Housing for the elderly is defined as retirement communities or similar types of housing reserved for households composed of one or more persons 62 years of age or more, or other age if recognized as elderly by a specific Federal housing assistance program.
- **Units that receive emergency rental assistance or foreclosure prevention assistance for less than 100 days** are exempt from the regulation, including properties that serve as a shelter only temporarily. (Interpretive Guidance, Question K1)
  - Subpart K does not apply if the assistance being provided is emergency rental assistance or foreclosure prevention assistance that is 100 days or less. This exemption expires 100 days after the initial payment or assistance. The 100 days begins with the first payment. Payments used to cover arrears (back payments) is not included in the 100 days.
- **Group homes** are exempt from the regulation if they involve the rental of individual rooms in residential dwellings. (Interpretive Guidance, Question K1)
- **Support services that are not tied to housing assistance** are exempt from the regulation (the regulation only applies to support services provided as part of a housing program). Therefore, if a resident receives housing support services provided through HOPWA, SHP, or ESG, CoC, etc., the unit **IS** covered by the regulation. However, if the resident receives services not tied to housing assistance (including medical, educational, or food services --e.g., Meals on Wheels), these services **do not** trigger the regulation. (Interpretive Guidance, Question K2)
- **Housing counseling** does not trigger the regulation. (Interpretive Guidance, Question K3)
- **Default and delinquency assistance** is unlikely to trigger the regulation because it lasts less than 100 days. (Interpretive Guidance, Question K3)

#### Clarifications:

- **Security deposit assistance** triggers the requirements of Subpart K if it helps to put someone in a unit where they will live more than 100 days. Note – Security deposit assistance provided under the HOME Program counts as Tenant-Based Rental Assistance and therefore triggers Subpart M. (Interpretive Guidance, Question K4)
- **Leasing activities** could include helping a family rent a pad for a mobile home. (Interpretive Guidance, Question K8)
- **If a property receives more than one form of housing assistance**, and two sets of lead paint requirements apply, observe the most protective requirements. For example, a project that involves acquisition and substantial rehabilitation would be subject to Subpart J, not K. (Interpretive Guidance, Question A11).

Table of Contents to the Rule (24 CFR Part 35)	CITES TO REMEMBER	
Subpart A: Disclosure of Known Lead-Based Paint Hazards Upon Sale or Lease of Residential Property	35.9	Disclosure Requirements
	35.11	Opportunity to conduct evaluation
Subpart B: General Lead-Based Paint Requirements and Definitions for All Programs	35.110:	Definitions
	35.115:	Exemptions
	35.125:	Notices
	35.130:	Pamphlet
	35.140:	Prohibited Methods of Paint Removal
Subpart C: Disposition of Residential Property Owned by a Federal Agency Other Than HUD		
Subpart D: Project-Based Assistance Provided by a Federal Agency Other Than HUD		
Subpart E: [Reserved]		
Subpart F: HUD-Owned Single Family Property		
Subpart G: Multifamily Mortgage Insurance		
Subpart H: Project-Based Rental Assistance		
Subpart I: HUD-Owned and Mortgagee-in-Possession Multifamily Property		
Subpart J: Rehabilitation	35.915:	Calculating rehabilitation costs
Subpart K: Acquisition, Leasing, Support Services, or Operation	35.1015	Visual Assessment, Paint Stabilization, and Maintenance
Subpart L: Public Housing Programs		
Subpart M: Tenant-Based Rental Assistance	35.1225	Child with an Elevated Blood Lead Level
Subparts N – Q: [Reserved]		
Subpart R: Methods and Standards for Lead-Based Paint Hazard Evaluation and Hazard Reduction Activities	35.1320:	Lead-based paint inspections and risk assessments
	35.1325:	Abatement
	35.1330:	Interim Controls
	35.1335:	Standard Treatments
	35.1340:	Clearance
	35.1345:	Occupant Protection and worksite preparation
	35.1350:	Safe Work Practices
	35.1350 (d):	De minimis levels
	35.1355:	Ongoing lead-based paint maintenance and reevaluation activities

**Special Needs Housing Programs That Must Meet Lead-Based Paint Requirements**

**Housing Opportunities for Persons with AIDS (HOPWA)**

HOPWA provides housing assistance and supportive services for low-income people with HIV/AIDS and their families. *Housing designated for persons with AIDS is exempt unless a child under the age of six also resides there.*

<b>Eligible Activities under Program</b>	<b>Applicable LBP Subparts</b>
<ul style="list-style-type: none"> <li>🕒 Purchase/Acquisition</li> <li>🕒 Leasing</li> </ul>	24 CFR 35 Subpart K—Acquisition, Leasing, Supportive Services, and Operations
<ul style="list-style-type: none"> <li>🕒 Rehabilitation</li> <li>🕒 Conversion</li> <li>🕒 Repair of Housing</li> </ul>	24 CFR 35 Subpart J—Rehabilitation
<ul style="list-style-type: none"> <li>🕒 Supportive Services tied to housing assistance (including health care, mental health services, chemical dependency treatment, nutritional services, case management, and help with daily living)</li> </ul>	24 CFR 35 Subpart K—Acquisition, Leasing, Supportive Services, and Operations
<ul style="list-style-type: none"> <li>🕒 Operating Costs of Housing</li> </ul>	24 CFR 35 Subpart K—Acquisition, Leasing, Supportive Services, and Operations
<ul style="list-style-type: none"> <li>🕒 Tenant-Based Rental Assistance (TBRA)</li> </ul>	24 CFR 35 Subpart M—Tenant-Based Rental Assistance

**LBP requirements do not apply to the following activities:**

- Housing Information and Resource Identification
- New Construction for SROs and Community Residences
- Technical Assistance
- Administrative Expenses
- Emergency mortgage, rental, or utility payments provided for less than 100 days
- Assistance provided to SROs/zero-bedroom units
- Group homes that consist of rental of individual rooms in residential dwellings
- Units receiving assistance for less than 100 days

**Notes:**

**Special Needs Housing Programs That Must Meet Lead-Based Paint Requirements**

**Supportive Housing Program (SHP)**

SHP is designed to promote, as part of a local Continuum of Care strategy, the development of supportive housing and supportive services to assist homeless persons in the transition from homelessness and to enable them to live as independently as possible. SHP supports five kinds of programs: transitional housing; permanent housing; safe havens; innovative housing; and supportive services only (SSO) projects. As outlined below, a variety of activities may be performed under these programs.

<b>Eligible Activities under Program</b>	<b>Applicable LBP Subparts</b>
➤ Acquisition ➤ Leasing	24 CFR 35 Subpart K—Acquisition, Leasing, Supportive Services, and Operations
➤ Rehabilitation	24 CFR 35 Subpart J—Rehabilitation
➤ Supportive Services tied to housing assistance (including child care, employment assistance, health care, and case management)	24 CFR 35 Subpart K—Acquisition, Leasing, Supportive Services, and Operations
➤ Operating Costs of Housing	24 CFR 35 Subpart K—Acquisition, Leasing, Supportive Services, and Operations

**LBP requirements do not apply to the following activities:**

- New Construction
- Administrative Costs
- Assistance provided to SROs/zero-bedroom units
- Group homes that consist of rental of individual room in residential dwellings
- Units receiving assistance for less than 100 days
- Supportive services only projects (SSO)

**Notes:**

**Special Needs Housing Programs That Must Meet Lead-Based Paint Requirements**

**Shelter Plus Care (S+C)**

S+C is a rental assistance program designed to provide housing and supportive services on a long-term basis for homeless persons with disabilities and their families who are living in places not intended for human habitation or in emergency shelters. The program allows for a variety of housing choices, and a range of supportive services funded by other sources, in response to the needs of the hard-to-reach homeless population with disabilities.

<b>Eligible Activities under Program</b>	<b>Applicable LBP Subparts</b>
➤ Project-Based Rental Assistance with rehabilitation	The more restrictive of: 24 CFR 35 Subpart J—Rehabilitation 24 CFR 35 Subpart H—Project-Based Assistance
➤ Sponsor-Based Rental Assistance ➤ Project-Based Rental Assistance without rehabilitation	24 CFR 35 Subpart H—Project-Based Assistance
➤ Tenant-Based Rental Assistance (TBRA)	24 CFR 35 Subpart M—Tenant-Based Rental Assistance

**LBP requirements do not apply to the following activities:**

- Households receiving TBRA where there are no children under the age of 6
- Section 8 Moderate Rehabilitation Program for Single Room Occupancy Dwellings (SRO)

**Notes:**

### Emergency Solutions Grant

The Emergency Solutions Grant program provides homeless persons with basic shelter and essential supportive services. It can assist with the operational costs of the shelter facility and for the administration of the grant. ESG also provides short-term homeless prevention assistance to persons at imminent risk of losing their own housing due to eviction, foreclosure, or utility shutoffs.

Eligible Activities under Program	Applicable LBP Subparts
<ul style="list-style-type: none"> <li>➤ Renovation</li> <li>➤ Rehabilitation, Remodeling</li> <li>➤ Conversion</li> </ul>	24 CFR 35 Subpart J—Rehabilitation
Supportive Services tied to housing assistance, including: <ul style="list-style-type: none"> <li>➤ Essential Services (e.g., services concerned with employment, health, drug abuse, and education)</li> <li>➤ Homeless Prevention Activities</li> </ul>	24 CFR 35 Subpart K—Acquisition, Leasing, Supportive Services, and Operations
<ul style="list-style-type: none"> <li>➤ Operational Costs of Housing</li> </ul>	24 CFR 35 Subpart K—Acquisition, Leasing, Supportive Services, and Operations

**LBP requirements do not apply to the following activities:**

- Administrative Costs
- Emergency housing payment assistance less than 100 days
- Assistance provided to SROs/zero-bedroom units
- Group homes that consist of rental of individual room in residential dwellings
- Units receiving assistance for less than 100 days

**Notes:**