



Department of Energy
Washington, DC 20585

WEATHERIZATION PROGRAM NOTICE 09-6
EFFECTIVE DATE: January 7, 2009

SUBJECT: LEAD SAFE WEATHERIZATION (LSW) – ADDITIONAL MATERIALS AND INFORMATION

PURPOSE: To provide clarification and additional information to grantees as they implement WPN 08-6, Interim Lead-Safe Weatherization (LSW) Guidance. This guidance augments, but does not replace, WPN 08-6 and builds on the foundation provided in Weatherization Program Notice (WPN) 02-6, Weatherization Activities and Federal Lead Based Paint Regulations.

SCOPE: The provisions of this guidance apply to all grantees applying for financial assistance under the Department of Energy's (DOE) Weatherization Assistance Program.

LEGAL AUTHORITY: Title IV, Energy Conservation and Production Act, as amended, authorizes the Department of Energy to administer the Low-Income Weatherization Assistance Program. All grant awards made under this Program shall comply with applicable law including regulations contained in 10 CFR Part 440 and other procedures applicable to this regulation as DOE may, from time-to-time, prescribe for the administration of financial assistance.

BACKGROUND: On September 22, 2008, DOE issued WPN 08-6, Interim Lead Safe Weatherization (LSW) Guidance to augment WPN 02-6 which provides background information on the various regulations impacting the treatment of pre-1978 homes that may have lead paint hazards when Weatherization work is being performed. Both of these pieces of guidance remain in place.

GUIDANCE: WPN 08-6 does not relieve any requirements established by 02-6, and in particular, all weatherization staff are required to continue to perform LSW accordingly. However, grantees may choose, at their option, to incorporate any or all parts of the EPA regulations going into effect April 2010, including the option to allow exemptions from LSW.

Exemptions

LSW must be applied to all pre-1978 housing unless the house meets EPA's Final Rule Exemptions.

Note: State authorities may, at their discretion, be more stringent and NOT allow certain exemptions within their state.

1. **No Lead-Based Paint will be Disturbed.** LSW must be applied to all pre-1978 housing unless there is existing evidence that the home has been certified as being lead-free or below the lead threshold limit (e.g., for paint containing lead below the regulated level, 1.0 mg/cm² or 0.5% by weight). One of the following methods must be used to determine the paint to be disturbed is not lead-based paint:
 - Written determination by certified lead inspector or risk assessor; **OR**
 - Proper use of EPA-recognized test kit provided agencies (*documenting manufacturer and model of test kit used, description and location of components tested, and test kit results*)

Note: Beginning in 2010, tests must be performed by a Certified Renovator, per EPA final rule. Test kits are currently being evaluated but none have been approved to date – updates and approved kits will be posted at <http://www.epa.gov/lead/>;

OR
 - A State-approved lead-based paint test protocol (e.g., XRF scans verifying absence of lead paint).
2. **Mobile Homes.** Often, interiors of mobile homes were not painted but rather, paneling was applied to the surfaces. Therefore, pre-1978 mobile homes that were not painted by the manufacturer, occupant, landlord, or past owner of the unit before 1978, may be exempt from LSW. However, Weatherization Programs must verify the areas receiving weatherization services have never been painted or were painted for the first time after 1978. If this is not verifiable, then LSW protocols must be followed. Painted exterior surfaces on pre-1978 units should not be drilled, scraped, sanded, or receive any other work that disturbs the paint.
3. **Exempt from training and work practice requirements if owner signs written statement that all apply:**
 - a. No pregnant women resides there; and
 - b. Not a child-occupied facility (“occupied” includes being the child’s primary residence or a home that is visited regularly by the same child, under age 6, 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 visits last at least 6 hours, and the combined annual visits last at least 60 hours).
4. **Housing for the elderly or persons with disabilities** (unless any one or more children under age 6 resides or is expected to reside in such housing for the elderly or persons with disabilities).
5. **Any 0-bedroom dwelling.**

6. Minor Repair or Maintenance Activities: Activities that will disturb less than the following square feet of paint surfaces in 30 calendar days (counting all paint surface areas of a removed component):

- 6 square feet per room for interior activities; or
- 20 square feet for exterior activities.

But this exemption does *NOT* apply to the following:

- Window replacement.
- Demolition of painted surface areas.
- Using any of the following:
 - Open-flame burning or torching;
 - Machines to remove paint through high-speed operation without HEPA exhaust control; or
 - Operating a heat gun at temperatures at or above 1100 degrees Fahrenheit.

7. Do-It-Yourself: Work performed by owners themselves in their residence.

THE EPA LRRPP RULE DOES NOT PRE-EMPT MORE PROTECTIVE REQUIREMENTS AND GRANTEES SHOULD KEEP ABREAST OF ANY OTHER RULES AND REGULATIONS GOVERNING AN AGENCY'S ACTIVITIES SUCH AS THOSE BY HUD, STATES OR COMMUNITIES.

Implementing Levels of Containment

WPN 08-6 Attachment 1, Minimum Standards for LSW, articulates the specific standards and provides levels of containment – giving agencies options for how to perform LSW depending on the measure being performed. This differentiation of containment levels can be implemented immediately upon notification to their respective PMC Project Officers. Grantees may also choose to wait until PY 09 after training on the specific containment levels identified in the Minimum Standards.

The revised LSW benchmark training curriculum is included on the DVD and CD as Attachment 2 of this guidance. Because of file size due to pictures and video clips, downloading additional copies from a website is prohibitive. Instead, grantees are strongly encouraged to make additional copies from the enclosed discs for local agencies and training staff within their service territory. For grantees that wish to purchase additional copies, the DVD/CD set is available for a nominal charge (cost of reproduction and shipping) from Montana State University (mvogel@montana.edu).

This benchmark training adheres to the standards of WPN 08-6 and helps prepare the network for the requirements that will be in effect in PY 2010.

Please note: The curriculum on disc is designed to support the classroom and hands on curriculum, as required by DOE. It is expected that each LSW training will include a hands-on training component to augment the curriculum.

Pollution Occurrence Insurance

Beginning in PY09, DOE no longer requires Pollution Occurrence Insurance (POI) but still strongly recommends POI. The costs of POI can be charged to the grant as part of the Liability Insurance. However, if a state or local agency chooses to NOT hold POI coverage and damage occurs because of not following all aspects of Lead Safe Weatherization or there is disturbance to any other environmental pollutants, the cost to do remediation, clean up, relocation, medical expenses or any other resulting costs may not be charged to the contract and must be covered by another funding mechanism.

POI is discussed further in Weatherization Program Notice 02-6. Additional information about POI coverage can also be found on the WAPTAC website.

Client Notification

As of December 22, 2008, all agencies must begin using the lead notification publication, "Renovate Right – Important Lead Hazard Information for Families, Child Care Providers and Schools." This publication replaces "Protect Your Child From Lead in Your Home." Agencies are advised, EPA does not have mass quantities available for purchase but instead, has provided the material on their website for agencies to duplicate.

The following link is the link for the "Renovate Right" publication:

<http://www.epa.gov/lead/pubs/renovaterightbrochure.pdf>

CONCLUSION: DOE acknowledges the complexity of LSW issues, as well as unknown requirements for years beyond 2009, and recognizes there may be elements that will require still further clarification.

Requirements, as mentioned in WPN 08-6 will be addressed in future notice related to 2010 implementation of Certified Renovators, training issues, firm status and the costs related to future certifications.

DOE will continue to provide additional updates through Program Notices in an effort to keep the Weatherization network informed.



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Attachment: DOE Benchmark Curriculum CD and DVD