



Department of Energy
Washington, DC 20585

WEATHERIZATION PROGRAM NOTICE 08-6
EFFECTIVE DATE: September 22, 2008

SUBJECT: INTERIM LEAD-SAFE WEATHERIZATION (LSW) GUIDANCE

PURPOSE: To provide additional guidance for an LSW component of a Health and Safety Plan. This guidance 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 July 12, 2002, DOE issued WPN 02-6, Weatherization Activities and Federal Lead Based Paint Regulations. WPN 02-6 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. This guidance remains in place.

To assist grantees with implementation of the WPN 02-6, DOE, in partnership with Montana State University (MSU), developed Lead Safe Weatherization (LSW) procedures and curriculum for agencies to follow when doing work in pre-1978 homes. DOE has not required grantees to use these tools, but has accepted the procedures and curriculum as the benchmark for LSW and has set the expectation that all Weatherization work performed in pre-1978 housing be done in a lead safe manner as prescribed by these materials. Over the ensuing few years the network continued to train and build experience in addressing lead issues.

In 2007, DOE commissioned a study conducted by the National Center for Healthy Housing (NCHH) performed a study, "*Analysis of Lead-Safe Weatherization Practices and the Presence of Lead in Weatherized Homes.*" The results of the study indicated that levels of lead paint were sometimes higher than acceptable Environmental Protection Agency (EPA) standards following the completion of certain Weatherization measures, specifically, when work was done on doors and windows. In response, the DOE Weatherization Health and Safety Committee drafted recommendations to address the concerns raised by the study.

DOE was poised to implement these recommendations when the EPA published a new Final Rule in April 2008: the "Lead; Renovation, Repair, and Painting Program" Final Rule (LRRPP Final Rule),

to be fully implemented by April, 2010. This rule specifically cites Weatherization in several places as an activity that falls under the rule, and thus, the rule has a direct impact on how the Program proceeds, especially in implementing Lead Safe Weatherization. (For a full version of the EPA Rule see www.EPA.gov/fedrgstr/epa-tox/2008/April/Day-22/t8141.pdf.)

While the EPA Rule is not scheduled to be fully implemented until 2010, DOE is providing guidance and recommendations for WAP Grantees to undertake during the remainder of 2008 and during 2009. Guidance is also provided for 2010, and that guidance is indicated in boxes in this WPN. Additional Guidance will be provided by DOE regarding the implementation of the LRRPP Rule as more becomes available from EPA.

In 2008, DOE, again in partnership with MSU and in coordination with the DOE Health and Safety Committee, revised the LSW procedures and curriculum to strengthen the current practices, **establishing minimum standards for LSW**. These changes position the Program to address the concerns from the 2007 NCHH study and also ensure the Program is poised to implement EPA requirements that go into effect April 2010. The revised procedures and curriculum that meets DOE's 2009 minimum requirements will be available October 2008 from Montana State University.

For 2010, to comply with EPA's LRRPP Rule requirements, DOE will release a revised benchmark curriculum (*anticipated delivery Fall 2009*) which will fully address all the new requirements effective April 2010. This curriculum will meet the EPA requirements and can be used by the grantees to develop their own EPA submissions.

Grantees are advised, any state mandates and state requirements are the responsibility of the grantee to research and incorporate into the procedures and curriculum.

LSW COST ASSIGNMENT: The cost of LSW is a health and safety cost. While DOE does not require grantees to include LSW costs in the Health and Safety budget category, it encourages grantees to do so because all labor, material, and related costs are not subject to the average cost per home limitation when included in this category. Grantees are reminded "clearance testing" to meet Housing and Urban Development (HUD) or EPA lead dust standards is NOT an allowable cost. Also, purchasing XRF devices is NOT an allowable expense with the DOE Weatherization Assistance Program funds.

REQUIREMENTS FOR PY 2009:

The following requirements are for implementation in PY 2009 only. The 2009 requirements do **NOT** address compliance dealing with training, work practice, and cleaning verification of the EPA LRRPP Final Rule which will commence on April 22, 2010. During PY2009, DOE will provide additional guidance to assist grantees in complying with EPA's training and certification requirements for PY 2010.

DOE is confident that **by following Minimum Standards for LSW (Attachment 1 of this guidance)**, we can ensure protection of Weatherization clients and workers, while continuing to focus on the Weatherization Program's primary mission: energy efficiency, and making energy more affordable for low-income households.

1. State Health and Safety Plans for 2009

As part of each grantee's Health and Safety Plan, beginning in PY 2009, grantees will be required to submit a more comprehensive Health and Safety Plan which must include an LSW component detailing how the grantee will:

- Conduct LSW training using either the DOE benchmark LSW Curriculum or an equivalent curriculum (*Available beginning October 2008 from Montana State University*)
- Verify compliance with the Minimum Standards for LSW (Attachment 1); and,
- Handle agencies that are found not to be in compliance with WPN 08-6 and the Minimum Standards for LSW (Attachment 1).

For 2010, to comply with EPA's LRRPP Rule requirements, grantees must submit their curriculum to EPA or the EPA designated authority within their state for accreditation. Grantees are also reminded that compliance with any other state/local requirements is the grantees' responsibility to research and to include in their curriculum.

When the EPA LRRPP is in full effect, DOE will require as part of its LSW Minimum Standards all additional requirements as outlined in the EPA LLRRP April 22, 2008, published rule.

2. Weatherization Worker Protection

DOE requires grantees to follow the specified EPA requirements. By adopting basic safety precautions and LSW, Weatherization Programs can protect workers and the occupants of the homes they weatherize from lead exposure. DOE requires grantees to follow the specified EPA and Occupational Safety and Health Administration (OSHA) standards for Worker Safety as well as any state or local requirements.

By ensuring all Weatherization workers are knowledgeable of LSW Minimum Standards (as revised in the 2008 benchmark procedures and curriculum), grantees increase the assurance LSW is being followed properly and risks to the workers and/or occupants are minimized.

3. Client Notification Requirements

DOE requires all states to follow the EPA requirements related to notification. **For homes weatherized before December 22, 2008**, owners and occupants of a dwelling built before 1978 must receive the pamphlet “*Protect Your Family from Lead in Your Home.*” **For homes weatherized after December 22, 2008**, EPA’s new publication “*Renovate Right: Important Lead Hazard Information for Families, Child Care Providers and Schools*” must then be used.

Please ensure the subgrantees and contractors are meeting the timelines and retaining copies of the notification, as specified above, and in the DOE LSW Minimum Standards.

4. Client Health and Safety

LSW requires residents and pets NOT having access to the work area while work is underway. Agency staff is required to make every effort to contain the work area and eliminate tracking any dust or materials throughout the house (or exposing residents and pets to any contaminants).

If containment can not be achieved and there is risk of traffic through the work area (e.g., work will take several days involving kitchens, bathrooms, or bedrooms) agencies are advised to defer the work until other resources can be secured to offset relocation expense for the residents and pets.

5. Documentation of LSW

States must document in their files LSW was properly implemented (e.g., photos of the site, containment set up, etc.). **Note: Grantees are reminded that all completed units must receive a final inspection to insure that compliance with all regulations have been met, which includes LSW procedures.**

For 2010, to comply with EPA’s LRRPP Rule requirements, Renovations must be performed by Certified Renovation firms. To become Certified Renovation firms must submit an application to EPA and pay a fee (yet to be determined).

Certified Renovators will be a required position for pre-1978 job sites. The Certified Renovators must be trained and receive their credential at an EPA-accredited training facility and be onsite at all LSW sites to perform the mandated functions of the Certified Renovator.

The Certified Renovator will verify the job site was “secure.” Verification documents must be placed in the client files, attesting that all LSW standards were properly followed and the containment area was set up properly and was not compromised during work. The results of the Cleaning Verification that is required beginning April 2010 must also be documented in the customer file.

In 2010, subgrantees will be required to provide documentation of the Certified Renovator credentials, ensuring they are qualified to perform the specific functions of the Certified Renovator.

CONCLUSION: DOE would like to thank the DOE Health and Safety Committee and the Weatherization network for their contributions in providing input on the issues surrounding the lead-based paint hazard. Additional recommendations for strengthening the LSW approach are provided (Attachment 2).

Because of the complexity of these issues, as well as unknown requirements for years beyond 2009, there may be elements that will require still further clarification. DOE will continue to provide additional updates to grantees and has provided a glossary of terms (Attachment 3) to assist in clarifying terms.

A handwritten signature in black ink, appearing to read 'G.P. Sperling', with a long, sweeping flourish extending to the right.

Gilbert P. Sperling
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Office of Weatherization & Intergovernmental Program
Energy Efficiency and Renewable Energy

Attachment 1: Minimum Standards for LSW

Attachment 2: Recommendations for Strengthening LSW for PY 2008 and 2009

Attachment 3: LSW Glossary of Terms