


Lead-Based Paint Monitoring In HUD/CPD Funded Programs



LEARNING OBJECTIVES

1. List the lead-related activities required for your programs
 2. Ensure that lead-based paint-related activities are compliant with LSHR/LPDR;
 3. Understand the intersection of the Rhode Island Lead Law (and other states' requirements) and Federal regulations
- 

EFFECTS OF LEAD POISONING

Health Effects of Lead – Gross Science Video



<https://www.youtube.com/watch?v=76RKSQgduVQ>



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<https://www.youtube.com/watch?v=76RKSQgduVQ>

SOURCES OF LEAD

- Lead is a naturally occurring element found in all parts of the environment
- Past use of leaded gasoline, foundries, smelters, and mining
- Household sources of lead
 - Paint in homes built before 1978
 - Water pumped through lead pipes
 - Certain imported items including clay pots, toys, jewelry, and home remedies

CHILDREN AND LEAD POISONING

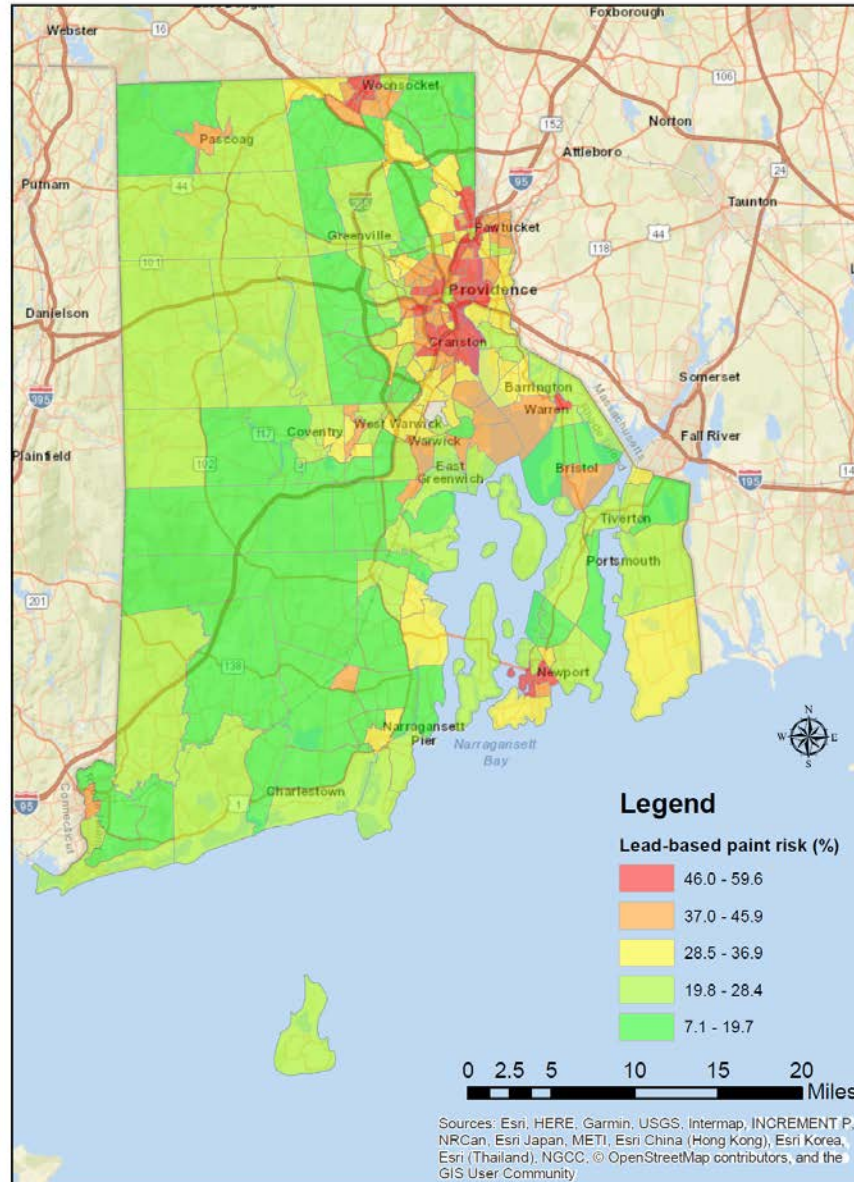
How can children become lead poisoned?

Putting their hands or other lead-contaminated objects into their mouths

Playing in lead-contaminated soil or on floors with lead dust

Eating paint chips found in homes with peeling or flaking lead-based paint

Estimated Lead-Based Paint Hazard



Data provided by U.S. Census Bureau American Community Survey
Lead-based paint risk calculation based on [Revised HUD Guidelines on the Evaluation and Control of Lead Paint Hazards](#)

CHILDREN AND LEAD POISONING

The good news on lead is that we know our efforts to control lead poisoning of our children are working. Blood lead levels have decreased substantially in young children over the last thirty years.

By continuing to raise awareness of potential lead hazards from paint, and other sources, inform our residents of potential lead hazards and remove or remediate hazards we can make the next generation of kids run 'lead free'.

PART I: LEAD DISCLOSURE RULE

**Jointly monitored
and enforced by
HUD and EPA**



AUTHORITY: LEAD REGULATIONS

24 CFR Part 35 incorporated by reference in CPD regulations (see handout)

- ▶ Lead Disclosure Rule (LDR, Subpart A)
- ▶ Lead Safe Housing Rule (LSHR, Subparts B-R)

LEAD DISCLOSURE RULE, CONT'D.

Provide lead pamphlet

Disclose known information


Acknowledgement before sign contract



The image shows the cover of a lead disclosure pamphlet. It features three photographs: a family with a baby, a crawling baby, and a row of houses. The title is 'Protect Your Family From Lead in Your Home'. Logos for EPA, CPSC, and HUD are at the bottom.

Protect Your Family From Lead in Your Home

 **EPA** United States Environmental Protection Agency

 United States Consumer Product Safety Commission

 **U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT** United States Department of Housing and Urban Development


June 2017

LEAD DISCLOSURE RULE, CONT'D.

In Massachusetts, Maine, Rhode Island there are modified forms approved by the EPA that incorporates state regulations.

R REALTOR

LESSOR'S/LANDLORD'S LEAD DISCLOSURE
Rhode Island Association of REALTORS®



Disclosure of Information about Lead-Based Paint and Lead-Based Hazards required by Federal and Rhode Island law.

Property Address: _____
Unit # (if applicable) _____, Town/City _____, State of Rhode Island, Zip code _____

Federal Lead Warning Statement
Federal Law: 42 U.S.C. 4852(d) "Housing built before 1978 may contain lead-based paint. Lead from paint, paint chips, and dust can pose health hazards if not managed properly. Lead exposure is especially harmful to young children and pregnant women. Before renting pre-1978 housing, Lessors must disclose the presence of known lead-based paint and/or lead-based paint hazards in the dwelling. Lessees must also receive a federally approved pamphlet on lead poisoning prevention."

Rhode Island State Disclosure Requirements
Rhode Island State Law: 216-RICR-50-15-3 Section 3.8 of the Rules and Regulations of the R.I. Department of Health and Lead Hazard Mitigation Standards requires the Lessor (Landlord) of any interest in residential property on which a residential dwelling was built prior to 1978 to disclose to the Lessee (Tenant) any known information on lead-based paint or lead-based hazards in paint, interior dust, soil, or water, or potential lead-based paint or lead-based hazards and their location(s), or potential location(s). Such information includes (1) any records or reports which are in Lessor's possession or reasonably obtainable regarding such hazards or potential exposure to such hazards in the property; (2) a copy of any current lead certificate(s) for the dwelling or dwelling unit and common areas; and (3) a chronological listing of all available lead inspection reports and certificates for the property being leased.
The Lessor shall provide Lessee with an Environmental Protection Agency educational pamphlet entitled "Protect Your Family from Lead in Your Home" containing the insert "What You Should Know About the R.I. Lead Law."

Lessor's/Landlord's Disclosure (Landlord(s) complete and initial each section below)

_____ (a) Presence of lead in paint, interior dust, soil or water and/or lead-based hazards in paint, interior dust, soil, or water:
(check one below)
 Lessor discloses that the following known lead-based paint and/or lead-based hazards are present in the housing (explain).

 Lessor has no knowledge of lead-based paint and/or lead-based hazards in the housing.


_____ (b) Records and reports available to Lessor (check all that apply below):
 Lessor has provided Tenant, the Listing Licensee and Cooperating Licensee, if any, with a copy of the most current lead certificate dated: _____
 Rhode Island law requires Lessor to provide, at no charge, copies of all available reports and certificates to which Lessor has access within seven (7) days of a request by Tenant.
Lessor has access to the following reports and records relating to lead:
(Landlord - List in chronological order all available lead inspection reports and certificates for the property being rented)
Date of document: _____ Type of lead certificate or report: _____

Tenant may obtain copies of all such documents by contacting: _____


Lessor has no lead certificates, reports or records pertaining to lead-based paint and/or lead-based hazards in the dwelling or dwelling unit and common areas for the property being rented.

LESSEE/TENANT'S INITIALS _____ LESSOR'S/LANDLORD'S INITIALS _____ Copyright © 2018 Rhode Island Association of REALTORS® Rev. 06/19 Page 1 of 2

TARGET HOUSING DISCLOSURE EXCLUSIONS

- ▶ Units built after 1978
 - ▶ Zero-bedroom units,
 - ▶ Elderly or disabled designated*
 - ▶ Lead-free LBP inspection certification
 - ▶ Lease under 100 days
 - ▶ No new knowledge at renewal
- 
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DISCLOSURE RULE – PENALTIES FOR VIOLATIONS

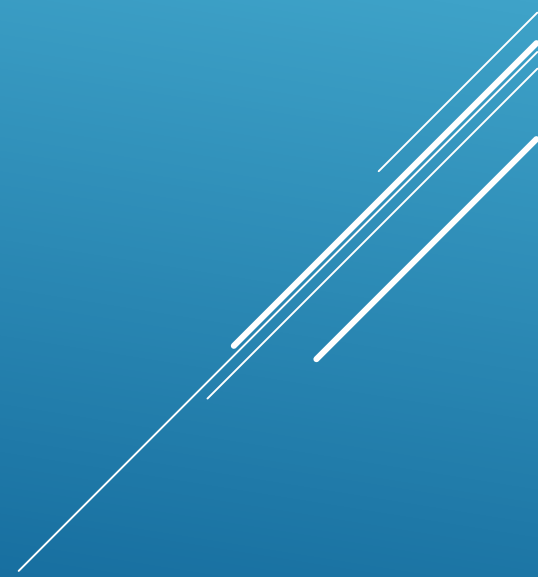
- ▶ Penalties up to \$17,395 per violation
 - ▶ Owner liable for 3 times damages
- 

COMPLIANCE WITH DISCLOSURE RULE - 1

**When monitoring subrecipients,
check that:**

- **prospective tenants were given the correct pamphlet**
- **disclosure was made before obligated by a contract or lease**
- **copy of disclosures kept at least 3 years after tenancy termination**

PART II: LEAD SAFE HOUSING RULE



AUTHORITY: LEAD REGULATIONS


24 CFR Part 35 incorporated by reference in CPD regulations

- ▶ Lead Disclosure Rule (LDR, Subpart A)
- ▶ Lead Safe Housing Rule (LSHR, Subparts B-R)


Also Applicable:

- ▶ EPA – Renovation, Repair and Painting Rule
- ▶ Rhode Island Lead Law, Other State Laws

MAJOR LEAD SAFE HOUSING RULE ELEMENTS IN REHAB PROGRAMS

- ▶ Exemptions
 - ▶ Options for Evaluation and Remediation
 - ▶ Notification Requirements
 - ▶ Determining Level of Hazard Control
- 


MAJOR LEAD SAFE HOUSING RULE ELEMENTS IN REHAB PROGRAMS (CONTINUED)

- ▶ Resident Protection
 - ▶ Authorized Workers
 - ▶ Clearance
 - ▶ Compliance with State/Local Laws
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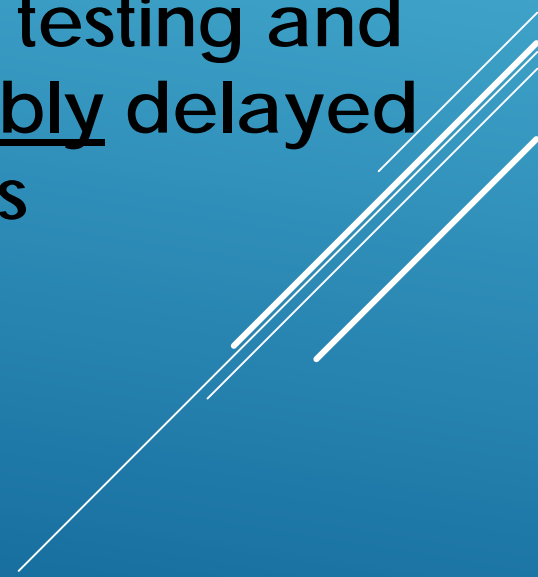
Lead Safe Housing Rule Exemptions



TARGET HOUSING EXEMPTIONS FOR LEAD SAFE HOUSING RULE

- ▶ Units built after 1978
 - ▶ zero-bedroom units,
 - ▶ elderly or disabled designated (unless a child under 6 YOA lives in unit)
 - ▶ Lead-free LBP inspection certification
 - ▶ Unoccupied Dwelling where occupancy is not anticipated prior to demolition
- 

TARGET HOUSING EXEMPTIONS FOR LEAD SAFE HOUSING RULE (CONTINUED)


- ▶ Emergency Repairs necessary to protect life, health or safety or structure
 - ▶ Rehabilitations that do not disturb a painted surface
 - ▶ Compliance with requirements for testing and remediation may also be reasonably delayed due to adverse weather conditions
- 

Lead Safe Housing Rule Options for Evaluation and Remediation




PRESUMPTION OF LEAD-BASED PAINT/HAZARDS AND STANDARD TREATMENTS

Where interim controls are required by this part, the designated party has the option to presume that lead-based paint or lead-based paint hazards or both are present throughout the residential property.

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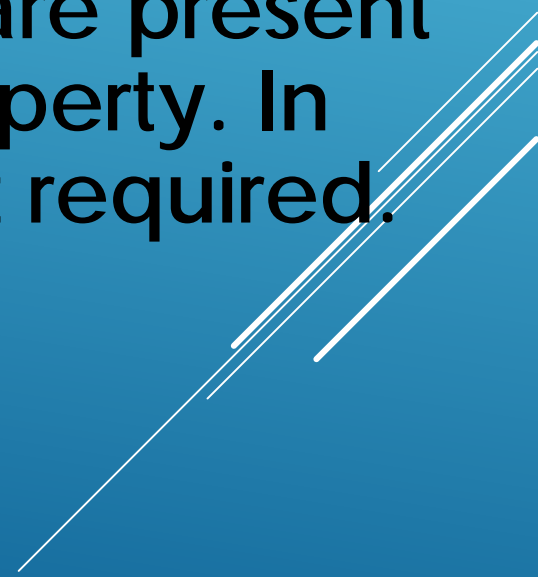
PRESUMPTION OF LEAD-BASED PAINT/HAZARDS AND STANDARD TREATMENTS

Standard treatments shall then be conducted in accordance with §35.1335 on all applicable surfaces, including soil. Standard treatments are completed only when clearance is achieved in accordance with §35.1340.

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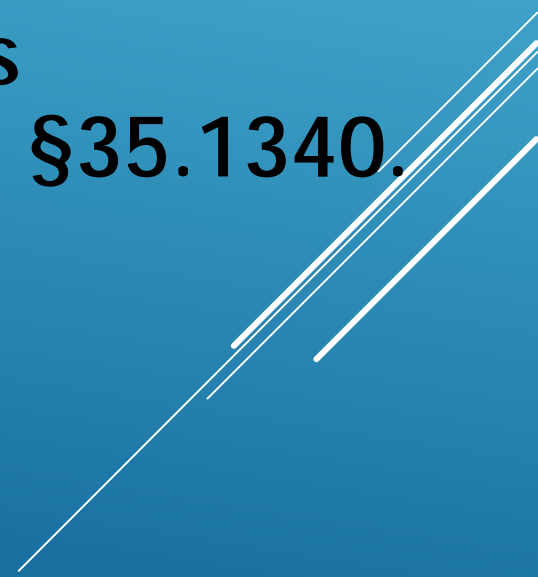
PRESUMPTION OF LEAD-BASED PAINT/HAZARDS AND ABATEMENT

Where abatement is required by this part, the designated party may presume that lead-based paint or lead-based paint hazards or both are present throughout the residential property. In such a case, evaluation is not required.

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PRESUMPTION OF LEAD-BASED PAINT/HAZARDS AND ABATEMENT

Abatement shall then be conducted on all applicable surfaces, including soil, in accordance with §35.1325, and completed when clearance is achieved in accordance with §35.1340.


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Lead Safe Housing Rule Notifications



NOTIFICATION REQUIREMENTS EVALUATION

Provide Residents within 15 days:

- I. A summary of the nature, dates, scope, and results of the evaluation;
 - II. A contact name, address and telephone number for more information, and to obtain access to the actual evaluation report; and
 - III. The date of the notice.
- 

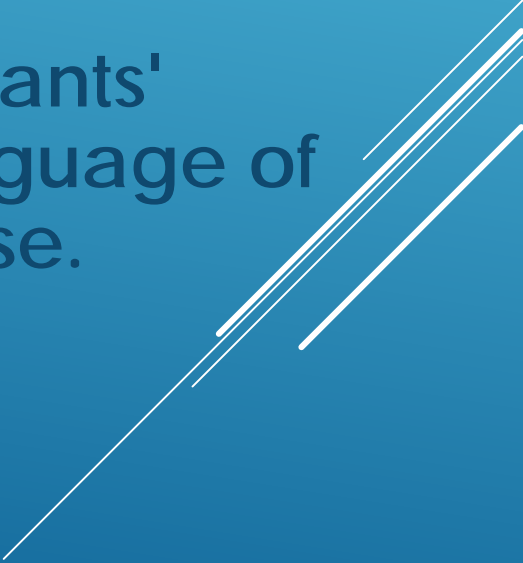
NOTIFICATION REQUIREMENTS REMEDIATION

Provide Residents within 15 days:

- I. A summary of the nature, dates, scope, and results (including clearance) of the hazard reduction activities;
- II. A contact name, address, and telephone number for more information;
- III. Available information on the location of any remaining lead-based paint in the rooms, spaces, or areas where hazard reduction activities were conducted, on a surface-by-surface basis; and
- IV. The date of the notice.

NOTIFICATION REQUIREMENTS

FORM OF NOTICES

- I. Shall be of a size and type that is easily read by occupants.
 - II. If needed in a format accessible to persons with disabilities
 - III. shall be provided in the occupants' primary language or in the language of the occupants' contract or lease.
- 

NOTIFICATION REQUIREMENTS


FORM OF NOTIFICATION

The designated party shall provide each notice to the occupants by:

- (i) Post it in centrally located common areas or;
- (ii) Distribute it to each occupied dwelling unit affected by the evaluation, presumption, or hazard reduction activity

HOUSING REHABILITATION PROGRAMS

Notification requirements to residents
(§35.125) of presumption

- I. A summary of the nature, dates, scope, and results of the evaluation;
 - II. A contact name, address and telephone number for more information, and to obtain access to the actual evaluation report; and
 - III. The date of the notice.
- 
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Lead Safe Housing Rule Determining Level of Hazard Control



HOUSING REHABILITATION WHAT EVALUATION AND REMEDIATION

Requirements depend on the amount of funding in the rehabilitation project.

- ▶ Up to \$5,000 per unit – test surfaces to be disturbed for lead paint or presume lead. Use safe work practices during rehabilitation and conduct clearance testing.
- ▶ \$5,001-\$25,000 per unit – conduct paint testing and lead hazard risk assessment on unit and common areas. Use interim controls or abate lead hazards and conduct clearance testing.
- ▶ Over \$25,000 – conduct paint testing and lead hazard risk assessment on unit and common areas. Abate lead hazards and conduct clearance testing.

HOUSING REHABILITATION WHAT EVALUATION AND REMEDIATION IS REQUIRED?

Requirements depend on the amount of funding in the rehabilitation project.

Calculating the requirement can be based on the lower of the following costs:


1. Project hard costs (less lead hazard evaluation and remediation amounts) per assisted unit or
2. Amount of federal assistance per assisted unit

HOUSING REHABILITATION EVALUATION/REMEDIATION REQUIRED

1. **Average project hard costs per assisted unit equals:**
 - ▶ All hard costs, regardless of source, intended for the assisted units divided by the number of assisted units plus
 - ▶ The total hard cost of rehabilitation of exterior and common areas divided by the total number of units
 - ▶ Any amounts allocated for the evaluation and remediation of lead paint hazards are not to be included in the hard cost calculation.

HOUSING REHABILITATION WHAT EVALUATION AND REMEDIATION IS REQUIRED?

2. Average Federal assistance calculation:

- ▶ All Federal assistance to the project regardless of use (hard or soft cost) divided by number of assisted units
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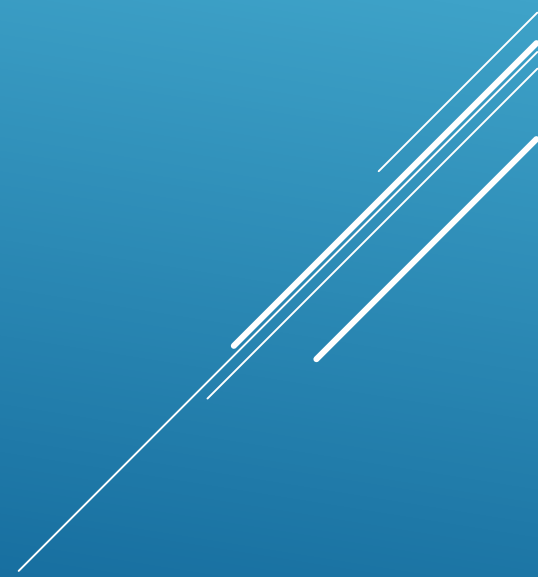
HOUSING REHABILITATION

DE MINIMIS PAINT DISTURBANCE

De minimis levels. Safe work practices are not required when maintenance or hazard reduction activities do not disturb painted surfaces that total more than:

- (1) 20 square feet (2 square meters) on exterior surfaces;
- (2) 2 square feet (0.2 square meters) in any one interior room or space; or
- (3) 10 percent of the total surface area on an interior or exterior type of component with a small surface area. Examples include window sills, baseboards, and trim.

Lead Safe Housing Rule Resident Protection



HOUSING REHABILITATION RESIDENT PROTECTION

Occupants shall not be permitted to enter the worksite during hazard reduction activities until hazard reduction work has been completed and clearance has been achieved.

Occupants shall be temporarily relocated before and during hazard reduction activities to a suitable, decent, safe, and similarly accessible dwelling unit that does not have lead-based paint hazards, except if:


HOUSING REHABILITATION RESIDENT PROTECTION – EXCEPTIONS TO RELOCATION

(i) Treatment will not disturb lead-based paint, dust-lead hazards or soil-lead hazards;

(ii) Only the exterior of the dwelling unit is treated, and windows, doors, ventilation intakes and other openings in or near the worksite are sealed during hazard control work and cleaned afterward, and entry free of dust-lead hazards, soil-lead hazards, and debris is provided;

HOUSING REHABILITATION RESIDENT PROTECTION – EXCEPTIONS TO RELOCATION

(iii) Treatment of the interior will be completed within one period of 8-daytime hours, the worksite is contained so as to prevent the release of leaded dust and debris into other areas, and treatment does not create other safety, health or environmental hazards



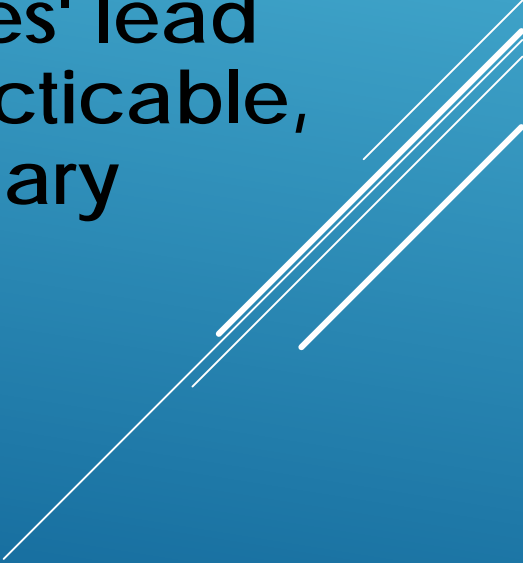
HOUSING REHABILITATION RESIDENT PROTECTION – EXCEPTIONS TO RELOCATION

(iv) Interior will be completed within 5 calendar days, no leaded dust and debris will be released into other areas, no other safety, health or environmental hazards; and, at the end of work on each day, the worksite and at least 10 feet (3 meters) of the containment area is cleaned to remove any visible dust or debris; occupants have safe access to bedrooms, bathroom and kitchen

HOUSING REHABILITATION RESIDENT PROTECTION

- ▶ The dwelling unit and the worksite shall be secured against unauthorized entry, and occupants' belongings protected from contamination by dust-lead hazards and debris during hazard reduction activities.
- ▶ The worksite shall be prepared to prevent the release of leaded dust, and contain lead-based paint chips and other debris from hazard reduction activities within the worksite until they can be safely removed.

HOUSING REHABILITATION RESIDENT PROTECTION

- ▶ A warning sign shall be posted at each entry to a room where hazard reduction activities are conducted when occupants are present; except that it shall be posted irrespective of employees' lead exposure and, to the extent practicable, provided in the occupants' primary language.
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Lead Safe Housing Rule Authorized Workers



HOUSING REHABILITATION AUTHORIZED WORKERS

Workers engaged in remediation shall be trained and supervised in accordance with the following requirements:


For Abatement of Lead Hazards –

All workers trained and certified by their respective states to conduct abatement.

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HOUSING REHABILITATION AUTHORIZED WORKERS

For Interim Control of Lead Hazards

- ▶ All workers must be trained and certified by their respective state either be supervised by an individual certified as a lead-based paint abatement supervisor or have completed successfully one of the following lead-safe work practices courses,
 - ▶ (i) A lead-based paint abatement supervisor course accredited in accordance with 40 CFR 745.225;
- 

HOUSING REHABILITATION AUTHORIZED WORKERS

For Interim Control of Lead Hazards

- ▶ A renovator course accredited in accordance with 40 CFR 745.225.
- ▶ “The Remodeler's and Renovator's Lead-Based Paint Training Program,” prepared by HUD and the National Association of the Remodeling Industry; or
- ▶ Another course approved by HUD for this purpose after consultation with EPA.

HOUSING REHABILITATION AUTHORIZED WORKERS

Encapsulation: the Hybrid Case

“When the purpose of the encapsulation of known or presumed lead-based painted surfaces is permanent (that is, 20 years or more) elimination of lead-based paint hazards, that project is abatement and EPA’s (or an EPA-authorized state or Tribe’s) abatement rules, rather than EPA’s (or an EPA-authorized state or Tribe’s) Renovation, Repair and Painting (RRP) Rule, apply to that project.

HOUSING REHABILITATION AUTHORIZED WORKERS

Encapsulation: the Hybrid Case

However, if application of an encapsulant is not intended as lead hazard abatement, that project is considered a renovation covered by the RRP Rule."

Chapter 13: HUD Guidelines on the Evaluation and Control of Lead Based Paint Hazards

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HOUSING REHABILITATION AUTHORIZED WORKERS

Clearance Testing

HUD regulations allow for clearance testing to be conducted by either a certified lead paint inspector or risk assessor or a worker called a “Dust Sampling Technician” working under the guidance of an inspector or risk assessor. Some New England states, do not recognize this classification for regulated activity.

Coordinating CPD/OHHLHC Funding

HUD LEAD HAZARD CONTROL GRANTS

- ▶ **OHHLHC awards Lead Hazard Control grants primarily to local or state governments**
- ▶ **Often these grants are utilized in rehabilitation projects that have multiple sources of funding including CDBG/HOME.**

HUD LEAD HAZARD CONTROL GRANTS

- ▶ These grant funds represent a critical additional resource for CDBG rehabilitation programs to assist with compliance with the lead regulations.
- ▶ They also operate under guidelines that in some instances diverge from the Lead Safe Housing Rule. The program managers for LHC grants will be cognizant of these distinctions.


Coordinating with State and Local Regulations and Agencies

HUD'S LEAD RULES AND EPA'S LEAD IN RENOVATION RULE

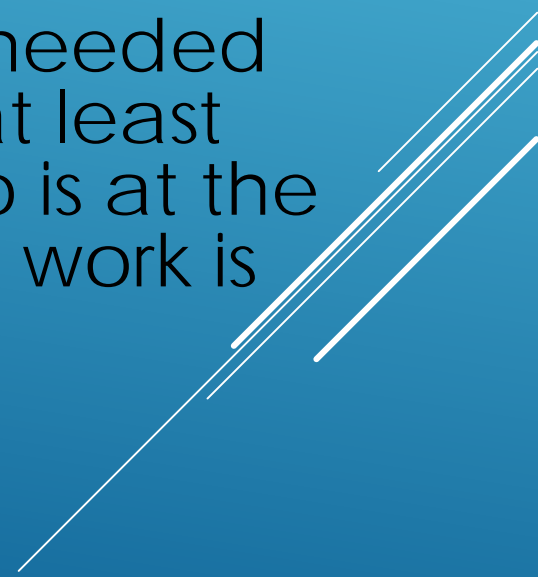
New Regulatory Requirements

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TWO MAJOR CHANGES

- ▶ Changes to HUD Lead Safe Housing Rule (LSHR) as a result of EPA Renovation, Repair and Painting (RRP) Rule
 - ▶ Amendment to HUD's LSHR to update the blood lead level standard and response procedures
- 


MAIN CHANGES TO HUD LSHR PROJECTS FROM EPA RRP RULE

- Tenant-based rental assistance:
 - RRP rule covers housing even if no child under 6 lives there
 - Training and certification:
 - EPA- or State-certification is needed for the renovation firm and at least one supervisor or worker who is at the job or who is available when work is being done.
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DETERMINATION THAT LBP IS PRESENT.

- ▶ **EPA**: Certified renovators use EPA-recognized test kit to determine presence of LBP.
 - ▶ **HUD**: EPA-recognized test kits may not be used to say paint is not LBP. Evaluation, paint testing or presumption by certified individual. Renovators may evaluate only if certified as LBP inspector or risk assessor.
- 

PROHIBITED WORK PRACTICES

- ▶ **EPA**: Prohibits 3 work practices: open flame burning or torching, heat guns above 1100 degrees F, power sanding, etc., without HEPA vacuum attachment.
 - ▶ **HUD**: EPA's plus: heat guns that char paint, dry scraping farther than 1 ft. of electrical outlets, and use of volatile strippers in poorly ventilated space.
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DE MINIMIS AMOUNTS

- ▶ EPA and Rhode Island: 6 sq. ft. per interior space; 20 sq. ft. for exterior work.
 - ▶ HUD: 2 sq. ft. per interior space; 20 sq. ft. for exterior work.
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CONTACT INFORMATION

Office of Lead Hazard Control

451 Seventh Street, SW (8236)

Washington, DC 20410

E-mail: lead_regulations@hud.gov

OHHLHC's website: www.hud.gov/offices/lead

Boston Field Office

Marty Nee, martin.j.nee@hud.gov

617-994-8372 (Office) 617-821-4601 (Cell)

THANKS FOR ATTENDING!

