

CDBG and HOME Program Lead Based Paint Requirements

Presented by:

**The New York State
Office of Community Renewal**

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Why Is LBP a Concern?



 Elevated blood lead levels (EBLLs) can cause irreversible health effects

- Brain & nervous system damage
- Reduced intelligence & attention span
- Learning disabilities
- Hearing loss; reduced hand-eye coordination
- Sexual dysfunction
- Violence?

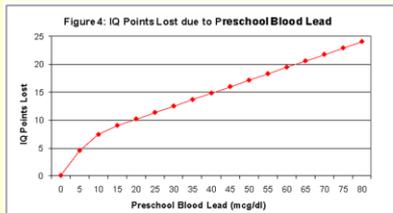



Figure 4: IQ Points Lost due to Preschool Blood Lead

Preschool Blood Lead (mcg/dl)	IQ Points Lost
0	0
5	5
10	8
15	9
20	10
25	11
30	12
35	13
40	14
45	15
50	16
55	17
60	18
65	19
70	20
75	21
80	22



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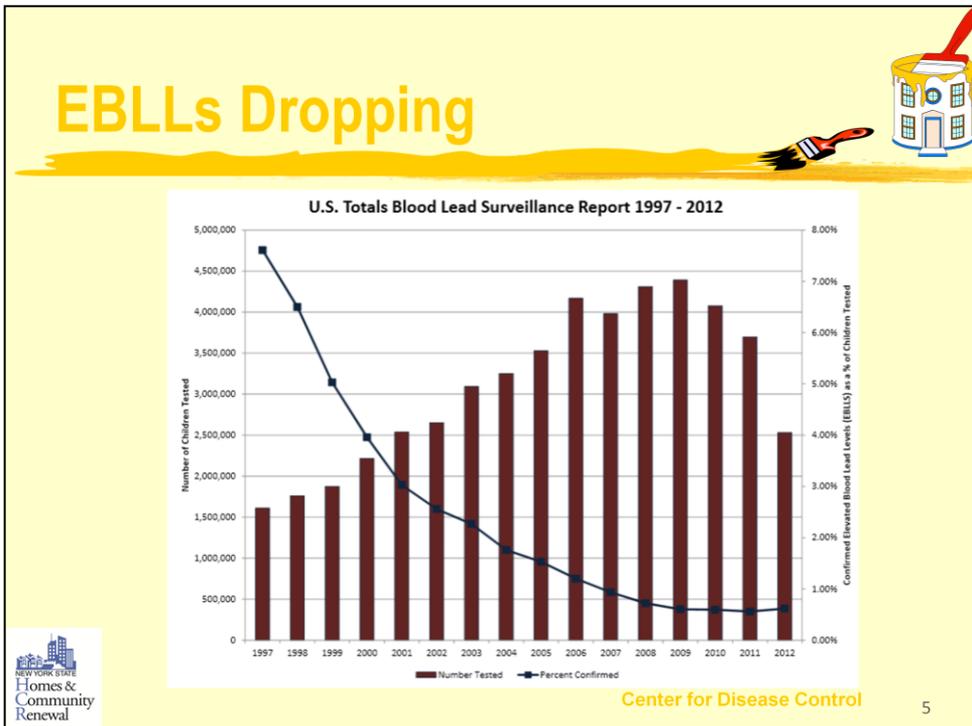
Lead is a highly toxic metal that may cause a range of health problems, especially in young children. When lead is absorbed into the body, it can be absorbed into the blood stream and bond with red cells in a way that inhibits the proper delivery of oxygen and nutrients to the brain and other vital organs, like the kidneys, nerves and blood.

At high levels, lead can cause coma, convulsions, and death. The National Academy of Sciences has reported that even comparatively low levels of lead exposure are harmful. Levels as low as 10 micrograms of lead per deciliter of blood ($\mu\text{g}/\text{dL}$) in infants, children, and pregnant women are associated with impaired cognitive function, behavior difficulties, fetal organ development, and other problems. In addition, lead may also cause behavioral problems, learning disabilities, seizures and in extreme cases, death. Some symptoms of lead poisoning may include headaches, stomachaches, nausea, tiredness and irritability.



Elevated blood lead levels affects everyone, but there is particular concern about:

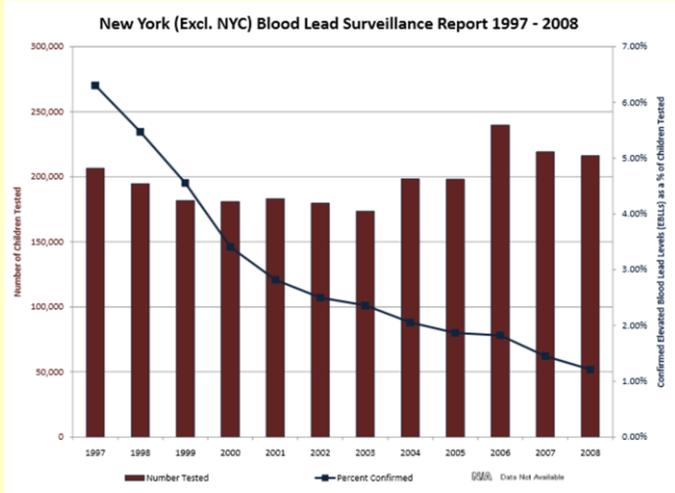
- Infants and children under the age of 6, because of the critical physical and mental development that occurs during the early years of life;
- Pregnant women – whose blood stream must nurture the fetus; and
- Those who work regularly at rehabilitation sites and are at risk from repeated and high levels of exposure to lead dust, including rehab workers, rehab specialists and inspectors, and their families.



Federal regulations and efforts have had a positive impact on the problem, including the phase-out of lead from gasoline, food and beverage cans, and new house paint, and because of reductions of lead in industrial emissions, drinking water, consumer goods, hazardous waste sites, and other sources.

As a result of these past and ongoing efforts, children's blood lead levels have declined over 90% since the mid-1970s. The incidence of elevated blood lead levels has dropped below 1% of children, but nearly a half million children still have EBLLs.

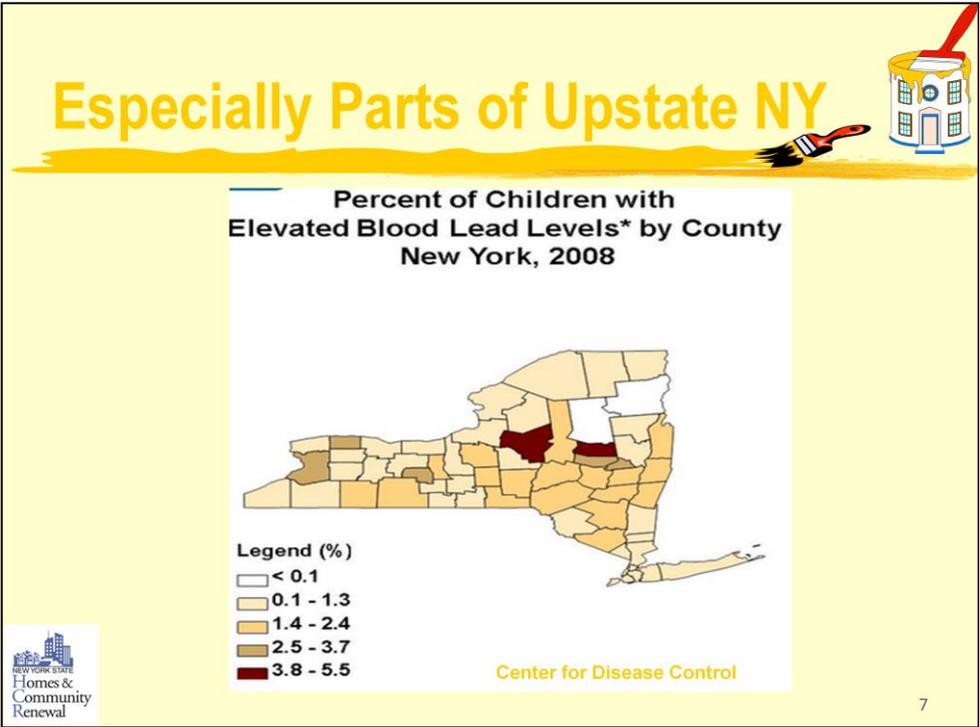
But Higher in New York



Center for Disease Control

While nationwide the incidence of EBLLs in children had dropped below a half percent, New York lags. While EBLLs in New York children is dropping, it remains about twice as high as the national average, and is still above 1% as of 2008, the latest the data are available from CDC.

Source: http://www.cdc.gov/nceh/lead/data/state/2008/nys_2008chart.pdf



Furthermore, EBLL rates are substantially higher in some upstate counties, with 7 upstate counties exceeding 2.5% -- more than 5 times the national rate.

Source: <http://www.cdc.gov/nceh/lead/data/state/nydata.htm>

Due to Age of Housing

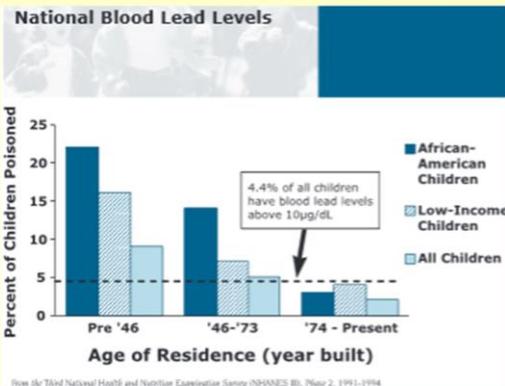


Year House Built	% of Houses with LBP
Before 1940	87 %
1940-1959	69 %
1960-1978	24 %

The older the housing, the higher the risk.



National Blood Lead Levels



Age of Residence (year built)	African-American Children (%)	Low-Income Children (%)	All Children (%)
Pre '46	~22	~16	~9
'46-'73	~14	~7	~4
'74 - Present	~3	~4	~4.4

Note: 4.4% of all children have blood lead levels above 10µg/dL.

Source: Third National Health and Nutrition Examination Survey (NHANES III), Phase 2, 1991-1994

New York EBLL rates are higher than the national averages, and parts of upstate New York are even higher, primarily due to the age of our housing stock and the harsher weather conditions and lower incomes that hasten the deterioration of lead-based paint.

Children living in older housing (where lead paint is most prevalent) are at the greatest risk, because older housing is more likely present in older housing, and older housing is more likely to be in need of repair. In general, the older the housing, the higher the risk of lead-based paint and lead-based paint hazards.

In addition, low-income and minority children are much more likely to be exposed to lead hazards. For example, 16% of low-income children living in older housing are poisoned, compared to 4.4% of all children.

Concern About Rehab



- ◆ Rehab is one of riskiest activities:
 - ◆ Disturbs painted surfaces
 - ◆ Produces dust
- ◆ During rehab, we must protect:
 - ◆ The occupants
 - ◆ Their belongings
 - ◆ Their neighbors
 - ◆ The workers
 - ◆ Ourselves (program staff)




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While we are concerned generally about LBP hazards in older housing, we are especially concerned about rehabilitation activities in older housing. Rehab disturbs painted surfaces and generates dust, which can increase the lead dust in the unit and surrounding area if the work is not done properly.

The objective of the rule is to reduce lead-based paint hazards in the long-run, but the requirements are also intended to ensure the actions taken to reduce the hazards do not incidentally increase the exposure to lead in the short term.

The rules and requirements are not just intended to protect the occupants (and their belongings), but also to protect the neighbors, the workers and program administrators who are visiting the site and monitoring the work.

**The Federal Rules:
HUD & EPA**



Background: HUD & EPA Rules

 **A little bit of history**

- 1972 federal law restricted residential LBP
- 1992 law expanded lead safety in federal housing & rehabilitation

 **The 1992 act produced 3 major regulatory actions:**

- 1996: universal disclosure to tenants and buyers
- 2000: lead safety in HUD-assisted housing (including HOME & CDBG)
- 2010: EPA Renovation, Repair and Painting (RRP) rule (all residential renovation, regardless of funding)

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In 1972, the Congress enacted the Lead Based Paint Poisoning Prevention Act, which mandated the removal of lead from residential paints. This mandate went into effect in 1978, which is why only pre-1978 structures are subject to the rule. The Act was passed at a time when it was believed that children became lead-poisoned by ingesting lead paint chips, so much of the lead hazard work took place as abatement activities focused on protruding or chewable surfaces.

By the 1990's, the understanding of lead poisoning had evolved to recognize that was the more common source of lead poisoning in children was lead dust that comes from defective, friction and impact surfaces, and that the repair and maintenance of painted surfaces could reduce the hazards without more drastic abatement activities. In 1992, the Congress passed The Residential Lead Based Paint Reduction Act. It gave us three significant regulatory actions:

- The Lead-Based Paint Disclosure Regulation (1996)
- The HUD Lead-Safe Housing regulation (2000) for HUD-assisted housing
- The EPA Renovation, Repair and Painting (2010) for all residential renovation

Compliance with all three rules is required for federal housing activities. This presentation incorporates the three into a single set of requirements.



The HUD Rule Applies...



-  **24 CFR Part 35**
-  **Pre-1978 residential structures**
 - With some exemptions
-  **When Fed housing assistance (including CDBG and HOME)**
 - Rehab: Rule Subpart J (35.900)
 - Acquisition (e.g., DPA): Subpart K (35.1000)
-  **Whether or not children are present**
 - Additional requirements if children < 6 or EBLL



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All NYS CDBG-funded housing rehabilitation and home ownership projects must adhere to the Residential Lead-Based Paint Hazard Reduction Act of 1992 (24 CFR Part 35). The regulations can be found at <http://www.hud.gov/offices/lead/enforcement/lshr.cfm>.

The HUD Lead-Safe Housing rule applies to pre-1978 residential structures when Fed housing assistance (including CDBG and HOME) is provided. Different subsections apply to different types of housing assistance. The most common HOME and CDBG funded activities are:

- Rehab – found in the Rule in Subpart J (35.900)
- Acquisition (e.g., downpayment assistance) – found in the Rule in Subpart K (35.1000)

The rule applies whether or not children are present, although there are some additional requirements if children are present that are under the age of 6 or have Elevated Blood Lead Levels (EBLLs).

Exempt from HUD Rule



<ul style="list-style-type: none"> • Post-1977 housing • Zero-bedroom units • Housing exclusively for elderly/disabled <ul style="list-style-type: none"> • unless child under 6 • Certified LBP free or LBP removed 	<ul style="list-style-type: none"> • Unoccupied pending demo • Nonresidential part of property • Rehab or maintenance that won't disturb painted surfaces • Emergency action <ul style="list-style-type: none"> • "imminent danger to human ... safety, or to protect property from further structural damage"
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HUD's LBP requirements do not apply to the following (see 24 CFR 35.115) :

- Dwellings completed on or after 1/1/78.
- Housing exclusively for the elderly or person with disabilities, unless a child under age six resides (100 days or longer) or is expected to reside there.
- Zero bedroom dwellings, including efficiency apartments, single-room occupancy housing, dormitories, or military barracks.
- Housing found by certified inspection to be free of LBP.
- Housing in which all LBP has been properly identified, removed, and cleared (does not apply where enclosure or encapsulation has been used).
- Unoccupied reconstruction housing that will remain vacant until it is demolished to the foundation.
- Non-residential property: Property or part of a property that will not be used for human residential habitation. Not exempt are common use areas, such as entryways, hallways, corridors, passageways, stairways or building exterior in a mixed-use building.
- Rehabilitation that does not disturb a painted surface.
- Emergency repair action needed to address imminent danger to human life, health or safety, or protect property from further structural damage.

If a housing unit meets one of these exemptions, the Rule does not apply to that project (except for the universal disclosure requirements.)



EPA RRP Rule

- Renovation, Repair & Painting (RRP): 40 CFR Part 745
- Target housing – built pre-1978, except:
 - Elderly/disabled units (no child < 6);
 - O BR units;
 - or previously certified LBP free
- Also child-occupied facilities
- Renovation – Modification of structure/ portion disturbing LBP, unless abatement
 - Not minor repairs/maintenance (< 6 sf int, 20 sf ext)
- EPA licensed firm & trained supervisor (Renovator)

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EPA issued the **Renovation, Repair and Painting (RRP) Rule** in 2008, and it became effective on April 22, 2010, and applies to renovation, repair and painting projects that disturb LBP in homes, child care facilities, and schools built before 1978, regardless of the source of funding.

“Target housing”, is any structure undergoing renovation that was built prior to the 1978 ban on lead paint. “Renovation” means the modification of any existing structure, or portion thereof, that results in the disturbance of painted surfaces, unless abatement. It does not include minor repairs or maintenance. Essentially, it is the same as what the HUD programs consider rehabilitation.

The rule also applies to “child occupied facilities” constructed prior to 1978, such as day care centers, preschools and kindergarten classrooms, if the presence of children exceeds daily, weekly and annual thresholds.

EPA requires that firms performing the renovation, repair, and painting projects be licensed by EPA and that they use certified renovators who are trained by EPA-approved training providers to follow lead-safe work practices.

Combining the Rules



-  HUD funded residential projects (including CDBG and HOME) must follow both HUD and EPA
-  In general, HUD rule is more restrictive & prescriptive:
 - Testing and risk assessments may be required
 - Occupant protections are more extensive
 - Clearance protocols are more demanding
-  Bottom line for CDBG and HOME activities:
 - Follow HUD rule using EPA Renovator



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HUD funded residential projects – including either CDBG or HOME funding – must follow both HUD and EPA rules. When both rules apply, the general approach is to comply with the more restrictive. In general, the HUD rule is more restrictive & prescriptive, notably in the following requirements:

- Testing requirements are more extensive, including the requirement for risk assessments in many rehabilitation activities;
- Occupant protections are more extensive;
- Abatement can be required in certain situations; and
- Clearance protocols are more demanding.

As a simplified statement, the bottom line for CDBG and HOME activities is that the local administrators should follow the follow HUD rule, but use an EPA Renovator for all rehabilitation or renovation activities when standard treatments or interim controls are permitted. The details of the combined requirements will be covered in the next topic of this presentation.





As a way of helping local administrators to consolidate the requirements into a few key tasks, we will cover the requirements in five steps that are universal to all activities, although what happens at each step might vary based on the classification of the activity. Those five steps are:

1. Evaluation – which means using various required methods to determine if LBP or LBP hazards are present;
2. Disclosure – what needs to be disclosed to owners and occupants;
3. Work Standards – the occupant protections and the required (and prohibited) work methods that are to be used, depending on the classification of the project;
4. Clearance – what steps are needed to verify and document that the LBP hazard has been addressed and the lead dust has been removed; and
5. Records – the documentation that needs to be collected and retained as evidence of compliance.

These steps will be discussed in order.

1. Evaluation Required



Activity	Requirement	Done by
CDBG & HOME funded acquisition	Visual assessment	HUD visual assessment*
CDBG & HOME funded rehab ≤ \$5,000	Test LBP – disturbed surfaces only · <u>Presume only with OCR prior approval</u>	EPA certified inspector or risk assessor
CDBG & HOME funded rehab > \$5,000	Risk assessment	EPA risk assessor

 * <http://www.hud.gov/offices/lead/training/visualassessment/h00101.cfm> 18

The first step is to determine whether LBP or LBP hazards are present. There are a variety of “evaluation” methods that are used. It depends on the type and classification of the activity.

1. For acquisition only activities (e.g., homebuyer assistance without rehab), a visual assessment must determine if painted surfaces are deteriorated (chipping, peeling, cracking or chalking) and need repair. It must be done and documented by a person that has either has EPA training or has taken the visual assessment online course available on the HUD web site: <http://www.hud.gov/offices/lead/training/visualassessment/h00101.htm>.
2. For rehab activities where the Federal Rehabilitation Assistance amount (defined in the next slide) is less than or equal to \$5,000 per unit, the requirement is to test or presume LBP on any surface to be disturbed by the rehabilitation. If testing, the painted surface must be inspected by either an XRF analyzer or lab-tested paint chips. If a grantee wants to presume the presence of lead on all painted surfaces to be disturbed, OCR approval must be obtained.
3. For rehab activities where the Federal Rehabilitation Assistance amount (defined later) is more than \$5,000 per unit, a full unit risk assessment must be conducted by an EPA-certified risk assessor.

Federal Rehab Assistance



-  Assistance amount is the lower of:
 - Per unit Federal assistance
 - Per unit rehab hard costs
-  Federal assistance (HUD/Rural Development):
 - Exclude non-Federal & Federal non-housing
-  Rehabilitation hard cost:
 - Exclude added costs of LBP compliance
 - Follow the Federal Calculation guidance tool



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The evaluation requirements (and subsequent work) for rehab depends on the amount of federal assistance to the rehabilitation. In essence, the greater the rehabilitation assistance, the higher to evaluation (and work) required. The rule classifies the rehab project based on the “Federal Rehabilitation Assistance” amount, which is the lower of two calculations:

- The total federal housing assistance per assisted unit; and
- The rehabilitation cost per assisted unit.

HUD and RD funds are Federal assistance. The following are not Federal housing assistance: Low-Income Housing Tax Credits; FHA mortgage insurance; Dept of Energy’s Weatherization Program (separate guidance issued); and Fannie Mae, Freddie Mac and Federal Home Loan Bank programs

Rehabilitation hard costs are actual costs, regardless of source of funds, associated with physical renovation of a unit. The following are not hard costs: acquisition, project soft costs, administrative costs, relocation, environmental review, and lead hazard evaluation and reduction costs

Presumption of LBP



- 
State CDBG Program no longer permits presumption effective May 16, 2014, except:
 - Well and/or septic replacement only that does not disturb painted surfaces, if addressed in Lead Based Paint Compliance Plan
 - Single family rehab project with total project cost < \$5,000, if prior OCR written approval.
- 
HOME Local Programs: same presumption standard effective March 1, 2015



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“Presumption” was included as an option to accommodate situations where a small number of surfaces must be tested and it isn’t cost effective to bring in a testing professional. When a “presumption” is made, the administrator is preemptively declaring that all surfaces that are required to be treated by the rule are presumed to have LBP and must be treated using safe work practices.

Presumption may be cost effective for the under \$5,000 rehab category, because only the surfaces that are intended to be disturbed must be treated. However, above \$5,000, a full unit risk assessment is triggered, and treatment is required of the surfaces to be disturbed, all deteriorated surfaces and all friction and impact surfaces. Presumption is neither practical nor cost effective if it triggers treatment of all painted windows, doors, cabinets, stairs, floors, etc. Research shows that, even when a unit has LBP, on average only about 30% of surfaces test positive for lead.

Effective May 16, 2014, the State CDBG Program no longer permits presumption, except for well and/or septic replacement that does not disturb painted surfaces, if addressed in Lead Based Paint Compliance Plan; and single family rehab with total project cost < \$5,000, with prior consultation with OCR & written approval. Above \$5,000, risk assessments are required.

HOME Local Programs will implement the same “presumption” limits effective March 1, 2015. (This does not apply to the Capital Multi-Family Program.)

Risk Assessments



- 
EPA-certified risk assessor
 - http://cfpub.epa.gov/flpp/search.cfm?Applicant_Type=firm
- 
Unit/common areas/lot for LBP hazards
 - Test defective, disturbed by rehab, friction & impact surfaces
 - Surfaces must be tested with XRF or lab-tested paint samples
 - RRP test kits not acceptable
 - Lead dust
 - Dust sampling following HUD protocol
 - Soils
- 
Based on preliminary work scope, prior to final scope
- Risk assessor must issue report that is shared with owner**



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Risk assessments are required for all rehabilitation where the Federal Rehabilitation Assistance amount is \$5,000 or higher. The assessment must be conducted by an EPA certified risk assessor, listed at: http://cfpub.epa.gov/flpp/search.cfm?Applicant_Type=firm

Risk assessments including testing of certain surfaces for lead, dust wipes (sent to the lab) to identify the presence of lead dust, and soil samples in key areas of the lot. Not all surfaces need to be tested – only “defective” surfaces (chipping, peeling, cracking, or chalking), surfaces to be disturbed by the rehabilitation, and all friction & impact surfaces (e.g., windows, doors, cabinets). These surfaces must be tested with XRF or lab-tested paint samples. EPA test kits are not acceptable under the HUD rule, as they are not accurate enough to confirm the presence of lead at the levels defined in the rule to be considered LBP.

The timing of the risk assessment is critical. It needs to be based on preliminary work scope (because the risk assessor needs to know what surfaces are going to be disturbed by the work, and the results will affect the final scope and designated work methods.

The risk assessor must issue report that is shared with owner.

2. 3 Types of Disclosure

- Seller/Landlord disclosure to buyer/tenant
 - Protect Your Family from Lead & disclosure form
- Renovator disclosure to owner
 - Renovate Right
- Administrator disclosure to owner & occupants within 15 days of evaluation & clearances





The 2nd step to lead safety is disclosure. There are three levels of disclosure that local administrators must be aware of:

- Universal Seller/Landlord disclosure to buyer/tenant – Required for all pre-1978 housing units in this country, the seller or landlord must give to the prospective buyer or tenant (1) the HUD/EPA “Protect Your Family from Lead” pamphlet and (2) a disclosure form of known LBP or LBP hazards. Unless the local administrator is selling or leasing property, this does not apply to the local administrator, but the administrator should verify that the required disclosures have occurred.
- Renovator disclosure to owner – When covered renovation is being done, the Renovator must give the “Renovate Right” pamphlet to the owner. While this is the responsibility of the Renovator, the administrator as a lender should make certain that the disclosure has occurred (and request evidence that the pamphlet has been received.)
- Administrator disclosure to owner – The HUD rule requires disclosure of two things: (1) the results of any evaluation (i.e., testing or risk assessment) and (2) clearances. HUD requires the notices to occupants within 15 days after lead hazard evaluation and control activities in their unit (and common areas, if applicable).

Occupant Protection & Safe Work Practices



- 
Protect occupants & belongings
 - Relocation may be required; URA applies
- 
Prepare/contain the worksite(s):
 - Worksite: Immediate area(s) of hazard reduction
- 
Use acceptable methods; not prohibited methods
- 
Clean the worksite
- 
SWP not required if below HUD de minimis levels:
 - 20 sq ft on exterior surface; 2 sq ft in any 1 interior room; or 10 % of area of component



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When work is being conducted under this rule, the occupant and the environment must be protected from lead-contaminated or lead-containing materials during hazard reduction activities. Occupants must be protected by ensuring that occupants are not permitted to enter the worksite during hazard reduction until the hazard reduction work is cleared; occupants' belongings are relocated or sealed; and occupants are temporarily relocated (unless 35.1340(a) is met).

The worksite for lead hazard reduction activities must be prepared to prevent the release of leaded dust and debris. Workers use containment and practices to minimize the spread of leaded dust and debris. Warning signs are required at each worksite. See 35.1345(b).

The firm must use safe work practices defined in 35.1350, and may not use prohibited methods on surfaces known or suspected to contain LBP. The worksite must be cleaned by proper methods.

Safe work practices aren't required if painted areas affected fall within the HUD **de minimis** levels (not EPA levels). These are: 20 sq. ft.(2 sq. meters) on exterior surfaces; 2 sq. ft. (0.2 sq. meters) in any one interior room or space; or 10 percent of the total surface area on an interior or exterior type of component with a small surface area (e.g., window sills.)

Safe Work Practices



Activity	Work practices	Who can do it?
Acquisition	Safe work practices & paint stabilization (deteriorated paint)	Renovator or worker(s) with interim controls training
Rehab	FRA \leq \$5,000: SWP & paint stabilization if disturbed by rehab FRA \$5,000 - \$25,000: Interim controls (all LBPH) FRA > \$25,000: Abate interior hazards; interim controls for exterior hazards	EPA Renovator EPA Renovator EPA abatement firm



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For acquisition only activities (such as homebuyer assistance without rehab), the rule requires only that deteriorated paint be addressed following the standard safe work practice known as “paint stabilization”. For rehabilitation, the work required depends upon the level of Federal Rehabilitation Assistance FRA), as previously defined:

- 1) FRA up to \$5,000 per unit: Lead safety requirements cover only the surfaces being disturbed by the rehabilitation. Work which disturbs painted surfaces known or presumed to contain lead-based paint is done using standard treatments under lead safe work practices (unless it is a very small “de minimis” scale project) to ensure that no lead dust hazards remain in the work area.
- 2) FRA greater than \$5,000 and up to \$25,000 per unit: Identify all lead hazards at the affected units and common areas servicing those units by performing a lead-based paint risk assessment (presumption is not permitted). Address all identified hazards using interim controls.
- 3) FRA greater than \$25,000 per unit: Identify all lead hazards at the property by performing a risk assessment and then abate all the interior hazards. (Exterior hazards may still be addressed using interim control methods.) This approach requires certified abatement contractors perform the abatement aspects of the job.

4. Clearance



-  EPA Renovator cleaning verification method not permitted
-  HUD requires EPA-certified Inspector/Risk Assessor
-  As soon as possible after hazard reduction activities (including cleaning) are complete
-  Clearance involves:
 -  Visual Assessment
 -  Dust samples (lab analysis)
 -  Report




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Step 4 is clearance, or the inspection of the work to ensure that the work was done and all debris and dust properly removed.

EPA allows cleaning verification by the renovator without sampling and laboratory analysis of the dust, but HUD requires clearance examination by a qualified party independent of the renovator instead of the certified renovator's cleaning verification procedure. Therefore, in HUD-funded job, the EPA method is not permitted, and clearance must be done by an EPA-certified inspector, risk assessor or clearance technician.

Clearance is best done as soon as possible after hazard reduction activities (including cleaning) are complete (allowing a few hours for the dust to settle).

A clearance examination involves a visual assessment, dust, and soil testing to determine if the unit is safe for occupancy. Lab-tested dust samples must be taken. The clearance examiner must prepare a clearance report in accordance with (24 CFR Part 35.1340) if lead hazard reduction activities other than abatement are performed. (Abatement activities are subject to EPA requirements, not HUD requirements.)

Clearance Required



Acquisition	Paint stabilization work site clearance
Rehab < \$5,000	Clearance of hazard work sites
Rehab > \$5,000	Unit clearance



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For acquisition, clearance need only be conducted in the worksites where paint stabilization occurs. For rehabilitation under \$5,000 in Federal Rehabilitation Assistance, clearance only must occur in the hazard control “worksites”. Over \$5,000, full unit clearance is required following HUD protocols.

5. Records



- Copies of evaluation, disclosure, procurement, clearance, other evidence of Lead Based Paint Compliance Plan followed
- Maintain 3 years from grant closeout
- However, records needed to respond to lawsuits should be kept...



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The final step (five) is recordkeeping, as the administrator must ensure that there are adequate records to prove compliance with the requirements.

- Key documents would include copies of evaluation, disclosure, procurement, clearance, other evidence of Lead Based Paint Compliance Plan followed
- The rule requires documents to be maintained for 3 years from grant closeout. (CDBG and HOME separately have program recordkeeping requirements that run for 4 and 5 years.) However, records that will be needed to respond to lawsuits that may arise in the future should be kept indefinitely.

References: Training & Forms



- 📖 **CDBG Grant Administration Manual**
 - Chapter 5, Section V
 - <http://www.nyshcr.org/Programs/NYS-CDBG/GrantAdministration.htm>
- 📖 **HOME Grant Administration Manual**
 - Coming Soon!
- 📖 **HUD Lead Safe Housing Training Manual**
 - <https://www.onecpd.info/resource/405/making-it-work-reference-manual/>
 - Documents & sample forms:
 - <https://www.onecpd.info/resources/documents/MakingItWorkSampleForms.pdf>



And in conclusion.....



When in doubt, don't.

- Contact OCR for technical assistance
 - For the NYS CDBG Program
 - Charlie Philion, Senior Community Developer
 - ◆ Charles.Philion@nyshcr.org
 - For the NYS HOME LPA Program
 - Ann Petersen, Director
 - ◆ Ann.Petersen@nyshcr.org

 This presentation will be made available to the OCR website on or about October 10, 2014.



CDBG 2014 Lead Based Paint Compliance Webinar
Related Questions and Answers

- Q. Does the OCR have a sample lead-based paint plan that is compliant with both HUD and EPA requirements?
- A. At this time, the OCR does not have a sample lead based paint compliance plan. OCR is developing a guideline for what the lead based paint plan should include and will make this available to Recipients and will post to the website when it is ready. Until this is complete, please consult with your assigned Community Developer for further guidance.
- Q. The new lead paint requirements provide for possible exclusion on well/septic projects. Are lateral connection projects also eligible for exclusion? If paint is disturbed to install a lateral, does the testing/clearance apply to the work area or to the entire house?
- A. The OCR will include lateral connections as potential exceptions to the presumption of lead based paint. This will apply only in the instance that the work is limited in scope and does not disturb any lead based paint on the interior. If any lead based paint is disturbed, the rule is triggered and a lead based paint risk assessment of the living unit will be required. Please refer to Chapter 5, General Provisions of the OCR Grant Administration Manual for further guidance.
- Q. Are mobile homes exempt from lead based paint compliance?
- A. No. If a mobile home that is proposed to receive any federal housing rehabilitation funds and it was built prior to 1978, the rules apply.
- Q. Are historic properties exempt?
- A. No, any residential property that is proposed to receive federal housing rehabilitation funds built prior to 1978 is subject to the lead based paint compliance. However, the HUD rule permits the use of interim controls in lieu of abatement methods if requested by the State Historic Preservation Office (see 35.115(a)(13)).
- Q. What happens when a risk assessor waits two weeks to get the results to the program administrator? Does this 2 week delay count towards the 15 day period to deliver results to homeowner?
- A. No, the requirement is to provide a copy of the risk assessment to the property owner within two weeks of receiving the report.
- Q. Where can the brochures “Protect Your Family from Lead in Your Home” and “Renovate Right” be obtained from?

CDBG 2014 Lead Based Paint Compliance Webinar
Related Questions and Answers

A. Here are links to “Protect Your Family from Lead in Your Home”, http://www2.epa.gov/sites/production/files/2014-02/documents/lead_in_your_home_brochure_land_b_w_508_easy_print_0.pdf and to “Renovate Right”, <http://www.hud.gov/offices/lead/library/lead/renovaterightbrochure.pdf>

Q. How can I find out about lead based paint training for contractors?

A. Here are some suggested links for lead safe training,

1. <http://www.leadsafetraining.org/>
2. <http://www2.epa.gov/lead/renovation-repair-and-painting-program>
3. <http://www.lead-safe-certified.com/training/>

Q. The OCR policy regarding the presumption of lead changed earlier this year. If a project was completed using the presumption standard, do I have to go back and redo anything?

A. If a housing rehabilitation was completed using the presumption standard prior to the change in policy, the project must demonstrate to the satisfaction of OCR that the rehabilitation of the unit was in compliance with the policy that was in place at the time the activity was undertaken.

Q. It sounds like I can still do presumption of lead paint in some cases, how can I do this?

A. OCR has determined that projects that are undertaking well and septic replacement only and the project does not involve disturbing any lead based paint, then the presumption standard can be applied. Also, when a rehabilitation project will be less than \$5,000 in total, the local program must contact the OCR Developer, review the project and obtain a concurrence from OCR for presumption of lead PRIOR to undertaking any activity.

Q. Can lead based paint be encapsulated?

A. Provided that the project is not subject to lead based paint abatement, it is acceptable to stabilize the painted surface and paint the entire surface. Lead based paint may still be present in this case, but it is no longer a hazard.

Q. I was told numerous times from EPA that home owner occupied residences are exempt from Renovate, Repair, and Paint (RRP). This was not listed on the list of exemptions. Is this true?

A. While there was a brief period in 2010 when a homeowner could sign a waiver under the RRP rule, no such provision has been available under RRP since July 6, 2010, nor is any such option available under the HUD rule.

CDBG 2014 Lead Based Paint Compliance Webinar
Related Questions and Answers

- Q. Who is responsible for obtaining the clearance, can the contractor hire the risk assessor?
- A. The administrator or the contractor can hire an EPA certified firm to conduct a lead based paint clearance report. The contractor or firm undertaking the rehabilitation activity is not allowed to clear its own work.
- Q. Do the HUD lead-based paint regulations apply to rehab activities in a commercial property that has no residential units?
- A. Generally speaking, no. However, if a building is being renovated into a daycare facility for children, the site could be subject to lead based paint compliance.
- Q. Would a one-man operation/sole proprietor need to have 1) lead safe work practice training (RRP), 2) be a certified firm and 3) be a certified supervisor?
- A. Yes. A one-person firm would need to be EPA licensed as a renovation firm and have the EPA renovator training certification.
- Q. How would a grantee pass the associated costs on to the property owner receiving the assistance while remaining in compliance with Federal and State regulations?
- A. The costs for lead based paint compliance should always be treated as a project cost. This can include but is not limited to risk assessments, clearance reports and the construction costs associated with lead compliance.