

Lead Paint Standards for Rehabilitation

NCDA Region 1 October 12, 2018

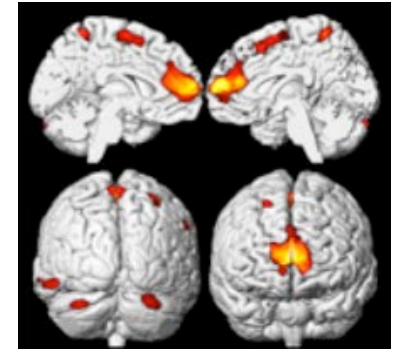
James Brooks- City of Worcester

Carrie Schena- City of Nashua



Why is Deleading Important?

- Lead Poisoning causes lifelong brain damage with no known cure
- The Special Education cost per student/year is \$14,317 (\$186,121-Massachusetts)
- 21% of Autistic patients had elevated lead levels



Why is Lead Paint Still an Issue?

Massachusetts

- 3,500,000 units of housing
- 2,450,000 units of housing built before 1978
- **ONLY 350,000 units have been inspected**
- **LESS than 200,000 units have compliance**

Lead Safe Housing Rule

- Established by Title X in 1992
- Requirements-
 - Subpart C- Disposition of residential property owned by a Federal Agency
 - Subpart D-Project Based Assistance by a Federal Agency other than HUD
 - 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
 - Subpart K- Acquisition, Leasing, Support Services, or Operation
 - Subpart L- Public Housing Programs
 - Subpart M-Tenant-Based Rental Assistance

Levels of Assistance

1. Assistance of up to and including \$5000 per unit;
2. Assistance of more than \$5000 per unit and up to and including \$25,000 per unit
3. Assistance of more than \$25,000 per unit

Subpart J- Rehabilitation

Exemptions

1. A residential property for which construction was completed on or after January 1, 1978
2. A Zero bedroom dwelling unit
3. Housing for the elderly, or a residential property designated exclusively for persons with disabilities.
4. Residential property found not to have lead-based paint by a lead based lead inspection.
5. Residential property in which all lead-based paint has been identified, removed, and clearance has been achieved.
6. An unoccupied dwelling that is to be demolished
7. A property or part of a property that is not used and will not be used for human residential habitation.
8. Any rehabilitation that does not disturb a painted surface.
9. For emergency actions immediately necessary to safeguard against imminent danger to human life, health, safety or to protect property from further damage.

Abatement vs Rehabilitation

Abatement-means any set of measures designed to permanently eliminate lead-based paint or lead-based paint hazards including:

- The removal of lead-based paint and dust-lead hazards, the permanent enclosure or encapsulation of lead-based paint, the replacement of components or fixtures painted with lead-based paint, and the removal or permanent covering of soil-lead hazards
- All preparation, cleanup, disposal, and post abatement clearance testing activities associated with such measures

Rehabilitation-means the improvement of an existing structure through alterations, incidental additions or enhancements. Rehabilitation includes repairs necessary to correct the results of deferred maintenance, the replacement of principal fixtures and components, improvements to increase the efficient use of energy, and the installation of security devices

Definitions

Lead-based paint hazard means any condition that causes exposure to lead from lead-contaminated dust, lead-contaminated soil, or lead-contaminated paint that is deteriorated or present in accessible surfaces, friction surfaces, or impact surfaces that would result in adverse human health effects as established by the appropriate Federal agency.

Paint stabilization means repairing any physical defect in the substrate of a painted surface that is causing paint deterioration, removing loose paint and other material from the surface to be treated, and applying a new protective coating or paint

Calculating Assistance

- The amount of rehabilitation assistance is the lesser of two amounts-
 - The average Federal assistance per assisted dwelling unit (acquisition, construction, permits, fees, project costs)
 - The average per unit hard costs of rehabilitation (do not include lead testing and hazard reduction costs)
- * For a residential property that includes both federally assisted and non-assisted units, the rehabilitation costs and Federal assistance associated with non-assisted units are not included in the calculation of the average cost per unit.

Assistance up to and including \$5000

- Conduct paint testing or presume the presence of lead paint on all surface to be disturbed
- Implement safe work practices during rehabilitation work
- After completion of work, conduct clearance examination

Assistance \$5,000- \$25,000

- Conduct paint testing or presume the presence of lead-based paint
- Perform a risk assessment in the dwelling units receiving Federal assistance, common areas servicing those units and exterior painted surfaces
- Perform interim controls of all lead-based paint hazards
- Implement safe work practices during rehabilitation work and repair any paint that is disturbed and is known to be lead-based paint
- Work and clearance by certified individuals

Assistance over \$25,000

- Full abatement
- Conduct paint testing or presume the presence of lead-based paint
- Perform a risk assessment in the dwelling units receiving Federal assistance and in associated common areas and exterior painted surfaces before rehabilitation begins
- Abate all lead-based hazards identified by the paint testing or risk assessment
- Implement safe work practices during rehabilitation work and repair any paint that is disturbed and is known to be lead-based paint
- Work and clearance by certified individuals

Occupant Protection Plan

- Temporary relocation is necessary if residents cannot have safe access to bathrooms, sleeping areas, and kitchen facilities.

Exceptions

- Work is a small area (2 feet interior, 20 exterior)
- Work is on outside only
- Work & clearance only take one day
- Elderly Resident exemption

Using CDBG as Match to HUD Lead Hazard Control Grant

- HUD Lead Grants have different requirements than CDBG and HOME
 - Occupancy Requirements
 - Children under 6
 - Dust clearance requirements different
 - Environmental Review
 - Different reporting requirements (IDIS & HHGMS)

Using CDBG as Match to HUD Lead Hazard Control Grant Continued

- CDBG match can only be used on eligible Lead units.
- Rehabilitation outside of lead abatement does not count toward match.
- Match of Healthy Homes funds does not count toward match.

Other Lead Requirements

- Lead Disclosure Rule (Sales & Rentals)
- Changes to Lead Safe Housing Rule 2017
- State requirements outside of HUD
- HIPPA

Lead Disclosure Rule

Downpayment Assistance & Landlords

- EPA Booklet
- Provide any records
- Include as part of lease
- Sellers must provide a 10 day period to conduct lead inspection
- Sellers and lessors must retain disclosure for minimum of 3 years

Timeframes for Response to an EBLL in the Index (HUD Assisted) Unit

EBLL Response Activity	Timeframe
Notify Public Health Department and HUD Field Office of EBLL case	Within 5 business days after verification of the EBLL
Conduct Environmental Investigation	Within 15 calendar days after verification of the EBLL
Complete lead hazard control work and clearance	Within 30 calendar days of receiving the results of the Environmental Investigation,
Notify HUD field office of results of Environmental Investigation and results of clearance	Within 10 business days after Environmental Investigation and 10 business days after clearance



State Requirements outside of HUD

Massachusetts- 10 day notice, Poisonings- Code enforcement inspector only, Court timelines-criminal prosecution

Vermont- Same as EPA & HUD

New Hampshire-5 day notice of work for EBLL units; written notice to landlords/parent starting at 3µg/dL; reducing action level to 7.5µg/dL in 2019 and 5µg/dL in 2021; water testing in EBLL units

Maine- Project notifications, contractor certification, inspections and assessments

Rhode Island- 7 days notice, failed test requirements

Connecticut- 20mg/Dl + mandatory inspection & abatement, criminally prosecute cases, New Haven- 5mg/Dl+ full abatement

HIPPA Requirements

Protected Health Information. The Privacy Rule protects all "*individually identifiable health information*" held or transmitted by a covered entity or its business associate, in any form or media, whether electronic, paper, or oral.

- 1. Authorization.** A covered entity must obtain the individual's written authorization for any use or disclosure of protected health information that is not for treatment, payment or health care operations or otherwise permitted or required by the Privacy Rule. An authorization must be written in specific terms. It may allow use and disclosure of protected health information by the covered entity seeking the authorization, or by a third party.
- 2. Documentation and Record Retention.** A covered entity must maintain, until six years after the later of the date of their creation or last effective date, its privacy policies and procedures, its privacy practices notices, disposition of complaints, and other actions, activities, and designations that the Privacy Rule requires to be documented.