Lead Safe Housing Rule Webinar Series, Subparts J & K

June/July '22 Session 2

Kris Richmond: Welcome, everybody. My name is Kris Richmond and I'm with ICF and I am accompanied today by my colleague, Les Warner, and then we're also fortunate enough, again, to have Bruce Haber and Karen Griego from the Office of Lead Hazard Control and Healthy Homes with us today.

So I do want to emphasize what we talked about last week where it's really hard to multitask. So we had a lot of questions coming in last week, but if you're brand new to this, just pay attention to what we're saying and look at the slides.

Try not to look at the Q&A box. Maybe even close the Q&A box down so you're not trying to look at two things and listen to two things at the same time. We are going to have office hours, again, tomorrow and if we have some time today, we'll take some questions today as well.

So today we are focusing on Subpart J for rehab. Last week we did do the overview of the basics, so if you missed the session one for the basics, go back and listen to that recording. So that has been posted available to you. So we are going to be talking today about rehab and really focusing on the planning aspect of rehab and how lead safe housing rule applies to that planning aspect.

And then next week, for session three, we're going to be going over the second part of Subpart J for rehab and we'll be focusing on construction and clearance.

And then the fourth week, if you return to be with us, we'll be looking at Subpart K, acquisition, leasing, support services and operations, but today and next week we're really trying to focus on Subpart J, rehab.

So we do have a lot of material we want to cover today, so the goals that we're trying to focus on are how the costs are calculated. We talked a lot about -- last week about the -- up to including $5000, the $5001 to $25,000, the over $25,000 and people were asking well how -- how do I figure out which column I'm in?

Well, we're going to go through an example or two on how you figure that out. We're going to show you the requirements for those three different levels of hazard reduction. We're going to talk about how to track project costs.

We're going to talk about risk assessments and project planning and a little bit of refresher on notification requirement and then review contracting, final inspections and clearance.

All right, so you did see this chart last week. Again, it's not an exhaustive list, but it does show you some of the current HUD programs that trigger Subpart J. You see [inaudible] DBG, HOME, [inaudible], continuum of care, all these different programs do follow Subpart J when undertaking the rehab activity.

I do want to remind you that the applicability of Lead Safe Housing rule for Subpart J is not dependent on the presence of a child. So even if there's no child living in that single family unit, we still need to follow Subpart J for Lead Safe Housing rule.

We also showed you this slide last week as well, but as a refresher, remember we have our lead disclosure rule that needs to be followed. Now, for rehab, typically somebody already owns that, so we're not doing a disclosure right away.

A disclosure would be once we find out if we're working in a unit and we discover that there's lead in that unit, then the next time there's a purchaser, they need to disclose to that purchaser that they now know there's lead in the unit and provide any documents to them.

Or, if it's a rental situation, the owner now needs to disclose to their tenants that they were aware of lead in the unit, what happened, how it was treated, and that [inaudible] needs to be part of that disclosure that's provided.

We also have HUD's Lead Safe Housing Rule. That's what we're really focusing on today. This is for all federally assisted and federally owned housing built before 1978. And then we're going to be diving in a little bit, again, into EPA's Renovation, Repair and Painting Rule.

You'll hear Les and I refer to this as the RRP Rule. This applies to any renovation, repair or painting that's done by a contractor that disturbs paint.

So we talked last week about how the Lead Safe Housing Rule and the RRP Rule intermingle and intertwine and we'll continue that discussion again today and you'll start to see how Lead Safe Housing Rule is more protective than the RRP Rule.

And so you'll hear us talk about that, or if you hire an RRP contractor, make sure they know about HUD's requirements, because some of the things are more restrictive when you're working on a HUD funded property than you would be if you were in the open market.

These are the different general steps for you to meet compliance. We had this slide last week as well, but this time we're really just focusing on Subpart J. So we already talked about disclosure last week for the second one for look.

In the Lead Safe Housing Rule, we use the term evaluate in Subpart J. So we're going to be doing different kinds of evaluation and it really depends on which category you fall in to as to whether you're doing paint testing or you're doing a full risk assessment or you're doing a lead inspection and risk assessment.

So it really depends on which category you fall in to for that type of looking or evaluation. Then we have our treating. And so once the hazards are identified, they have to be treated. And in Subpart J, we use the terms repair. We use interim controls and hazard abatement.

We're going to dive in deep about what each of these mean and where you can find more information about that.

Also, for clearance -- so after the work is done, it has to pass clearance, which is going to be done by a visual inspection and dust sampling. After the clearance is done, we need to tell and we need to provide notifications to both the owner and the residents. It needs to be notified in writing when any hazards are found and how they're treated and cleared. Then we have maintain.

So maintain is only required for home rental, because there's that ongoing relationship, but it's really a best practice for us to teach our homeowners or if we have other rental that's not home funded, on how to maintain these properties.

We talk to them about doing an inspection on a yearly basis or, you know, at turnover. How to do what cleaning, you know, in areas that might generate dust once a month. So different maintenance.

Not always required, but it really is a best practice to ensure that these units continue to stay safe.

All right, so let's dive into our housing rehab programs. Subpart J. All right, so this one, it shows different types of federally assisted rehab programs that are affected by Subpart J and typical ones that are untaken by you the grantee.

So remember, we're dealing with pre-1978 properties. Very common for grantees to run an owner-occupied single family rehab program. Sometimes it's called homeowner rehab program. A lot of multi-family rehab programs out there. Perhaps you're running an acquisition and rehab program, maybe a weatherization program, disaster recovery or even CARES act rehab.

So again, regardless of the occupancy, the Lead Safe Housing Rule does apply when you're undertaking these types of activities. These were discussed in module one, but just to revisit, there are times when the rule may be exempt. The first one here for emergencies. This needs to be a true emergency. So it has to be an immediate protection of life and safety.

A CDBG emergency repair program that really deals with deferred maintenance is not considered an emergency in the Lead Safe Housing Rule. Also, that extends to disaster recovery programs. Those are usually addressed after the disaster has happened. There's usually a significant amount of time that's passed. That is also not considered an emergency. So only if it's a true emergency, immediate protection of life and safety with the Lead Safe Housing Rule being exempt.

If you're working in a project that has repairs that do not disturb painted surfaces, perhaps you're replacing a furnace and there's no painted surfaces that you're disturbing, that would be exempt. If you are going to demolish a unit and it's unoccupied until demolition, that's also exempt. If you have units that were inspected and you are not -- do not have any lead paint in them and you have documentation that shows there's no lead paint, that is also exempt.

If you have housing that's exclusively for the elderly and in the Lead Safe Housing Rule, elderly are considered 62 and over, so this is housing exclusively for the elderly.

Not that the project you're working on has an elderly family living in it, but the fact that the whole property, the whole unit, housing complex, is considered exclusively for the housing or disabled, that would be exempt as well as zero-bedroom units.

Now, those are not exempt if there's a child living in the unit that's under the age of six or is expected to live in the unit that's under the age of six. Then the elderly, disabled and zero-bedroom units exclusion would not apply.

Some grantees will fund beautification or exterior repair programs and we just want to remind you that those programs are also not exempt. Typically these are funded -- usually end up in our middle range there, our $5000 to $25,000 range. A lot of programs think that they don't need to follow the Lead Safe Housing Rule and that's not the case. If you're falling in that middle range, you do need to do a risk assessment.

That's our evaluation that needs to be conducted and as a result of the risk assessment, if there's determined to be lead based paint hazards on the interior, then you need to address those and you need to do interim control work on that interior.

So even if you were funding a project where you thought you were only just going to be working on the outside of the unit, if it triggers a risk assessment, the risk assessment finds lead hazards on the interior, you still need to address those hazards following Lead Safe Housing Rule.

So if you're a grantee who is undertaking a beautification program or some type of exterior program, you really want to do a self-review of your program and make sure that you are following all of the Lead Safe Housing Rule, in particular Subpart J for rehab.

Now, there may be a limited exemption if the property you're working with is listed or is eligible for the National Register of Historic Places or is contributing to a National Register of Historic Districts.

So if you're working with historic properties that fall on one of those lists, the National Register of Historic Places or National Register of Historic Districts, there may be times when you can use interim controls rather than abatement.

This has to be done in cooperation with the SHPO, that's your State Historic Preservation Officer, and if you find that you're in this situation, we do have a couple of different references here that you should refer to if you're working with historic properties.

So that's the Historic Preservation Brief 37 as well as the HUD guidelines, and you want to look, in particular, at chapter 18 of those HUD guidelines. And we have links to the HUD guidelines at the end of this chapter for those resources.

Okay, a few more exemptions. So earlier we talked about exemptions and there may be times when your project may have a limited exemption for that particular repair or for the rehab work.

Sometimes this isn't found out until after the work specifications are developed. So if the work is below the de minimis threshold, then that would be exempt and so the lead safe work practices are not required either when minor maintenance or activities disturb painted surfaces that are less than de minimis.

And we mentioned what this was last week, but again, the de minimis is less than two square feet per interior space. Less than 10 percent of a small component type and people always ask, well, what's a small component type?

Well, that might be a windowsill or maybe a chair rail or a baseboard. So if it's less than 10 percent of the small component type, it could be exempt, or less than 20 square feet for exterior work. So these are HUD's de minimis levels.

We do want to let you know that HUD's de minimis levels are more protective than the EPA RRP guidelines and HUD-assisted projects that trigger the Lead Safe Housing Rule, they receive a higher standard of care than the private sector jobs.

Than, you know, for example the RRP de minimis for the interior is actually six square feet and you can see that HUD's de minimis for interiors is two square feet. So again, this is where it's really important, if you're working with a contractor who is RRP certified, so they're thinking the interior de minimis space is six square feet, they may have never worked on a HUD project before.

It's up to you, the grantee, to let them know HUD has a more restrictive requirement. It's actually two square feet, less than two square feet is the de minimis for interior work for EPA.

Les is also going to go over this handout that we have here. It's the RRP handout that compares HUD's Lead Safe Housing Rule to the RRP rule as well.

Karen Griego: Hey, Kris? This is Karen.

Kris Richmond: Yeah? Yeah, go ahead, Karen.

Karen Griego: I just wanted to go back and emphasize something in case folks missed it.

Kris Richmond: Sure.

Karen Griego: Which happens sometimes. So the de minimis, I just want to emphasize that the limited exemption here applies when the rehab job is under $5000.

Kris Richmond: Oh, thank you.

Karen Griego: That's the threshold, right? So and yet this will become clearer as we get into each of the standards of care, depending on the amount of hard cost of rehab. Okay, that's it.

Kris Richmond: Good. Great. Thank you. Thanks for adding that point. All right, so this slide also shows some of the key professionals that are typically involved in repair and repainting programs as well as general rehab programs.

So we have our program staff. These are the ones that are doing your homeowner intake. Our inspectors. Hopefully we have some specification writers. They're not required to be certified risk assessors, but it would be a best practice to have them on staff and doing those specification writing.

We also have our traditional partners in rehab. These are our contractors. We also want to make sure our contractors are RRP certified at a minimum and then we have our lead specialists. So we have certified paint inspectors, risk assessors, clearance examiners.

We also have to have our certified or trained lead contractors, abatement supervisors and RRP workers, just depending on what type of work need to be undertaken.

So the program staff really is going to have to help the general contractors understand the requirements that are applied of their work. So this has to make sure that they're using lead and EPA language in their contracts, in the work specifications as well as in the communication with them.

The program staff is going to have to locate the lead specialists and then on the upcoming slides, we're going to highlight the different lead specialists and how to find them.

Okay, so we've been talking about the three different categories for awhile now. Let me show you the three different categories. The equal to or less than the $5000, the $5001 to $25,000 and the greater than $25,000, so that's what I mean by these three different categories.

And the lead hazard evaluation, so how we look at the project, how we evaluate whether there's lead or lead hazards in a unit is -- or the work area as well as the reduction activities, how we're treating that, depends on the amount of the level of rehab assistance.

We have to determine that by comparing two different amounts. And so we're going to be figuring out what is the lesser of? So the lesser of the two amounts is the level of rehab assistance.

And that number then determines which of those categories we need to follow for evaluation and for treatment. So you see the green circle on the left side here.

This is the hard costs of rehab from all sources, including our owner's funding that has been contributed as well, but it excludes soft costs and lead hazard control costs. Okay? So we're going to compare that number to the federal assistance for all uses per unit.

So we're going to compare those two, determine which is the lesser of and then that determines which category we're in. So this green circle here, hard costs from all sources, excluding soft cost and lead hazard control.

What do we mean? What would we be excluding? Well, here are some of the items that you could exclude. They would not be counted in that rehab hard costs. We would subtract that from the rehab hard costs.

So we're -- these might be financing fees, credit reports, overhead administrative costs, appraisals, relocation costs, environmental review, and then lead hazard evaluation and reduction costs. These could also be excluded.

But we want to be looking at intent, okay? So if you always repaired or if you always replaced doors and windows, then that would have been part of your rehab costs. You would not be excluding that, because that's not a lead hazard reduction cost.

You only exclude that if you're only doing the windows and the doors, because there's lead on them or in them, okay? You want to be thinking about intent. We're going to talk more about intent.

We did mention one of the references is the interpretive guidance and the interpretative guidance J5 talks a lot about intent. We do want to let you know that there may be implications for subtracting a reduction -- lead hazard reduction costs from the cost of rehab.

So if the component replacement is attributed to lead based paint hazard reduction, this has to then be done by personnel who are certified to perform lead-based paint abatement, even if the level of rehab assistance is less than $25,000, because component replacement is considered an abatement activity. We'll talk more about that in a little while.

All right, so let's do an example here. Try to figure out the cost of -- the level of rehab assistance. Remember, we're trying to figure out the lesser of. So this is single family example, so we only have one unit.

And so this single-family home, it's being rehabilitated for $50,000. The rehab hard costs are $23,000 and the lead hazard reduction cost is $27,000. They're using CDBG funding and they're receiving $50,000 from the city CDBG program.

So let's look at that. So the first thing we're trying to figure out is our federal assistance and you see here it's $50,000. So our CDBG is our federal assistance and that one is $50,000 and then what are the rehab hard costs?

Well, they give it to us right here. They're saying our rehab hard costs are $23,000 and we want to compare those two and so we determine the lesser of the two is $23,000.

So when I'm looking at my chart and I'm trying to figure out which category I need to fall in, our answer was $23,000 and so I'm going to be in this middle chart here, so I need to be doing a risk assessment. I need to be doing interim controls. So what's what we're looking at.

We're trying to figure out which of these three categories is my project going to fall in to? So the first one was that middle category, because $23,000 was less then $50,000 and we want to go with the lower number to determine that.

We have another single-family example here, again. So we have a family that's participating in a rehab and refinancing program and the amount of home funding is $60,000 and the hard costs of rehab are $26,000, right?

So looking here at our federal assistance, our federal assistance coming from the home program, so that's $60,000 and then our rehab hard costs are $26,000 and the lesser of the two is $26,000.

So the level of rehab assistance is $26,000. We go back to our chart and we're going to fall into this category over here. Okay? Over $25,000. So we're going to be doing paint testing and risk assessment for our evaluation.

We're going to be doing abatements. We could be doing interim controls on exterior surfaces that are not disturbed by rehab [inaudible] practices that you get the point. We're falling into this category, the right-side category of greater than $25,000.

Okay. This slide is doing multi-family, but it's multi-family mixed projects, and mixed projects is meaning they're not all federally assisted. Okay? So we're going to go through this example here. We do have to know a formula.

And so our formula we have -- we're going to be looking at rehab hard costs for all assistant units, excluding common areas and exterior surfaces, and we're going to be dividing that number by the number of federally assisted units in the project.

So we're going to figure out what that number is and then we're going to add that to the right side of the formula. So we're going to be looking at the rehab hard costs for common areas and exterior work.

That's going to be divided by the total number of units in the project and that's going to come up with the per unit hard costs, because remember, we want to compare the per unit hard costs to the amount of general assistance per unit and we want to be able to figure out which is the lesser of.

So we're just trying to show you, how are we trying to determine the per unit hard costs for projects that may not all be federally assisted.

All right, so let's try an example here. All right, for this example, we have a 20-unit property where they're going to spend $65,000 to rehabilitate the structure. The rehab is going to include $20,000 in hard costs for repairs to exterior and common areas and $45,000 in hard costs for 15 home units.

So we have a 20-unit property and we have 15 home units. We have our formula here, so we're taking A divided by C. So remember, A was our rehab hard costs for all assisted units excluding common areas and exterior surfaces.

We're dividing that by the number of federally assisted units in the project and then we need to determine the right side of that formula where we're looking at B, which is the rehab hard costs for the common areas and exterior work and that's going to be divided by D, which is the total number of units in the project.

Okay? So let's find A. Let's find our rehab hard costs. So our rehab hard costs right here are $45,000. We put that right there at the top. That's going to be divided by the number of federally assisted units, which are 15 home units, and we divide 15 into $45,000, we come up with $3000.

And then we're going to do the right side of our calculation here. So we need to find B, which is the rehab hard costs for the common areas and exteriors, which is $20,000. That's going to be divided by the total number of units in the project, which is 20.

So when we divide 20 into $20,000, we come up with $1000. We're going to add those together and our per unit hard costs is $4000. Okay? So our per unit hard costs here is $4000.

So this was an example that talked you through mixed projects where they were not all federally assisted. If you had a project that was all federally assisted and it was multi-family, you would just simply divide the total cost by the total number of units.

So, for example, if you had $150,000 of CDBG money and you had 10 units, you would divide 10 into the $150,000, because all 10 units are federally assisted and that would be $15,000 per unit and then if you had $400,000 of hard costs, you would divide that by your 10 units to come up with $40,000 per unit.

So it's much simpler if they're all federally assisted. This example here with the formula is just if you're using mixed projects where they're not all federally assisted.

Okay, so now hopefully you understand when we're talking about the different categories this is what we mean, again, by the different categories. You know, verifying the level of assistance has different approaches and we talked quite a bit last week about the different approaches.

You'll see that the equal to and less than $5000 is the approach number one, do no harm. It becomes more restrictive all the way to abate, which is approach number four.

And then we're going to go into a lot more detail about different paint testing as well as the hazard reduction and the clearance. We'll be going through all these things.

If, for some reason, you missed last week, over here this elevated blood lead levels, that's what EBLL stands for, Subpart J does not trigger elevated blood lead level requirements, so you see a no going across that.

If you were working with tenant-based rental assistance in Subpart M, then you would see a yes there, but Subpart J, EVLL requirements do not apply.

Great. So how does the level of rehab assistance influence the evaluation and the lead hazard control requirements? Let's pull this apart just a little bit and then Les is going to go into some more detail about the different testing and the different hazard control requirements.

So our first top of the box here, the equal to or less than the $5000 category, you can presume -- now, I want to tell you, you can presume for all of these different categories, but if you decide not to presume, you're going to be testing the services that are going to be disturbed. Okay?

So paint testing on the surfaces to be disturbed would be the required evaluation and then you would be -- for your treatment, you would repair those surfaces that are being disturbed as well. Okay? So it's very limited when you're in the less than or equal to $5000.

And the reason it's limited is because we're in this do no harm. We're trying not to make the situation worse, right?

In this middle category here, again, we can always presume, but if we're not going to presume, then we are testing [inaudible] paint surfaces.

We are doing a risk assessment of the entire unit and then the treatment or we are doing interim controls or abatement of all hazards, but interim controls is really the requirement.

And then for the greater than $25,000, again, you could presume, but if you're not presuming, more testing and doing the risk assessment, again, of the entire unit, and we are abating all hazards, including soil.

So let's talk a little bit about whether testing or presuming. So grantees need to decide if they want to test or presume the presence of lead-based paint.

So you really need to think about the type of portfolio, the type of housing in your jurisdiction of where you're working.

So if you had prior projects and you didn’t find a lot of lead-based paint, then it would make sense to test, because if you test and there is no lead-based paint, then you don't need to find lead specialists to do the work if there's no lead identified.

If you have always found lead, then you may want to presume. But you want to really take a look at this. When the rule first came out, it was really hard to find lead inspectors and risk assessors. That's not really the case anymore.

So more communities typically do, do the testing or do the lead inspection, the risk assessment, rather than presumption, but presumption is still an option for you if you decide to take that.

If you do decide to presume, you must treat all the interior painted surfaces and you potentially could be spending funds to treat painted surfaces that may not actually contain lead.

So over time, presumption is not generally found to be cost-effective, but again, it's still an option for grantees. So if you are choosing to do presumption and you're in that first category less than or equal to $5000, you're going to repair all painted surfaces. Okay?

Not just the painted surfaces to be disturbed, you're repairing all painted surfaces. If you're in the $5001 to $25,000, you're doing standard treatments for the entire unit. Standard treatments would include paint stabilization.

So this is repairing any physical defect in the materials beneath the paint. That would be the wood, the drywall, the plaster, the concrete, brick or metal. You're also making sure you have smooth and cleanable horizontal surfaces.

You're doing correction of any dust generating conditions. You want to make sure that you're doing treatment of soil, that safe work practices are followed and the unit is passing clearance.

And then for over $25,000, again, we are abating all applicable surfaces. So these are in addition to surfaces being disturbed. It's deteriorated surfaces, friction and impact surfaces, chewable surfaces and bare soil, and then again, you need to make sure that the unit is passing clearance after the abatement is conducted.

Okay, so if you are doing presumption, there is a notice of presumption that needs to be provided to the owner and the tenants. This needs to be provided within 15 days of you making that decision that you are presuming that lead-based paint is there.

And so you're going to identify the different locations of where the lead -- you're presuming the lead is. This includes your soil, dust locations as well as other hazards interior and exterior. We have a sample here, this is part of our toolkits.

So if you are doing presumption and you do not have a presumption notice, you want to make sure you start to incorporate one immediately and we have a sample link here -- a link to a sample you could use.

So this is a notice of presumption. Now, if you are doing testing, risk assessment, you would do a notice of evaluation and Les will talk about that after he talks about the different testing methods.

So Les, is there any questions that have come up that we might want to address before we dive into your section?

Les Warner: Well, we have had an amazing number of questions. One thing I'll just mention, and we mentioned this on the first session.

For those of you that are new to this, I would recommend -- you might even just think about not trying to follow the question and answer box and just concentrate on listening to the speaker and the information that's being covered, because I see a lot of questions that are -- you're either thinking ahead or you're actually thinking about what the speaker is currently talking about.

I think particularly for folks that are new, because there's just so much to try to absorb, that kind of stepping away from the Q&A box for your own sanity and just concentrating on the speaker may be helpful for you.

There were a number of questions from folks about -- you know, a couple people said, well, can we slow down on this? Well, we have a lot of information to provide, so again, these are going to be -- these are being recorded.

They are being posted. And I believe John had already sent out the link to where those recordings are, but we'll ask at the end of this session for that link to be sent out again.

I think for folks that are new on this, going back over the slides, listening to the recordings, may be really helpful for folks.

Trying to see -- we have a lot of questions about if there are -- in a multi-unit structure, are we just looking at assisted versus non-assisted units and how that gets incorporated into this calculation on the level of evaluation and treatment.

I don't know, Kris, if you want to comment on that? And Kris, you're on mute.

Kris Richmond: Thank you. So we are trying to figure out the per unit hard costs for mixed projects, so you do need to know the number of [inaudible] assisted units as well as the total number of units to try to determine what the per unit hard cost is.

Is there anything else you want to add to that? Or anything we want Karen or Bruce to add to?

Les Warner: I think the question is them trying to figure out do they then treat all units or are they only treating the assisted units once they've made that calculation?

Kris Richmond: Karen, do you want to comment on that?

Les Warner: Yeah, I was --

Kris Richmond: Might be on mute, Karen.

Bruce Haber: Yeah, Karen this is -- or Kris, this is Bruce.

Kris Richmond: Go ahead, Bruce.

Bruce Haber: It's hard to hear your questions and look at questions and answer all the emails.

Kris Richmond: Sure, yeah, yeah.

Bruce Haber: So could you [inaudible] that again?

Kris Richmond: Of course, yep. Les, you want to repeat that question?

Les Warner: Sure. So there were questions about, you know, we walked them through this calculating the per unit hard cost for multi-family projects, but I think the follow up question to that was are we then only treating and addressing the assisted units or are we going to be dealing with all units in that project?

Bruce Haber: Okay, good question, and not really a complicated answer. It could be all units if all units are part of the rehabilitation.

Because if you have a property that has a mixture of rental assistance units and market rate units, then you have the rental assistance plus the rehabilitation monies that are going into it.

So if the whole project is being rehabilitated using HUD funds, then you would use all the units. If only a certain number of units were being assisted, such as you had units that were not being renovated, then you would not count those units that are not part of the project even though they're on the same property.

Les Warner: And, Bruce, I think what probably complicates this for folks is so programs like HOME and CDBG have -- we might have a project that had both market rate and assisted units and HOME particularly allows you to then designate assisted units.

So cordon off and say, well, we're only putting the HOME funds into these specific home-assisted units. And so a lot of the other rules only apply to those specific units.

So maybe there's 40 units being rehabbed overall with this project, but our HOME funds are being designated for 11 of those units. We're rehabbing all units in the project, but we've designated those 11 units as our HOME assisted units.

So I think the question becomes then, okay, so if I am able to kind of cordon off and all the HOME requirements only apply to those specific 11 units versus all the units we're rehabbing, does the Lead Safe Housing Rule apply on what we're doing in the rehab for those other units?

Because they're part of that overall project.

Bruce Haber: Right. So I think it's actually kind of difficult to separate, say, HOME funds for a limited number of units than it would be from the entire project. And so the only way that I could make a really good determination on that is to actually see that specific project and see how the funding goes into it.

Will they really, truly be itemized and separated and distinguished? One part of the project from another, separate accounts and all of that? Because if it's not and it's all combined into a single funding stream, then I think it would have to go into it.

And for the HOME units, would those units ever change or is it designated that these 11 will always be the only units?

Les Warner: Which is a great question, because HOME does then allow these units, over time, to float amongst similar one-bedroom units. Sometimes it might be one of these original ones that were designated and later would be another similar or comparable unit in that project.

It's sort of an artificial process that's been allowed under HOME to allow to kind of cordon off for long-term affordability and other restrictions. My thought is, in most of these, it probably doesn't reach that threshold to be able to say these are really separate and that the lead rules wouldn't apply.

I think maybe your suggestion of when you have an actual project that falls into that category, bring that back to your field office. We could tie in the Healthy Homes staff and kind of deal with those in that way.

But that's going to be a pretty common situation for multi-family projects is that they're going to be a mix of units that are designated as assisted units, but all of the money is combined together to rehab the overall project on that.

Karen Griego: I think -- and I can't put my finger on the -- this is Karen -- the interpretative guidance number, look for it, but if the whole building is going to be rehabilitated, they're all assisted. That's called project aggregation.

So I kind of go back to my environmental review days and interpretations. So if all of the units are going to be assisted with rehabilitation, they should all be counted and addressed in the same fashion.

Les Warner: Yeah. To me, that makes sense. The Lead Safe Housing Rule does not have this same sort of structure that HOME put in on cost allocation and trying to designate for carving out certain units to apply those long-term affordability requirements.

Karen Griego: That's right, because there are many different rehabilitation programs out there. We couldn't cater to each one of those programmatic nuances across the department.

Bruce Haber: Right. So it's the activity, not just the name of the program.

Les Warner: It's an interesting question, because I don't know that we've gotten that question in past sessions. It's a good question.

Karen Griego: No, I don't remember it either, Les.

Les Warner: Yeah.

Karen Griego: When it came up.

Kris Richmond: Well, we can look up the interpretive guidance and be ready to address that a little more tomorrow, Les, if you want to keep going.

Les Warner: Yeah.

Kris Richmond: Thank you, Karen and Bruce. Really helpful discussion.

Les Warner: And I will just mention, there have been a couple of questions about presumption. I know Kris mentioned this a little bit, that you do have the ability to use presumption, but if you do that, then you are treating all surfaces, because you're presuming that all of those painted surfaces included lead-based paint.

And so as sort of a best practice, I think we have found that you end up spending more money treating surfaces that actually don't include lead. So I think most folks have gone away from using presumption.

I think where maybe it makes a lot more sense is where you are working in multi-family where you've got a structure overall that is all built at the same time, tends to have the same, at least initially, the same materials and used on that might be where it would make sense to go ahead with the presumption for all units on that.

Okay. Kris, I'm thinking we probably should go back into the session and then we'll, hopefully at the end, have a little time also for some additional Q&A. Going to -- there we go. I've been made presenter. All right.

So we were -- now we're going to be talking about the evaluation process. So we're kind of in this summary chart that we've been looking at -- let me see if I can clear the -- there we go. We've been talking about the level of evaluation that needs to be done on these.

And so we're going to be talking in this section about those next steps. We've already talked about calculating that level of assistance, which is part of the determining factor on that level of evaluation.

All right. So for our lead-based paint evaluation, there are going to be different types of evaluation that we're going to be using. As we just looked at the summary chart, part of that's going to be based on that level of assistance, determining what our required level of evaluation is going to be.

And we're going to walk through each of the possible levels of evaluation. So I'll switch back, just for a moment here, to our summary chart and so when we looked at our evaluation examples, if we are under $5000, then we're talking about paint testing and that's of the disturbed surfaces.

Then for both $5000 to $25,000 and over $25,000, we're going to be doing paint testing and a risk assessment as part of that. Go ahead and clear these and we'll go back to our slides.

So wanted to talk a little bit about some of these different levels of testing on this. So for our visual assessment, we're going to be going through that unit, identifying where we have unstable painted surfaces.

So, you know, chipping, peeling, evidence of dust or other debris that are in that unit. Our lead-based paint inspection goes beyond just that sort of visual assessment. We're going to be determining -- we're going to be testing those paint surfaces to determine if they actually contain lead.

And so we'll talk in just a minute about what we probably most typically see is using an XRF analyzer, which sort of is like x-raying the surface down to the substrate and determining whether there's a presence of lead as part of that.

So our paint inspection is actually testing, looking for the presence of lead. We could be using that XRF machine, which we'll be talking about, or we could be removing samples and sending them off to a lab to be able to do that analysis.

And then our risk assessment is not only doing our visual assessment, but we're going to go through and sample all of our deteriorated paint, but we're also looking for things like dust. We talked -- the first day there were questions about what if I have bare soil?

And so testing water is not a requirement of this, but that's something that could be optional on that. So keep in mind that a visual assessment alone is not considered a lead-based paint evaluation.

We will not be talking about, in this section, under Subpart J, about an environmental investigation.

So some of you that have had training where we talked about when there were children that we determined had elevated blood lead levels and we do an environmental investigation, we're not only looking at the unit, but we're looking at other contacts in the environment that that child with an elevated blood lead level might come into contact with.

That's not something that is required under Subpart J.

So wanted to mention about the dust hazard standards. And so the EPA has updated their clearance standards, which now mismatch what the risk assessment dust hazard standards were.

So for a little while, we had a mismatch on those. And so our standards for paint itself have not changed. They're at one microgram per centimeter. But our dust samples, when we have specific sample -- acceptable sample levels or standards for carpeted floors, hard floors and then interior windowsills.

And so you can see the old lead levels that were acceptable were higher. They now have been updated and so it's 10 micrograms per square foot is our standard for carpeted and hard floors and then 100 micrograms per square foot for interior windowsills.

For bare soil that's in play areas, we have a separate standard from bare soils in non-play areas. And so you're kind of asked to make a determination on whether this is a play area or not and it's

really about the likelihood of children coming into contact with the soil -- contaminated soil as part of that.

There are states that are EPA authorized states and there are some states that have adopted higher standards and so there is a link that's provided here that will provide you information for your particular state or territory, tribal area, for you to be able to track that -- the specific requirements for your area.

Let's talk a little bit about -- and I think it helps people to have just a little bit of a visual on the XRF machine. So as I mentioned, this is an x-ray fluorescent process.

It's non-destructive, so we're not -- you know, when I went through my initial training, we were masking out a square on a surface and then very carefully with a sharp knife, kind of removing a little bit of that substrate to send that off to be able to have it tested.

So we're not removing any surface, we're simply using this non-destructive device to be able to check that. It's essentially x-raying that and looking through, down to the substrate, to determine whether there is lead present in that.

And so that's going to go through multiple layers and that would be something that would be identified and those testing results and those samples would be identified as part of your risk assessment for that.

I will note, and we've had a number of questions about training requirements. For some of you, this is going to be something that your staff may be getting certified to do and handling that.

You may own the equipment in other cases and I think maybe more commonly at this point, we're seeing a lot of communities simply are contracting out those surfaces. And so that contractor would present verification that they had appropriate certification.

As a risk assessor, they would be bringing the equipment and completing for each of these tasks, completing that testing process.

These machines do have to be recalibrated on somewhat of a regular basis, so I think most folks need to have -- if they're going to be doing this, at least two of the devices, because there's going to be one that's sent out from time to time to be recalibrated.

And that -- that becomes necessary not to be left without equipment to be able to handle that.

So to identify an appropriate firm or individual, if you're not going to take this on as training yourself, as part of your RFP, RFQ, you would identify within your procurement requirements what your licensing and certification requirements would be.

That would be something they would submit as part of their bid process on that and then specifying the kind of services that you're seeking. So risk assessments, inspections, but they also -- this third party might also then be handling all of your clearance testing as part of that.

We have a link here for then the HUD guidelines for some extra guidance on this. In some cases, we've had a grantee or property managers saying that they've had difficulty in identifying trainers, contractors, appropriately certified folks, so we've also provided a couple of links here.

The EPA provides a list of certified renovation firms and RRP training providers, so if you are going to be encouraging your staff or other existing contractors to get the certification, you'd be able to track down those leads for that.

I would also encourage you, you know, if you're new to this, probably adjacent entitlements, CDBG or HOME grantees are already going to have programs up and running and they're going to be aware of the certified contractors in the area and they may be a good referral for you.

They may also be able to provide you from some of their tracking on performance and be able to say, you know, we've incorporated only this shorter list in our program, because of some issues that we've had in the past on that.

Another source on that, we've mentioned about lead-based paint hazard control grantees. And so these are folks that are receiving from HUD's Office of Healthy Homes. They're receiving funding to do lead hazard control work.

And so those recipients are going to have up and running programs. Be aware of folks that are certified in their area. They might be also a good contact for you.

All right. So wanted to just kind of quickly show you, there are some online resources for this. We mentioned about the EPA providing lists of certified firms and this is just a screenshot of their website where you're able to then plug in what it is that you're looking for, whether it's a technician, whether it's a renovator, and then lay out some parameters of where you are, how close by you want them to be and be able to look up and then quickly see what's available in the area.

So that can be an important resource for you if you're trying to figure out the resources that you have locally available for you.

Also, for the training program, similarly the types of training that you are seeking, the kind of certification that folks need and then those same parameters to be able to identify training sources that are available for you.

That also, you may find it on your state's EPA website -- can be another important resource for that.

All right, so we kind of promised, I think, last week that we would dive a little bit into a little bit of a side by side between the Lead Safe Housing Rule and the EPA regulations.

And so just note here that the EPA regulations themselves or the HUD regulations incorporate some of the EPA regulations.

So our lead inspection and paint training references back to the methods and standards that were established by the EPA and also lays out the definition for paint testing, determining whether we have lead paint when we're dealing with deteriorated paint surfaces on that.

So keep in mind that you will need to follow, in some cases, both the EPA and the HUD regulations and we're going to look in a couple of minutes on sort of a side-by-side comparison on that.

So let's talk a little bit about what a risk assessment is, and I'll just flip back to the summary chart that we've looked at a couple times on this where we talked about the different levels of testing. So if we were under $5000, looking at paint testing just on the disturbed surfaces.

But anything at $5000 or above, we're going to be doing paint testing and risk assessment. And so let's talk a little bit about what that risk assessment is on that.

So this is, as we mentioned, going to be an onsite inspection where we are going through and conducting not only a visual inspection, looking for deteriorated paint, unstable paint surfaces, that would include things like friction surfaces.

We mentioned about bare soil, but also then looking for lead dust, other evidence that we have potential lead hazards as part of that.

But that risk assessment will then also include testing for the presence of lead-based paint, as we talked about using either the XRF machine or using -- removing samples and sending them off to that.

So we're going to be looking at all of our friction and impact surfaces for multi-family dwellings. We're going to also be looking at interior windowsills. As part of this, we would also be looking in common areas in those residential areas, because that's part of the property that we are assisting on that.

For soil samples, we can be collecting that and sending those for a lab assessment of what the lead concentration would be in that and of course our focus is where we have exterior play areas, but also where we have evidence of bare soil in that area.

That might be, you know, right around the building where we have the sort of drip line where water is coming off of the roof or other areas where we have bare soil that's been created.

So with that sampling, with that testing, we're going to be determining where we have lead presence, but also where that lead is presenting a hazard.

So for instance, we might -- you know, if we used our XRF machine, we might test the bathtub and determine, well, the glaze in that bathtub includes lead, but if it's a stable surface, it's not creating a hazard and so our risk assessment is not going to determine that this is a surface that's going to require treatment.

So our risk assessment is looking at all the visual clues. It's also testing to determine what that material actually is and as a result of that, we will come up with our risk assessment report, which is going to then lay out what are our hazards? What are the requirements going to be for treatment for that unit?

So our risk assessment report needs to be completed by a certified risk assessor and that will then explain -- not only it will lay out where they had tested, it will list all of the results as part of that and then identifying some of the hazards and the options on how to be able to address that.

So this is really the key information in determining what will the scope of work, specifically for the lead remediation, need to be as part of this project?

And again, it includes all of that testing methodology and results, so it's really identifying in that property where we found the presence of lead and then we'll include this lead hazard control plan. That would be part of that.

So for a lot of your projects, I would think you may have sent out a program inspector who will, let's say it's the HOME program.

They are going out looking at the written rehabilitation standards and they're determining what, based on your property standards, needs to be addressed to bring that unit up to standards, but our risk assessment report will then kind of handle the rest of this on identifying where there are lead hazards that need to be then incorporated into the overall scope of work on that.

And so in some cases, our inspector may also be a certified risk assessor and be writing as part of the specification for this project what that lead hazard control plan will be.

In other cases, it's going to be this separate certified risk assessor who is only looking at the Lead Safe Housing Rule portion of this and then needing to help incorporate those lead hazard control steps into that scope of work that has already been determined of what needed to be done to bring that unit up to standards.

There is a risk assessment report checklist as part of the toolkit, which really walks you through each part of that.

So that report's going to lay out the basic information about identifying when the assessment was done, the location of the building, all of that information -- owner information, but then it will go through, in great detail, what the results were of both their visual inspection, but also of their testing, paint testing, that was done on all the components within that structure, and that includes things like soil and other things as part of that.

So we know that as part of our -- the Lead Safe Housing Rule that we are always going to be making sure that we are disclosing information as we go along. So as part of our disclosure process also is our disclosure about our lead evaluation that has been completed.

And so there is a sample form and we've provided the link here. Essentially what is going to be done is within 15 days, that's our timeline on this, within 15 days after we've received the results back from this, we need to provide that notice of evaluation to the occupants of that unit.

And so what that report or that notification is going to do is either tell them that your unit was found to have no lead-based paint or paint hazards or it will provide then detailed information about the presence and location of lead-based paint hazards on that.

And that can include about how they would seek additional information to see the full report on that. That's also where you could include your information about where -- you know, if you were going to be presuming lead instead of completing testing.

We are still going to be providing that evaluation notice, and so in that case we are explaining to them that we have chosen to forgo the evaluation that we're presuming lead-based paint or hazards exist as part of that.

So in any case, whether we've done the lead hazard evaluation or we've done a presumption, you are required to complete that notification process. We're going to want to make sure that within your files, you're able to document that that owner occupant receives a copy of that report and any attached documents that were as part of that.

So keep in mind that 15-day deadline. The clock starts ticking at the point that you receive those results and your files would need to be able to document that.

You know, here's the date that this notice was received by that household and in comparing that, we'd be able to see that you are in compliance because it's within that 15-day timeline for you.

Let's talk about that notification process and then depending on the kind of structure that we're dealing with. So if we're dealing with a single-family building, then we're going to be providing it to that homeowner directly.

It could be that we have a single-family building that's tenant occupied. If so, we're going to make sure that that tenant also is receiving that notice of evaluation.

For multi-family buildings, we have a little bit more option here. We could distribute that to each household, but we also have the ability to simply post that in a central location where all the residents would be able to access that.

So in any of these cases, we want to make sure that we collect evidence to be able to document that that notification process was completed. So typically, if we are providing something directly to a household or a homeowner, we're going to have some kind of receipt that they will sign to designate that, yes, I did receive this notification.

If you're going to be posting it in a central area, I would want to have documentation in your file, probably some photographic evidence along with a narrative of this is when it was posted and where it was posted. Here's evidence of that being put in place.

So that you can show that you have fulfilled those requirements. And again, our timing on this is within 15 days after those results were determined.

So as part of that, you know, thinking about, okay, we've got 15 days to get this done, who is going to keep track of when that evaluation results were received? Who is now responsible for making sure that those notifications go out?

You kind of need a plan in place, some policies and procedures thought out in advance on this to make sure that you're going to be able to comply with those requirements.

All right, so that was talking about the required level of evaluation, and this kind of goes back, again, to our summary chart and now we're going to switch gears and move from the talking about the level of evaluation to the level of treatment that we're going to be doing.

And so you'll note on this chart, based on our amount per unit that we looked at the calculation on it earlier, if we're less than $5000, then we're going to be repairing surfaces, only those that are disturbed during a rehabilitation. We're always going to be using safe work practices as part of that.

If we are in the $5000 to $25,000 category, then we're going to be using interim controls and of course safe work practices, and we're going to be talking in a minute about so what's an interim control versus abatement?

And I'll just note here, and we've already had questions on this, for abatement, interim controls on exterior surfaces that are not disturbed by the rehabilitation are going to be acceptable as an abatement technique.

So we had a question about if we had a house that we -- maybe we wrap it in Tyvek and we reside that, does that -- will that qualify as abatement even though we've not removed the lead that's there, we have permanently encapsulated it, essentially, and so that will qualify.

We'll talk more about that as we go through this next section.

So again, this is pulled right out of that chart that we were looking at. So for our interim controls, our $5001 to $25,000, we're going to lay out, as part of our interim controls, a list of actions or that we're going to take that will control those hazards. So bring that level of exposure down to safe levels.

So we're not going to necessarily remove components that contain lead-based paint. We may not have a permanent fix for this, but we are going to put interim controls in place. So that might be things like working on those unstable painted surfaces to stabilize them.

Maybe we're going to do some wet scraping, some cleaning and some repainting of that so that we now have stable surfaces that are not creating our lead hazard.

We're going to be doing things like dust removals. So we're going to be doing a scientific cleaning and removing those hazards that we've been able to identify.

We have, as part of our disclosure in some of the pamphlets that are being provided to the owner occupants for that structure, are also trying to encourage them about what they can incorporate into preventative maintenance. The cleaning that they're going to be doing.

But we'll also be talking about, you know, throughout that affordability period, checking to make sure that those interim controls that were in place still are fine.

They haven't been damaged or removed in some way, because we have not removed the lead paint on that and so we want to make sure that our interim controls are continuing as a temporary way to abate those hazards as part of that.

And then -- and I'll note, when we talk about encapsulation, so I've talked about paint stabilization. Encapsulation is not just painting over with some latex paint that doesn't include lead.

We have special encapsulant materials that can be used that further harden that surface to be able to protect from that.

And then we're going to be talking about abatement in just a minute where we have measures put in place to permanently eliminate those hazards. A lot of times that's where we are mechanically attaching some kind of surface.

So we might be, as we mentioned on the exterior, covering it with Tyvek, residing. On the interior, maybe we have painted floors.

We might be covering those, screwing down materials to permanently protect that and encapsulate that in a way so that we don't have any further hazard that's created from those -- that lead paint. So it hasn't necessarily been removed, but we have more of a permanent fix as part of that.

So abatement we talk about is permanently eliminating either the lead paint or the lead-based paint hazard. And so when we talk about permanent, that means we might be removing the paint.

We might be removing the hazard. So maybe we've determined that we've done our risk assessment, we've tested surfaces, maybe we determined that woodwork in a couple of the rooms, the front door, and a couple of maybe cabinets have lead-based paint.

We might be removing those components from that, but we also might be permanently covering them, you know, turning -- in some cases you used to have projects where they would turn the woodwork around in the opposite direction and then permanently seal that.

So you know, any of our abatement process, it is a more permanent fix with some kind of mechanical thing to be able to address that. We mentioned that the interim controls for the exterior were acceptable as part of that.

Just keep in mind that this also includes doing things like where we are doing some specialized cleaning and clearance, making sure -- so we had some questions last week, people saying, well, you know, I'm doing a gut rehab, so I'm really removing -- going to the studs on the interior of this structure, so thinking well, I've now removed all of the lead.

All the components that would have -- include lead. That's great, but as part of doing that demo, down to the studs, you've probably created a lot of dust. You may have created lead hazards as part of that.

So we want to make sure that appropriate cleaning has been done to then remove any debris, any dust that's been created as part of that and then we're going to do our clearance testing to make sure that we actually now have -- in that case, it may be a lead-free property because we have done such an extensive demo on that.

But we're going to do our clearance testing to make sure that that has been completed.

So thinking about our staff on this. So this really requires some planning to make sure that you have appropriately qualified staff, that the work that you need to be done can be done within an appropriate time period.

So thinking about what kind of contractors you're going to need based on the work that you expect to be undertaking. So can we use just regular contractors or are we going to need to have a pool of available contractors that have the appropriate certification for interim controls or abatement as part of that?

Program staff may need to either at least be up to speed and understand what the requirements are, even if you have -- let's say you were hiring a risk assessor who's not only going to handle your risk assessments, work with specifications on this, but also is going to be working on the clearance end of things.

You, as staff, need to know enough about the rules to be able to evaluate is this hired contractor doing what needs to be done? Are the records in place? Are we following the rules that are required so that we're going to be in compliance?

Also, there's some sequencing on this. I used to -- in sort of the earlier days working with the Lead Safe Housing Rule, we had communities that would say, well, we really want to conserve our funding. We have very few contractors that are licensed.

And so they would have a lead contractor come in, do all of the interim controls or abatement that was being done, so maybe they were going to remove all the doors and windows on a unit and some of the interior components, but they weren't actually going to do any of the then rehabilitation.

They would do the cleanup, they would get clearance testing and then the property would be turned over to the unlicensed contractor who now was going to do the rest of the rehabilitation.

There were some problems in those on sequencing that you suddenly have a unit that is standing wide open and the next contractor isn't ready now to be able to step in. So depending on how the work is being sequenced and who is doing what, making sure that you're very clear on that will need to be really important.

As part of that, thinking about the setup and cleanup procedures, we're going to be talking more about occupant protections.

So obviously if we've got a household that's living in that unit, in many cases we're going to need to either temporarily move them out of some portion of their unit where that work is being done or probably, more frequently, we're going to be temporarily moving them out of the unit overall, and probably their possessions out of those work areas and needing to protect those appropriately.

So all of that is part of our planning process, determining who needs -- if we need relocation to be done, what -- where our work areas are in that unit and making some of those decisions.

So in some cases, and we'll talk about this, I believe a little bit more, but in some cases we may have a unit where we're not going to disturb any lead-based paint work or surfaces, so we could leave our occupants in place.

Other cases, we might have exterior only and we're able to seal off any openings and be able to protect those occupants, and so we may be able to leave them in place.

In some cases, our analysis of that work might determine that, you know, we actually only have lead in -- maybe we've got a small bedroom that seems to be the only place. Maybe that and something on the exterior are the only places where we have lead hazards that need to be addressed as part of this.

So we may be able to allow those occupants to occupy that unit and we will seal off that work area.

It will remain sealed off from those occupants until the work has been completed, the cleanup has been done and that clearance testing has determined that we now have our lead residue down to an acceptable level based on our clearance standards on that.

You had some programmatic decisions to make about that. In some cases, I certainly have seen where when our lead crew came in the following morning, they discovered that those sealed off areas had essentially been violated by the occupants of that unit.

So evaluating whether you want to leave those in place. In some cases, we've got work that could be done in a workday completed, cleaned up and clearance completed, and so if we could have

them be required only to be out of that unit for an eight-hour workday, then we could allow them to not need to be displaced from that unit.

So all of that needs to be thought through on the front end of this project and have plans, have budget, have some staffing roles laid out in advance as part of that.

So as part of our contractor selection, we need to make sure that the contractors are going to have appropriate qualifications in place. So as part of our bid packets, we're going to incorporate what it is the qualifications are that are going to be required for that job and we would require the contractors to submit evidence of that with their bid packet.

Many folks will have a list of prequalified contractors and so if you're running a program where all of my contractors need to be certified, qualified, then we might simply go through, do that precertification for everyone and have that pool of contractors.

My bid packets are only going to be sent out to contractors that meet those qualifications. So you would have that certification on file as part of that. And so we know that the EPA RRP rule is going to require that contractors have training and certification.

We'll look at, in a moment, about the differences between the HUD requirement versus the EPA requirement on workers versus the firm itself. So we need to make sure that that's in place.

We already have had some questions from folks with concerns about do we have an adequate supply of contractors in the area?

I think, for the most part, folks are finding that that has greatly improved in the -- sort of the early days of the Lead Safe Housing Rule that was a huge challenge and we had grantees that worked at the state level.

We sponsored training and we wanted to get all of our existing contractors, or as many as possible, to go through that certification process, because otherwise our rehab programs were going to come to kind of a screeching halt, because of that lack of qualified contractors.

I think at this point, generally folks have found that that's much better, but you can certainly work with existing contractors, encourage them, help them identify and we showed you the links earlier with the EPA in identifying where there was training that was available and encourage contractors to get that training, because that's going to be part of the qualifications that are going to be required for them to be eligible as bidders on some of the work that you will be going through procurement on.

So let's talk a little bit about the EPA renovate and repair painting rule. We refer to it sort of as an abbreviation, as the RRP.

And so this applies not only to contractors that are disturbing lead-based paint in residential units, but it also applies to childcare facilities and preschools that were built before 1978.

So particularly, some of you working with CDBG might be -- as part of public service activities, be funding childcare facilities or preschools. Keep in mind that this is applying to those projects that you are funding.

So this requires that firms be certified by the EPA, or in some cases we have EPA authorized state programs that are handling that certification and we need to make sure that our renovators have been trained following that HUD approved curriculum or protocol.

They will need to be following lead safe work practices. As part of that requirement, and we mentioned this, I think, the first week kind of briefly.

Not only do we have the HUD brochure, but our EPA requirement requires that that Renovate Right pamphlet be provided to owners, to occupants, as part of that, and there are civil penalties of up to $41,000-and some change per unit for failing to provide that disclosure, so really important that that be provided as part of that.

So let's look at the side by side on this, and I think this will help you kind of -- we've mentioned some of these differences, but essentially, in most cases, most all cases, I think here, the HUD rule is going to be more stringent than the EPA rule.

And the reason, and we keep mentioning this, that you may have contractors that are EPA certified, but have maybe not worked with a HUD funded project before that was triggering the Lead Safe Housing Rule, and so we want to make sure that they understand for projects that they are bidding on, that they are working on, that they're aware that there are some differences in this.

So in testing to determine whether we have lead-based paint present, we have a higher level of testing on this. The EPA allows for a test kit to be used where essentially we're doing a swab on a surface and seeing whether, you know, based on a color coding, whether it indicates that lead is present.

That is not acceptable under the Lead Safe Housing Rule and so we're going to have a risk assessor or a lead-based paint inspector who is going to conduct actual testing. So they're going to be using an XRF machine or they're going to take samples that are going to be sent off to a lab.

We also had some differences on training. So the EPA requires that the renovator themselves are required to have classroom training, but it doesn’t require that the workers themselves have any classroom training.

They can receive that on the job, while they're working for that renovator. So the Lead Safe Housing Rule requires that not only the firm itself be certified, but that we have to have at least one certified renovator on that job and available when work is being done.

And so if we have non-certified workers, they can receive on the job training, but they have to have on the job supervision from a certified lead-based paint abatement supervisor who is also a certified renovator.

So as part of our procurement, we need to have a presentation from that contractor of the certifications they have for themselves and also for their workers and how they are going to meet this requirement.

We mentioned that the EPA requires this Renovate Right brochure to be provided and that's also something that our HUD program requires as part of that.

So we mentioned a little bit about treatment, and so I just wanted to kind of point out that EPA is essentially generally saying that that renovation just has to follow our lead-safe work practices.

So trying to minimize contamination that's created and then they're going to be cleaning that work area when they've completed their work.

As we've been just looking at, the Lead Safe Housing Rule has very specific rules depending on the type of HUD assistance, the level of assistance on that.

We're going to be required to be doing interim controls or abatement on that and then another key difference here, and this is one where we kind of see folks get tripped up on sometimes is we have some prohibited work practices.

These are things that you can never do. So EPA only has three and that's using an open flame or a torch to be able to remove paint, heat guns that are above 1100 degrees and then also some kind of machine removal that doesn't have a HEPA vac attachment that's going to capture any dust that's created.

So Lead Safe Housing Rule has those three, but it also has additional. So heat guns that char paint are not going to be allowed.

Any kind of dry scraping or sanding, further than one foot of electrical outlets, and then use of any kind of volatile stripper that's going to be in a poorly ventilated workspace that creates a [inaudible] hazard on its own.

So again, this is a case where if we've got a contractor that's only worked on EPA rules, they may only be familiar with the RRP requirements and so we may want to call out within contracts, within our work specifications, we might want to go over those specific requirements in a preconstruction meeting so that everybody is clear about that.

And then, as Chris mentioned earlier and I think we mentioned on week one that those di minimis thresholds are different. So we mentioned that for interior space, our HUD standard is two square feet per interior space where the EPA rule is six square feet.

So pretty significant difference between those two and we want to make sure that our contractors are using the correct one on that.

And then lastly, at the completion of that job, we have some real differences between what's required for clearance.

So the EPA itself will actually allow the renovator themselves to do a verification on that and it's not requiring the same sampling and lab testing that the Lead Safe Housing Rule is requiring.

So Lead Safe Housing Rule, which is what we're going to be following, which is more stringent on this, requires that that exam be done by an independent third party.

So not the renovator themselves who is going to be kind of strategic, perhaps, about their sampling on that and those samples, the dust wipes, are going to be sent off then to a certified lab to be able to verify that we have now acceptable levels.

So our job is not completed until our clearance testing has been done and we've gotten back results that show that we now have our dust levels brought down to acceptable levels.

And so sometimes those initial results maybe in a couple of areas are going to come back where we have a couple spots that still are not within our acceptable threshold and so we're going to send that contractor back.

Generally they're going to be doing another cleaning of that area and then we're going to bring our clearance tester back in and retest those areas. And we're not going to pay that contractor until we have acceptable test results.

And then, of course, our last function here, EPA is not requiring any notification to residents, but we know under the Lead Safe Housing Rule that we're going to make sure that we're going to distribute those notices to occupants and that's going to happen within 15 days of when we have that information back.

We talked earlier about the option of either providing it for single family, we're going to provide it directly, but for multi-family, we could either do it directly or be providing that in a common area and then of course documenting -- in any of those examples, documenting that that process had been completed and that that notification had been received by the designated party.

So again, these are all things that planning, thinking about having appropriate staffing, both internally and also with contractors that you're hiring and then thinking about whose responsibility is it?

Making sure that they understand, you know, if I need to get that notification out within 15 days, what's the form I'm going to use? You know, who do the clearance test results come in to?

Who do they need to notify right away, because that's the person who is going to be responsible for getting that notice out, the form, the receipt that they're going to use? So that you have that

appropriate documentation in place and can show that you're in compliance with those requirements.

So as part of our ongoing monitoring, when we have our projects begin, we want to make sure that those occupant protections are in place. So I mentioned examples about having part of that worksite being restricted, but it also includes thinking about the occupant's belongings.

So if we move the occupant out of, let's say the living room where that work is being done, but we leave their couch, their rug, other non-cleanable surfaces in place, they're going to capture or trap some of that lead residue and then we still haven't eliminated the hazards.

So part of that planning is then also thinking about how do we clear that work area? Are we able to move those maybe to another part of the house and be able to secure them properly? Seal them off, so we won't have to worry about contamination as part of that.

So also thinking about covering floors, windows, air vents and operating HVAC system can then suck up and redistribute lead dust throughout the area. Thinking about the daily cleanup that was being done, trying to make sure that we contain that worksite. Keep that sealed off and as clean as possible.

You know, as part of our monitoring, observing what we see on that worksite. The types of protections that they've put in place, whether those are being maintained, whether they are doing appropriate cleanup, but then when we are there when work is being done, making sure that we observe that safe work practices, the appropriate equipment is being used as part of that.

We mentioned about those prohibited work practices, the dry scraping, sanding, and so that would also be something as part of when we are monitoring that we would look to see that none of that was happening.

We mentioned about the fact that staff needed -- workers needed to be trained or they could receive on site, but they'd have to work directly under supervision, and so as we're on site, as we're monitoring, making sure that not only workers are wearing appropriate protection, but that we have the trained workers on the site, that we have the supervision that was required that's on site as part of that.

So all of that becomes, throughout that process, something that you're needing to keep an eye on and make sure that things continue to follow the protocols that were put in place.

So we have, as part of our toolkit, some checklists as part of this and one of these checklists is the checklist that works through thinking about not only the occupant themselves, but also their belongings and what steps are needed.

What has been done as part of that, including notifying occupants about belongings that need to be moved from a work area and the protection that needs to be done.

And so we have some sample forms that would be part of that and I would just -- I would really suggest these are really helpful and will be helpful to you to kind of think through the steps. I would take a look at that. These have been updated recently and would be helpful for folks.

All right, and so our last step -- almost last step, is clearance. And so we mentioned that our hazard control work is only considered to be complete once our clearance exam has been completed and we have the results back, found to be at acceptable levels.

So our requirements on licensing certification on this for abatement work, it has to be completed by a risk assessor or lead-based paint inspector. For non-abatement work, again, a risk assessor or paint inspector or, in this case, there could be a sampling technician as part of that.

We also are watching for a conflict of interest. We mentioned that EPA would allow the contractor themselves to do the clearance and that is not something that Lead Safe Housing Rule -- we want that third party, whether it's a contractor, a staff member, a third party that's being brought in.

So they're not related. They're not linked with that contractor, so they're making an independent ruling, testing on whether we have appropriate levels of clearance for this.

As part of that, we need to make sure that for non -- before we can allow non-lead workers to enter that site, we would have to do an interim clearance, but then when our project is completely done, we would do a final clearance.

So, for instance, if we have the -- if we were using the protocol where we had a lead contractor coming in, dealing with lead hazards and then turning that site over to a non-certified contractor to complete the rest of the rehabilitation work, at the point that the lead contractor was done, we would have an interim clearance showing that the -- all the work areas had been now brought down to acceptable levels and that would be done before, then we could turn that over to our non-lead workers.

But we are, again at the end of that project, going to do a final clearance just to make sure that any of the renovation work that was done didn’t disturb and create some lead hazards as part of that work.

So that becomes part of your sequencing and planning as part of that process. So our clearance test is going to be done taking samples using dust wipes and they're going to be sent off to a lab for analysis. Here again, are dust clearance levels that we referenced earlier as part of this.

And so our lead hazard work isn't complete until we've done our sampling, they’ve been sent off and our reports have been received back saying that they now are within these acceptable clearance levels.

As I mentioned, if they fail to meet that on any of our samples, then we're going to send them back to do another cleaning and then we're going to resample on that.

It's not that uncommon to have that happen where we find in some area of another that there's a little bit more cleanup that needs to be done as part of that, but it's not done until we've met that and we're not going to pay them until they have brought that down to acceptable levels.

So our clearance testing is not only going to do our dust sampling that we were mentioning, but it also would be a visual assessment looking at all the work areas, making sure that we don't see any hazards as that.

All of the work has been completed and of course we had specifications for our lead hazard reduction work that was being completed, so we're visually making sure that that has all been completed.

We're then going to be doing our dust sampling, sending it to a certified, accredited lab and then as we mentioned, if we have failures, another cleaning, another clearance test until we actually meet those standards.

All right, and then our last step is providing disclosure. So as part of that, we're going to make sure that occupants are going to receive a notice of hazard reduction. Again, we've got our 15 days from the point that they passed clearance.

That information, the basics about what the results were, the levels of lead-based paint that remained, that contractors ID, would all be as part of that and again, you're going to need to have evidence in your file that those notifications were done, that they were done in a timely manner.

We do have a sample lead reduction, hazard reduction, notice that is provided as part of the toolkit and we've provided a link for that.

All right, so we wanted to point out a few available resources as part of that. So we mentioned before that on the HUD Exchange there's a go-to landing page, the lead-based paint page, which would not only provide you with the rule FAQs, those sorts of things, but also the toolkit that we've referenced for a number of these forms or notices that you would need.

Those all can be found here on the HUD Exchange lead-based paint page and, in particular, the toolkit that we've been mentioning, all of these sample forms are available here. They've been recently updated and I think those would be a good resource for folks.

They're also -- I think we've mentioned this a couple of times. The guidelines for evaluation and control of lead-based paint hazards. This is really sort of the technical go-to manual that will walk you through all of the details from sampling methods to clearance requirements.

This is really the go-to spot. I would hope that contractors would also be aware of this and this would be something that you could point to, to kind of get into the details on any question about the criteria.

I think we may have mentioned this before. The Lead Safe Housing and Healthy Homes has a mailing list, which would give you updates.

So you know, we not only see FAQs that are being posted, but we have -- may have rule changes or other new guidance, new resources that come out and so by being on this email, you would get that information.

You can, as part of the HUD Exchange where there's a preference list of all the types of programs or requirements that you want to be kept up to date on, you can simply add that to your preference list.

Probably a lot of you already have registered for that, but you might not have Office of Healthy Homes on the Lead Safe Housing Rule as part of that designation on that.

Then these are just the specific linkages, again, for the toolkit, for the regulations. There is existing training that -- earlier versions of this same training that are posted, are available for folks to be able to access the EPA page, which we've mentioned a couple of times.

There is a lead compliance advisor that kind of allows you to plug in details about a proposed project and it will walk you through to what's going to apply, which could be helpful for you.

Then we've had a number of references where folks said, you know, well, where do I find more about this? And we've been referencing. Karen mentioned it, Kris mentioned it, the interpretive guidance.

And so all of these references where we've said, you know, in J4 or something is where you find the rest of this, this is the link to be able to go directly to that.

If you have questions after this training, there also is, at the bottom of this slide, a linkage where you can send in questions directly on the lead regulations.

Before we go into the questions, I just want to mention, so this was the completion of session two of Subpart J, but we have a whole other session really focusing on -- more on the implementation on this and so you need to participate in next week's session.

And then our fourth and final session will be the following, the fourth week is on our acquisition and leasing supportive services and operations. So some of you may need to be participating in that also.

I'll just remind folks; we will be doing our office hour tomorrow. I would encourage folks to attend that. That'll give us -- I know we've had a lot of questions today. That'll give us a time to go into more of those questions.

Then we have a couple things we're going to try to do a little extra research on and report back hopefully tomorrow on that.

Kris, I bet we've had a boatload of questions coming in.

Kris Richmond: We have. Before I dive into that, though, I want to remind people to work on the homework, because we do have a homework assignment for tomorrow and we want to make sure that you've taken a little bit of time.

It's session two, exercise initial work writeup and cost estimate and we'll go over the answers to that tomorrow. Les, can you move to slide 67? That should be the exemptions slide.

Les Warner: Yep.

Kris Richmond: So there was a ton of questions coming in about exemptions and somebody -- remember the Lead Safe Housing Rule applies to units that were built before 1978. So if you have a 1979 project, if you have, you know, a January 2, 1978, that Lead Safe Housing Rule does not apply.

So have something in your file that says we reviewed -- it's post 78, Lead Safe Housing Rule is not applicable and then it's documented, so HUD doesn't know you just forgot it, because people ask me, how do I document that?

Also a lot of questions about I'm not touching any paint, do I still need to apply Lead Safe Housing Rule? You can see this green box with the two tools. It's exempt. Repairs that do not disturb painted surfaces, we are not having to follow Lead Safe Housing Rule then. Okay?

So again, it's exempt. Somebody was asking about, well, if I'm doing rehab in transitional housing, is that exempt? Well, it depends. It depends on what kind of units you're working with.

If you're doing transitional housing and the -- you're working with zero-bedroom buildings, so you see that box on the bottom right, zero bedroom units, if you have zero bedroom units and there's no children under six that are living there or expected to live there, in the zero bedroom units, then it would be exempt as well.

So lots of different questions coming in, but I thought it would be helpful to see this exemption thing. Can you still hear me? Because I heard like some weird noise on my headset.

Les Warner: Yes.

Kris Richmond: Okay, great.

Les Warner: Loud and clear.

Kris Richmond: So [inaudible] was really helpful. Somebody was asking about the risk assessor and if I have a risk assessor, do I still need a lab?

And yes, you still need to work with the lab, because the risk assessor is going to use their XRF, that was that machine that we saw the picture of and they're shooting the different components and they're going to be testing those surfaces to be disturbed as well as friction and impact surfaces.

They're going to use the XRF for that, but we need our lab to check our dust and our soil samples. So they're going to be doing dust wipes and then they're actually going to be outside, you know, with the little test tube putting the soil in that and that has to go to a lab to be able to be tested. So you can't just get away with just an XRF. You still need your lab.

Slide 94, do you mind going to that real quick? Somebody was asking, well, how do I do this notification for multi-family buildings? You see the second bullet down there, multi-family -- because they said, do I have to hand it out? Who hands it out?

Well, it's the grantee's responsibility to make sure that the notice of evaluation is provided to either -- you have a choice, you can either deliver it to each household or you can post it in a central location.

Maybe it's in the laundry room. Maybe it's in the entryway, in the exit way, so you want to find some central location and document that these notices were posted in those areas. So that was another kind of common question. Yeah, go ahead.

Les Warner: [inaudible] on that. Sort of similar to what we do with relocation and uniform relocation act. In some cases you may be able to have the management for that property who knows, interacts with tenants.

They might be asked to distribute and get a receipt on that, but it is -- you need to make sure that that happens. So maybe they are successful in getting all but a couple of these and then you need to try to follow up with those individual households.

Kris Richmond: Yeah, and somebody asked about relocation and we are going to go into great -- Les has so many relocation slides next week, so stay tuned for that. We're going to go in much more detail about when do we need to relocate?

When do we not need to relocate? What kind of documentation? All the occupant and their belongings and protections for that. We have a lot of slides and information to share with you about that next week.

Could you go to slide 100 that's talking about RRP? Thank you. So you see on the righthand side of that slide, the RRP pamphlet and they wanted to know who's responsible for handing the RRP pamphlet out, because on the back there's an acknowledgement that the owner had received information about RRP.

Well, and they say, is it the grantees? Is it the contractor? Well, both options are acceptable, but regulatorily, it is the contractor's responsibility to make sure that it's happening. That the contractor has kept a receipt of the RRP pamphlet.

But as running a program, you want documentation that this happened as well. So it is possible for you as a grantee to hand that out as well, but we do need to make sure that the contractor also has a copy of that receipt.

So both of you having copies, you can work it out with your contractor who is going to hand it out, but I've seen some programs where both handed out, but then some doubly notified about what this information is and how it's going to affect them.

So that was -- a couple of the high points of questions and then, oh, you had just gotten into the notices right at the very end. They were kind of jumping ahead asking did I miss it? When are we giving out notices?

So we're doing the -- when you do evaluations, so you're either paint testing under five or doing a risk assessment and lead inspection over five, that would be a notice of evaluation. So we need to provide that notice of evaluation.

If you decide to do presumptions, you're doing the notice of presumption. So that's one notice. After the work is completed and you receive clearance, you are going to be providing another notice. It's called the Notice of Lead Hazard Reduction Activities.

And so that's going to provide where all the lead hazard activities occurred as well as results of your clearance report. Okay? So that's another notice that's given at the end. So there are multiple notices given at different times depending on where you are in the process of the work that you're doing.

Les Warner: And I would just mention, for rental properties, because we're going to have this ongoing responsibility, you're going to want to have a file that documents what's been done on that property.

I had a project a number of years ago that they thought that the property had been tested and found to be completely lead free. It took them awhile, but they finally found that and so that was the basis for an exemption on this.

So you're going to want to kind of keep a separate lead file for those structures that doesn't get disposed of, you know, maybe following your record retention requirements.

Kris Richmond: Great, okay. And so one last question that came in. They said if a structure was built after 1978, you do not have to do lead testing, that is correct.

If it's built after 1978, the Lead Safe Housing Rule does not apply, so you don't have to test for lead-based paint, because there should be no lead-based paint in that property using Subpart J post '78.

So the whole lead-safe housing rule only is triggered, you can see it right here, built before 1978. So we're looking at pre-'78 units for Lead Safe Housing Rule.

One more quick thing I think is really important, because some are saying why is there HUD rules? Why is there EPA rules? Why are there -- there's two federal agencies. Why are there two different rules?

Well, the HUD rules apply to HUD federally funded assisted housing. So we're looking at projects that are receiving HUD funding or are owned by HUD. So most of the projects we're working with are receiving HUD federal assistance and then EPA is dealing with target housing.

Target housing, remember, was any housing built before 1978. It might be federally assisted or it might not. So that's why we have the EPA requirements as well.

Les Warner: And I think part of the focus of the EPA rule is to try to make sure that when contractors are working on properties, that they don't themselves create hazards based on how they're doing the work, how they clean up after themselves.

So the -- you know, with HUD investment of funds, we're kind of held to a higher standard, but there's sort of a focus on prevention under the EPA rule since we've got folks working.

Kris Richmond: Yeah. So Les and I will be back again tomorrow at 1:00 Eastern time for the office hours. So if we did not get to your question today, we will try to get to it tomorrow. We're first going to review the answers to the homework.

That doesn't take very much time. We like to dedicate most of the time to answering new questions that you have. If you're a quiet group, Les usually will review some questions that might have come in today and explain things a little more as well.

Anything else, Les?

Les Warner: I think that's good. We'll see everybody tomorrow.

Kris Richmond: Great, thanks.

Les Warner: Thanks everybody.

Kris Richmond: Thanks everybody and thanks to Karen and Bruce for helping out today too. See you tomorrow. Bye.

Les Warner: Bye-bye.

(END)