

# Lead-Based Paint Regulations: Subpart J and K

## Subpart J - Rehabilitation: Construction Phase

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# Trainers

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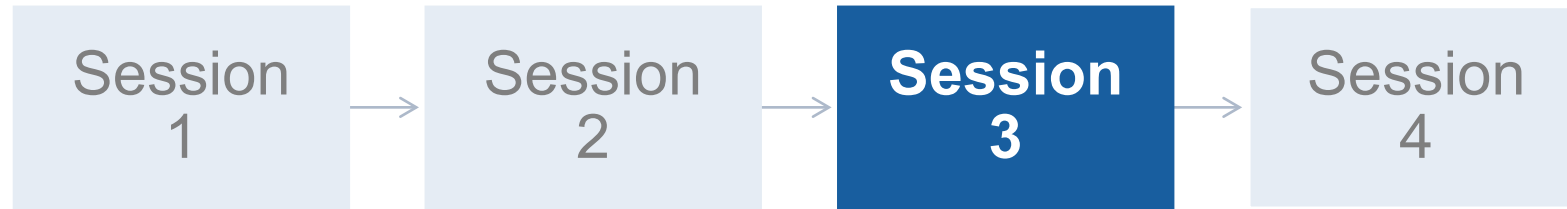
# Series Overview

# Webinar Series Format

- Four weekly sessions
  - Up to 2 hours
  - 1-hour Office Hours will occur on the day after the webinar to review homework and answer questions
- This is week 3
- Links of recordings will be available



# Webinar Series Agenda



- **Session 1**
  - LSHR Basics
  - Regulatory Subparts per Assistance Type
- **Session 2**
  - Subpart J: Rehab Requirements for Planning

- **Session 3**
  - Subpart J: Rehab Requirements for Construction and Clearance
- **Session 4**
  - Subpart K: Acquisition, Leasing, Support Services and Operation Programs



# Goals for this Training Session

- Enhance participants' ability to manage for compliance
- Explore critical decision steps and paths to success
- Explain key terms
- Provide a tour of the available resources



# Note for Session 3 Participants

Session 3 is a continuation and expansion of the material in previous sessions. Some topics overlap, but some **critical** topics are only covered in previous sessions. These include:

- **Exemptions** - Session 3 discussions pertain to **non-exempt** projects, structures, and units
- Determining the “**level of assistance**,” a critical calculation explained in Session 2
- EPA’s Renovation Repair Painting Rule (RRP)

You can start here, but you are strongly encouraged to study the other sessions before managing or monitoring lead hazard control projects



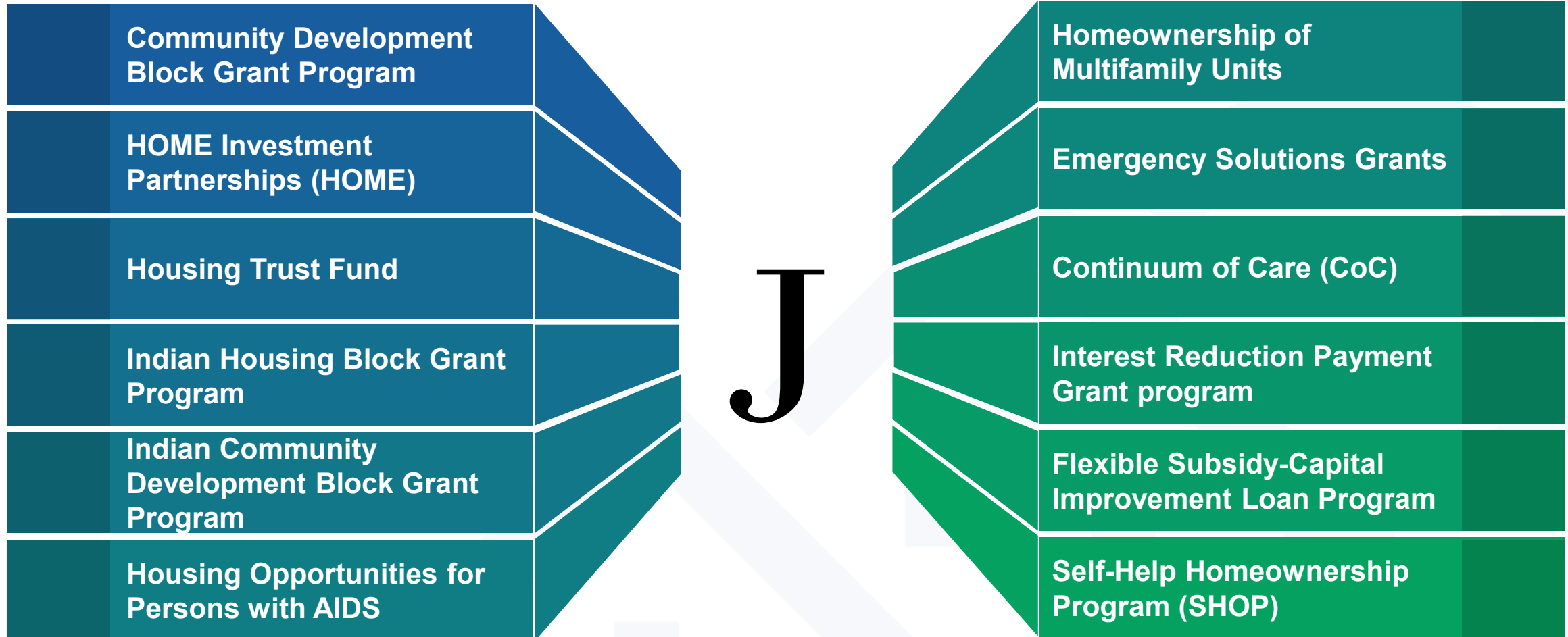
# What types of rehabilitation programs are you operating?

- Homeowner rehabilitation
- Rental rehabilitation
- Acquisition rehabilitation over \$5,000
- More than one of these programs





# Subpart J – Examples of Rehabilitation Programs



\*Not an exhaustive list





# Managing for Compliance

# Rehabilitation Requirements Review

Requirement	≤ \$5,000	\$5,001 - \$25,000	> \$25,000
<b>Notification</b>	Same for all categories	Same for all categories	Same for all categories
<b>Evaluation</b>	Paint Testing	Risk Assessment and paint testing	Risk Assessment and paint testing
<b>Reduction</b>	Repair paint	Interim Controls	Abatement
	Lead safe work practices and worksite clearance	Lead safe work practices and unit clearance	Lead safe work practices and unit clearance
<b>Ongoing Maintenance</b>	For HOME rental only	For HOME rental only	For HOME rental only
<b>EBLL Requirements</b>	Not required	Not required	Not required



# Insular Areas: Federal Funding $\leq$ \$5,000/unit

## US territories (24 CFR 35.940)

- Including American Samoa, Guam, Northern Mariana Islands, and U.S. Virgin Islands
- No lead hazard **evaluation** requirements
- Lead hazard **reduction** requirements are the same
  - Repair any paint disturbed during rehab
  - Lead safe work practices during rehabilitation and repair of disturbed paint
  - Pass clearance examinations after work is completed and before occupants return



# Insular Areas: Federal Funding > \$5,000/unit

- Reduced lead hazard **evaluation and reduction** requirements
- Visual assessment to identify deteriorated paint
  - No paint testing or risk assessment requirement
- Paint stabilization on all deteriorated paint and surfaces disturbed by rehab
  - No interim controls or abatement requirements
- Dwelling units and common areas that service those units must pass a clearance examination before occupants are allowed to occupy rooms or spaces where paint stabilization took place



# Key Actors

- Program staff
  - Homeowner intake, Inspectors, Compliance staff, Finance Dept
  - Ideally the Specification Writer (In-house or not) will be qualified as a certified Risk Assessor
  - Training is often an eligible cost
- Traditional participants in rehab
  - General contractors, painters, plumbers, electricians
  - General contractors should all be RRP Certified at a minimum
- Lead specialists
  - Certified paint inspectors, risk assessors (RA), and clearance examiners
  - Certified or trained lead contractors, lead abatement supervisors, and RRP workers



# Key Steps of Rehabilitation Implementation

1. Program Application and Interview
2. Property Inspection and Specification Development
3. Contractor Selection
4. Work Phase Coordination
5. Pre-Construction Conference
6. Progress Inspections
7. Final Inspection and Clearance
8. Post Rehabilitation



# Rehabilitation Implementation and Compliance

## 1. Program Application and Interview

- Provide pamphlet “Renovate Right: Important Lead Hazard Information for Families, Child Care Providers, and Schools”
- Explain program requirements for housing quality, lead hazard reduction, and cost limitations
- Determine owner’s desires for rehab project
- Explain the process for development of the final project specifications
- Explain the requirements for occupant protection
- Determine the owner’s ability to limit their use of property or to temporarily relocate during work





# Rehabilitation – Implementation and Compliance

## 2. Property Inspection and Specification Development

- Scope of work is based initially on the rehab or repair needs of the property and requirements within the program
  - Lead hazard reduction measures and costs may add to scope of work
  - Some work can be considered rehab or lead hazard reduction (e.g. window replacement)
- The cost estimate breakdown will determine the required level of evaluation and hazard control



# Capacity and Coordination on Specifications

- Ideally the Specification Writer (In-house or not) will be qualified as a certified Risk Assessor
- The Spec Writer must be knowledgeable about measures and methods to control lead hazards as well as the associated costs
- The reconciliation of all docs may lead to changes
- A Risk Assessor should participate even if LBP is presumed



# Level of Assistance during Specification Design

- Single-purpose non-lead may fall below \$5K, but could easily go over, triggering whole-house hazard reduction
  - Roof, HVAC replacement, major structural or plumbing, rewiring, rebuilding porches, ADA work
- Certain major expenses may qualify as hazard reductions and keep the level of assistance low, (but may not significantly reduce testing, worker qualifications, and lead safe work practices (LSWP) requirements)



# Rehabilitation - Implementation

## 2. Property Inspection and Specification Development – Evaluation

- Lead Hazard Evaluation required:
  - ≤ \$5,000: paint testing
  - > \$5,000: paint testing and risk assessment
  - Option to presume lead-based paint
  - Limited Option for Lead Hazard Screen
- Certified professional conducts evaluation
  - Can certify staff or procure
- Program must notify occupants of results or reasons for presuming LBP
  - Notice of Lead Hazard Evaluation Or Notice of Presumption within 15 days



# Rehabilitation Option: Presume versus Evaluate

- Can presume LBP rather than evaluate, BUT
- Hazard control measures are enhanced, and
- Potentially much greater costs are incurred as level of assistance rises
- Base decision on swabs and/or local experience

## Actions if Presuming

$\leq$ \$5,000	\$5,001 - \$25,000	> \$25,000
Lead safe work practices and clearance required for <b>all painted surfaces</b>	Standard treatments (same methods as interim controls but must be applied to <b>all interior and exterior deteriorated paint including friction and impact surfaces</b> )	Abate <b>all interior and exterior deteriorated paint</b> including friction and impact surfaces and soil; interim controls for exterior not disturbed by rehab



# Rehabilitation - Implementation

## 3. Contractor Selection

- Staff check
  - ✓ Qualifications
  - ✓ Certifications
  - ✓ References
- Contractors submit bids for work
- Program may opt to maintain list of pre-qualified lead contractors
- Supply of participating lead contractors – may need to recruit



# Rehabilitation - Implementation

## 4. Work Phase Coordination - Trades Coordination and Scheduling

- Plan timing and sequencing of rehab and hazard reduction
- Interim Clearance is allowed when Lead Hazard Control work and or deteriorated lead-based paint removal are completed, and the site is appropriately cleaned
- Whether and when to relocate occupants
- Subsequent rehab work by untrained workers may not disturb paint
- Must clear entire site again at final

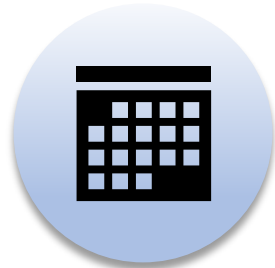


# Rehabilitation - Implementation

## 5. Pre-Construction Conference



Roles and expectations



Work schedule



Responsibilities and coordination



Work method



Special contractual provisions





# Occupant Protections

# Supervising Rehabilitation Work

## 6. Progress Inspections

- Periodic inspections of worksite occur during and at completion of work elements?
- Do staff on project have proper certifications? Are PPE's in use?
- Are lead safe work practices being followed?
  - No prohibited methods, working wet, working with HEPA vacuum dust capture tools
- Proper containment or work sites, dust control, signage?
- Occupant protections in place?
- HEPA vac, plastic, tape, cleaning equipment and supplies on site?

**Note:** Failure to protect workers and occupants is common. Don't let that be a hallmark of your program!



# Key Resources: Occupant Protection

- [Safe Work Practices: Renovate Right Brochure](#) (p. 8-10)
- Control Dust, Segregate Work Area and HVAC, Work wet, Clean wet, Clean w/ HEPA vac
- [Interpretive Guidance](#)
  - #S4: Lead Safe Units
  - #R13: Interim Clearance
  - #J24: Elderly Consent
- Forms
  - [Post-Work Checklist for Lead Hazard Reduction Activities](#)
  - [Guidance on Relocation](#)
- [HUD Guidelines Chapter 8 Resident Protection and Worksite Preparation](#)





**Identify the Unsafe Conditions in the Illustration**



**Identify the Unsafe  
Conditions in the  
Illustration**



**Identify the Unsafe  
Conditions in the  
Illustration**

# Occupant Protection During Lead Hazard Reduction

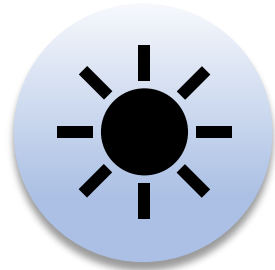
- Occupants and their belongings must be protected during lead hazard reduction work
  - May include leaving the unit or temporary relocation until clearance is achieved
- Relocation required
  - When tenants required to be out of the unit and cannot return until clearance is achieved
  - If work area can be contained but resident will be restricted from needed parts of unit (kitchen, bathrooms) for more than an 8-hour workday
  - Program must decide how and if to reimburse for relocation costs for owner-occupants



# When is Relocation Not Required?



Work does not disturb paint



Interior work completed in 1 period of 8 daytime hours



Only exterior is treated



Occupants have safe access to unit (incl. sleeping area, bathroom, kitchen); treatment completed in 5 calendar days



Elderly occupants after consent



# Appropriate Temporary Units

- For short term relocation the tenants could be housed in a hotel/motel and provided with meal vouchers
- Longer timelines will require the temporary unit to be functionally equivalent
- Multifamily rental projects can be staged to treat vacant units and then shift residents on site
- Temporary unit must be lead-safe
  - Use post 1978 units, or
  - Perform a clearance examination to document unit free of hazards



# Does Temporary Relocation Trigger URA?

## Tenants

- Covered by URA because they are involuntary participants
- All out of pocket expenses will be covered including temporary housing, storage, and other related costs
- Need to be provided notices per HUD 1378 Handbook

## Owner Occupants

- Generally are not covered by URA because they are voluntary participants
- Grantee will need an optional relocation (non-URA) policy to define the temporary relocation benefits
- Although this is non-URA the LSHR requires the protection of occupants and their possessions during lead-hazard reduction work



# 7. Final Inspection and Clearance

- Prior to final clearance, grantee should ensure that:
  - All specified work is complete and satisfactory
  - All lead hazard reduction measures and cleaning are completed
  - Inspectors must be careful not to contaminate the work site after cleaning
  - No less than one hour after work has been completed conduct clearance exam



## 7. Final Inspection and Clearance (cont.)

- Clearance exam must be conducted before project completion
- Combined visual and quantitative environmental evaluation procedures to determine no lead-based paint hazards remain
- HUD's [\*Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing\*](#) has a chapter 15 on clearance and provides a “Clearance Report Review Worksheet” with recommended fields
- If outside party is hired, the parties conducting the lead hazard reduction activities and clearance must be independent of each other



# Who Conducts a Clearance Examination?

- Clearance on all projects involving abatement (as defined by EPA) must be done by a certified risk assessor or a certified lead-based paint inspector.
- For properties covered by HUD's Lead Safe Housing Rule, clearance of non-abatement work may be performed by a certified risk assessor or lead-based paint inspector, or by a certified sampling technician.
  - In practice, there are very few such technicians.
  - Where applicable, check with your state lead abatement program for state-specific requirements.



# Clearance Report and Notice

- Occupants must receive a Notice of Hazard Reduction, including:
  - Contact information and date of notice
  - Hazard reduction activities performed
  - LBP remaining, and
  - Clearance results
- Send within 15 days of completion of the hazard reduction work
- Work is complete when clearance is achieved!



# Contents of Abatement and Clearance Reports

Clearance Report	Abatement Report
Property address.	Property address.
<p>Clearance examination information:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Date of the clearance examination.</li> <li><input type="checkbox"/> Name, address, and signature of each person performing the clearance examination including certification number.</li> <li><input type="checkbox"/> Visual assessment results.</li> <li><input type="checkbox"/> Dust sample analysis, in <math>\mu\text{g}/\text{sq. ft.}</math>, by location of sample.</li> <li><input type="checkbox"/> Name and address of each laboratory that conducted the dust sample analysis, including their identification number.</li> </ul>	<p>Clearance examination information:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Date of clearance testing.</li> <li><input type="checkbox"/> Name, address, and signature of each certified risk assessor or inspector conducting clearance sampling.</li> <li><input type="checkbox"/> Clearance testing results and all soil analyses (if applicable) and the name of each recognized laboratory that conducted the analysis.</li> </ul>
<p>Hazard reduction or maintenance information:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Start and completion dates of the hazard reduction or maintenance activity.</li> <li><input type="checkbox"/> Name and address of each firm or organization conducting the hazard reduction or maintenance activity, and the name of each supervisor assigned.</li> <li><input type="checkbox"/> A detailed, written description of the hazard reduction or maintenance activity, to include: <ul style="list-style-type: none"> <li>➤ Methods;</li> <li>➤ Locations of exterior surfaces or soil;</li> <li>➤ Interior rooms;</li> <li>➤ Common areas; and/or</li> <li>➤ Components where the hazard reduction activity occurred, and any suggested monitoring of encapsulants or enclosures.</li> </ul> </li> </ul>	<p>Abatement information:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Start and completion dates of abatement.</li> <li><input type="checkbox"/> Name and address of each certified firm conducting the abatement, and the name of each supervisor assigned to the abatement project.</li> <li><input type="checkbox"/> Occupant protection plan.</li> <li><input type="checkbox"/> A detailed, written description of the abatement, to include: <ul style="list-style-type: none"> <li>➤ Methods used;</li> <li>➤ Locations of rooms; and/or</li> <li>➤ Components where abatement occurred, the reason for selecting particular abatement methods for each component, and any suggested monitoring of encapsulants or enclosures.</li> </ul> </li> </ul>



# Key Resources: Final Inspection

- [Post Construction SWP Certification](#)
- [Sample of a Clearance Report](#)
- [Worksheet for Clearance Report Review](#)
- [Worksheet for Abatement Report Review](#)
- [Sample Notice of Lead Hazard Reduction](#)







**Ongoing Maintenance  
During Affordability Period**

# Subpart J Requirements for Ongoing Maintenance

## 8. Post Rehab

- Property owners of rental units assisted with **HOME funds** must incorporate ongoing LBP maintenance activities in regular building operations (Sec. 35.1355(a))
- A documented visual assessment for deteriorated paint, bare soil, and the failure of any hazard reduction measures must be performed at **unit turnover** and **every twelve months**
- Owner must request in writing that rental occupants monitor LBP surfaces and inform the owner of potential lead hazards.

**Exception:** If an LBP inspection indicates that no LBP is present, or a clearance report indicates all LBP has been removed the property is exempt from LBP maintenance requirements



# Ongoing Maintenance

<b>Remaining LBP</b>	If any LBP remains after the abatement, ongoing monitoring must be included as part of ongoing building operations to ensure that interim controls have not failed
<b>Disclosures</b>	Issued to new tenants prior to the execution of a lease along with the disclosures required with testing and clearance
<b>Records</b>	Maintained to document the initial lead hazard reduction or abatement work completed on all units and the ongoing efforts to maintain compliance
<b>Deteriorated Paint</b>	Identified by the visual inspection on interior and exterior surfaces located on the residential property shall be stabilized unless tested to determine it is not lead paint
<b>Bare Soil</b>	Treated with interim controls except for bare soil tested and determined no lead hazard
<b>Safe Work Practices</b>	Used when performing any maintenance or renovation work that disturbs LBP and clearance achieved
<b>Failed Enclosure</b>	Encapsulation or enclosure of LBP that have failed will need to be addressed and clearance achieved





# **Building Capacity and Program Design**

# Planning for Compliance

- What steps to take next
  - Use Toolkit and [24 CFR Part 35](#) for additional details
- Find qualified contractors
- Program procedures
- Program design
- Training needs
- Outreach needs
- Resources available and resources needed
- Monitoring – internal, subgrantees, owners



# Achieving Staff or Contractor Capacity

- Grantee or subrecipients need adequate LSHR knowledge to oversee procurement and implementation of rehabilitation projects triggering the LSHR
- Program can hire outside paint inspectors or risk assessors or have staff certified
- Procured capacity will trigger federal procurement following an RFP/RFQ process
- Grantees determines staffing for visual assessments, risk assessments, clearance testing, and the delivery of all required notices
- Staffing includes oversight of temporary relocation, construction, and ongoing monitoring



# Training Staff and Contractors



Identify certified  
contractors and  
staff



Determine  
training sources



Establish training  
timetable



Policy  
Who is trained?  
Who pays for training?



Determine costs

# Procedures and Monitoring

- Establish office and field procedures for completion of all required items
- Review the file checklist and documentation at every project stage
- Establish procedures and standards for the approval of contractor invoices, including submission of documents and photographs and on-site and/or video inspection by grantee staff
- Institute periodic review by third party monitor
- For states and other remote grantees, update procedures to require electronic transmission of documents and video inspections
- Enforce – no documentation, no payment

[More information in Ch. 24 of CPD Monitoring Handbook for LSHR](#)





# Program Review

## Monitoring

Document a consistent assessment of projects except for units that qualify for an exemption

## Knowledge

Provide training as needed and demonstrate that staff are knowledgeable about HUD's LSHR, the EPA RRP rule, and local program procedures for recordkeeping

## Lead Safe Work Practices

Use video, pictures and on-site inspections to show work is completed using Lead Safe Work Practices anytime a painted surface larger than the de minimis amounts are disturbed

## Occupant Protection

Document that temporary relocation required by the LSHR relocates tenants to units free of lead hazards and their belongings are protected





**Available  
Resources**

# HUD Exchange Lead-Based Paint Page



## Lead-Based Paint

Lead is a naturally occurring element found in air, soil, and water, but it can cause a range of health problems. When lead is absorbed into the body, it can damage the body's organ systems, especially the nervous system. Children under six years of age are at particular risk of damage to the brain and peripheral nerves because they are growing.

[Home](#) > [Programs](#) > [Lead-Based Paint](#)

### Featured



#### Lead Safe Housing Rule Toolkit

The tools in the Lead Safe Housing Rule Toolkit help practitioners understand and comply with the federal lead rules. Use it to learn about preparing to administer projects, implementing key project tasks, and keeping records for compliance.

[View Toolkit](#)



#### Lead-Based Paint Resources

- [Lead Definitions Handout](#)
- [Lead Disclosure Rule](#)
- [LSHR-Renovation, Repair, and Painting Rule \(RRP\) Handout](#)
- [Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing](#)
- [Office of Lead Hazard Control and Healthy Homes](#)

[View more resources](#)



#### Lead Exposure

What do I do if I think my child or I have been exposed to lead?

Talk to your pediatrician, general physician, or local health agency about what you can do. Your doctor can do a simple blood test to check you or your child for lead exposure.

View the [Protect Your Family from Lead in the Home](#) pamphlet, [Childhood Lead Poisoning Prevention Program](#), or contact the [National Lead Information](#)



<https://www.hudexchange.info/programs/lead-based-paint/>

# Lead Safe Housing Rule (LSHR) Toolkit

<https://www.hudexchange.info/programs/lead-based-paint/lshr-toolkit/introduction/>

- Search
- Introduction
- Lead Rule Basics
- Subpart H: Project-Based Assistance ≤ \$5,000
- Subpart H: Project-Based Assistance > \$5,000
- Subpart J: Rehabilitation Assistance
- Subpart K: Acquisition
- Subpart K: Leasing, Support Services, and Operations
- Subpart M: Tenant-Based Rental Assistance
- Hazard Reduction
- Respond to a Child with an EBLL



## Introduction

The tools in the Lead Safe Housing Rule Toolkit help practitioners understand and comply with the federal lead rules. The rules apply to almost all ownership, rentals, and sales of pre-1978 housing regardless of occupants or federal assistance to keep children and families safe from lead.

## Lead Rules Basics

If you are new to the lead regulations, review [Lead Rules Basics](#).

Choose the type of activity you are working in, or operating, to access the tools and information for that activity. If you are not sure which applies to you, view [Which Subpart Do I Use?](#)

## Project-Based Assistance (PBA): Subpart H with A, B, and R

PBA rules and tools apply to rental properties receiving ongoing assistance that reduce occupants' rents. Assistance is tied



# Lead Safe Housing and Healthy Homes Mailing List

Go to <https://www.hudexchange.info/maillinglist/>

## Email Updates

Sign up to receive email updates on HUD policy guidance, training opportunities, resources, critical deadlines, program support, and more.

**Privacy Statement:** When you register for a mailing list, we won't share your email address with anyone outside HUD. For more information, read the HUD Exchange [Website and Privacy Policies](#).

Sign Up Now!

Subscribe to Email Updates

Update your preferences

Unsubscribe

## Subscribe to Email Updates

Email Address \*

Zip Code

I'd like to receive email updates about:

811 Capital Advance

Lead Safe Housing and Healthy Homes

## Update Your Preferences

IDIS - Integrated Disbursement and Information System

Lead Safe Housing and Healthy Homes

Multifamily Housing Preservation



# Resources

- OLHCHH homepage: [www.hud.gov/lead](http://www.hud.gov/lead)
- Lead Regulations: [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/healthy\\_homes/enforcement/regulations](http://portal.hud.gov/hudportal/HUD?src=/program_offices/healthy_homes/enforcement/regulations)
- LSHR Toolkit: <https://www.hudexchange.info/programs/lead-based-paint/lshr-toolkit/introduction/>
- Lead Safe Housing Rule (LSHR) Training: <https://www.hudexchange.info/trainings/lead-safe-housing-rule/>
- EPA page: <https://www.epa.gov/lead>
- Interpretive Guidance on LSHR: <https://portalapps.hud.gov/CORVID/HUDDLBPAdvisor/info/documents/LSHRGuidance21June04.htm>
- Lead-Based Paint: <https://www.hudexchange.info/programs/lead-based-paint/>
- HUD Guidelines: [https://www.hud.gov/program\\_offices/healthy\\_homes/lbp/hudguidelines](https://www.hud.gov/program_offices/healthy_homes/lbp/hudguidelines)

Contact OLHCHH: [leadregulations@hud.gov](mailto:leadregulations@hud.gov)



# Schedule for Upcoming Webinar Sessions

✓ **Completed:** **Session 1:** Rehabilitation, Acquisition, Leasing, Services and Operations

✓ **Completed:** **Session 2** Subpart J: Rehab Planning Phase

✓ **Completed:** **Session 3** Subpart J: Rehab Construction Phase

➔ **Next:** **Session 4 Subpart K:** Acquisition, Leasing, Support Services and Operation Programs





**Q&A**