

Lead Safe Housing Rule Amendment (LSHR) for TBRA, 10/1/19

Phil Jones: Hello, everyone. You have joined the training for the Lead Safe Housing Rule Amendment. This training is targeted to those folks who are participating in some way in a tenant-based rental assistance program as grantees, maybe as owners.

So I am Phil Jones. I am joined by Kris Richmond. We work for ICF; we are the trainers for this project with HUD.

If you have any questions during the training, you can enter them in the Q&A text box, but if you are listening to the recorded version, and many of you are, the Q&A text box will not be active, but later on in the training, we'll give you an email address where you can send your questions. So keep track of them. We would like to hear all of your questions.

HUD would like to know about all your questions and we want to definitely answer them. This is your training. So make sure that you get what you need out of it. We will go for about 90 minutes. We have 66 slides to cover. So we will be moving along, but please, as I said, if you have a question, slow us down and we will stop throughout the training to address questions that have come in.

Our goals today are first, to review the purpose, rules and requirements of the Lead Safe Housing Rule as a whole, in other words, the original rule that's been in place now for almost 20 years, and then we will focus in on the recent amendment enforceable since 2017, find out some new definitions, some new requirements and talk about how to meet them.

So some practical things that you need to do in your programs to be sure you're ready to comply with the amendment and with the rule as a whole. The focus of the amendment is on how we respond to a report of elevated blood lead levels in children under six in the units we assist in these programs.

Another thing we will do is give you a list of resources where you can find information, answers to questions and we'll do some thinking and talking about where you might find money to help with complying with the rule.

So why is lead still a problem for us? One, it's a natural element throughout the environment, but in addition, we, in this country, use leaded gasoline for some 80 years and vaporized lead in foundries, smelters and so on.

So there is lead all over surfaces in the United States, on the streets, on the walls of our houses, in the dirt and we tend to carry that around. In addition, lead was used to add durability and spreadability to paint in residences built before 1978 as well as many other ways that things are painted.

So tubs, it's used in the solder in lead pipes, it's used in the solder in copper pipes and tends to leech into the water unless the water is properly treated, as we know from the crisis in Flint and

there are many other items that have lead in the paint or ceramic or the covering of them. So ceramic tile, clay pots, toys, jewelry and so on are all possible sources of lead and it's dangerous.

It's particularly dangerous for young children, though, workers also can be affected if they're exposed to higher levels of lead. It can cause behavioral problems, it affects bone and muscle growth, kidneys, nervous system and it is stored in the body, because the body confuses lead with other minerals like calcium and will use lead, which is not functional and not useful, and store it.

So even women can store lead in their bones and later it leeches back into their blood and can affect an unborn fetus. So it's a real problem and we all need to be very careful about it. In particular, we need to keep children safe from crawling or playing anywhere there is lead dust or lead in the soil.

We don't want them putting things in their mouths that have lead dust or might have lead content, including eating paint chips where there is peeling or flaking lead-based paint, but dust is the most common source of lead for small children, because they're crawling, putting everything in their mouths at a certain age.

So that age is particularly problematic if there is lead around and it's important to pay attention to that. So what are the rules and what do we do about the rules to make sure we're in compliance? The HUD regulations are found at 24 CFR Part 35 in the Code of Federal Regulations. EPA also has written a somewhat parallel set of rules found in the regulations indicated.

And let's link these two sets of rules. First, the lead disclosure rule, this is subpart A in the HUD rules, subpart F in the EPA rules and these parallel each other very closely and these rules apply to every residential unit rented in the United States if that unit was built before 1978. So very important to pay attention to this and every unit that we serve in one of those buildings.

Now, in the HUD rules, we have subpart B and these are general Lead Safe Housing Requirements, definitions, exemptions are found in this section. There are a few of those and we'll talk about those. These affect all the programs that use HUD funds. The -- there's not a comparable set of rules in EPA, because they aren't running HUD programs.

Now, in the HUD rules subpart H, L and M affect our programs and we'll be talking about TBRA today and there are a set of rules that apply to the specific programs and these vary slightly depending on the program so that they -- with the program we're dealing with. Now, subpart R in the rules publishes methods and standards that must be used whenever we're testing for lead and addressing lead hazards in homes, working on homes that have lead or are presumed to have lead.

The rules are found here and these are also explained in more depth in the HUD guidelines and we'll maybe show you a picture of what that book looks like soon, but those are the guidelines for addressing lead in homes. Now, the -- this section of the HUD rule parallels very closely this section in the EPA rule and these are tied together by reference.

Recently, EPA has made some changes to these rules that will go into effect January, 2020. Those will be reflected in the HUD published rules and guidelines as well. So be aware of those. The standards for lead dust, for example, sampling have gotten much more stringent. Then EPA also has another rule which applies to every childcare facility preschool and residence that's built before 1978 that is getting worked on by a contractor and paint will be disturbed.

And so this rule applies to every one of these units in the United States whether it's got HUD assistance or not. So in your programs, you will be using contractors who must have certification under this rule and must follow this rule. We'll talk in more depth about that as well. You may have many questions, but hang tight, we may actually answer many of them.

So today, we focus on subpart M, tenant-based rental assistance and here are the programs where this section would apply. All of these are programs where assistance is offered directly to a tenant and then the tenant is responsible for identifying housing it live in. We have another training for project-based rental assistance and for public housing where the assistance is to the building and tenants live there at a reduced rent.

That's a parallel to this. If you want to see that course, it's very similar to this. There are a few slides that are different. That will also be published on the web. So some key definitions for us. We are concerned with housing built before 1978. There are a few exceptions, but that's the deal. Anything built before 1978 we need to be paying attention to these rules and documenting our compliance.

Lead-based paint hazards, hazards are defined as any deteriorated paint. In other words, chipping, peeling, flaking, cracking, paint on a surface that is deteriorated. In other words, a wall or ceiling that is wet from a leak. If it has lead paint on it, it's a hazard. Also, dust. So whether there's lead-based paint immediately present or where it is, any dust that tests above the dust/lead hazard standard is a hazard.

Lead in soil is also a hazard and there's a lot of that around from environmental pollution, but also from lead leeching off the exterior homes. So very often right around the house you'll find -- that has the exterior painted with lead paint, you'll find elevated levels of lead in the soil.

Also, when we are looking for hazards, if there is a friction surface or an impact surface, for example, where a door rubs or where a door slams or where we walk across a floor that might be painted with lead-based paint and any of those things are creating dust, like the dust that might result from raising and lowering a window that was painted with lead, that constitutes a hazard, both the surface and the dust.

Pretty much any paint where lead was deliberately added is going to go above this limit for lead-based paint and there's a lot of it out there. So a few exemptions, important to keep in mind, but I'm guessing that many of your units will not call for an exemption. So anything constructed on or after January 1, 1978 and -- is exempt.

Zero bedroom and single-room occupancy units are exempt unless a child under the age of six resides or is expected to reside in that unit. Housing for the elderly or a property designated

exclusively for persons with disabilities is exempt unless a child less than the age of six resides or expected to reside in the dwelling unit.

So keep that in mind. I think we often get a question about this and we'll address that when that happens. Now, it's important to note that if your property can be found to be completely free of lead-based paint with an -- by an inspection where all the lead-based paint has been removed and clearance achieved at the end, and we'll define clearance later, that's also exempt.

So there's some other exemptions, but they don't really apply where we have a TBRA program going on. You can read them at your leisure, though. Some other key terms for us, it's important to pay attention to the differences between these. A visual assessment looks for deteriorated paint, chips, dust, debris and so on.

It's not a chemical test actually testing for lead, it's just looking at the condition of the paint and the cleanliness, the presence of dust in the unit. In addition, the visual assessment will look to see if previous things that were done to control hazards are still intact. In other words, if lead paint was covered up 20 years ago or 18 years ago with a covering of drywall, the visual assessment needs to examine whether that drywall is still intact.

One of the other common enclosure methods is to cover the -- is to install plastic -- vinyl windows and then wrap the exterior window sill and window trim with aluminum and caulk that. Now, that's a great way to treat double-hung windows and make them both safe and efficient, but we're now 17, 18, 19 years in on a lot of those installations and it's possible that the caulk is failing.

So the visual assessment would look for a loose wrapping, covering on an exterior window sill, for example, and that's something that is probably pretty common these days. Now, a risk assessment is different. A risk assessment is an inspection that uses chemical testing and x-ray fluorescent technology using a machine to actually identify lead-based paint and the risk assessment is a formal identification of hazards that are created by lead being present in the dust, in the paint, so on.

Clearance is an inspection, again, following a specific protocol that uses both the visual examination and chemical testing usually of dust that's left on a site to evaluate whether all the lead-based paint hazards have been addressed. Kris, do we have questions at this point?

Kris Richmond: Yeah. There's been a couple questions that have come in. One was asking -- you've mentioned a couple times about expected to reside and they wanted to know does this cover pregnant women living in the unit. Would that be considered expected to reside?

Phil Jones: I would certainly say yes and I think the way to ask that question of a tenant or perspective tenant is not are you pregnant, but to say -- just make a real point that if a child under six is expected to live in this unit, including a newborn baby anytime while you occupy the unit, we need to know about that and it'd be great if you told us now, if that's the case.

If you -- and it doesn't matter if you're going to adopt a baby, if your sister's child is going to come live, if you're about to have a baby. There's lots of scenarios where this could happen, where a child under six is coming and it's important for interviewers, case workers and so on to interview the tenant.

Kris Richmond: All right. And there was another question about exemption, because you had mentioned there's a lot of exemption for housing designated for the elderly, if there's no child expected to reside under six living there as well as housing designated for those with disabilities. They wanted to know what if it mixes it together? What if it's housing for the elderly and those with disabilities, would that also be considered exempt?

Phil Jones: That would be considered exempt, again, with the same disclaimer that it's exempt unless child under six will be residing there.

Kris Richmond: Okay. I'll hold some other questions when we get into those topic areas. I told people to just wait; we're going to get to those.

Phil Jones: I know -- yeah. I think I'll just make this comment that under HOPWA, the recipients of HOPWA assistance and some other programs, too, I think are often considered disabled by definition. That doesn't mean that their housing qualifies for an exemption. If the housing wasn't specifically designated for the disabled, it's not exempt.

So it's not about whether the tenant is disabled, it's about whether the housing was specifically designated that way. So let's look at this next chart here so that you understand the key steps in complying with the rule and documenting your compliance. We have -- and I'll -- we'll talk about more details of all of this as we go along, but just so you have a first view of this first disclosure, this is required all rental units built before 1978.

Tenants get a pamphlet how to protect yourself from lead in your home, anything you know about the property and its lead testing or repair, hazard remediation, clearance, whatever. That gets shared with anybody that's moving in, going to live in one of those units. We use various methods of evaluation to determine whether there are hazards, deteriorated paint and so on.

We carry out hazard reduction when we identify a hazard. After work is done, work must pass clearance. In other words, there's an examination, a chemical test of the dust. Everything we do we notify residents, we notify owners if they aren't part of the process already and in some cases, we're going to see where we will be notifying HUD of things as well.

And then because TBRA is an ongoing relationship with the owner and the tenant, we need to make sure that there's ongoing maintenance to make sure that the lead is -- the paint is kept intact and not shedding any dust, chips and so on. So first disclosure, these rules, as I said, apply to all pre-'78 for sale and rental units unless they have an exemption.

Tenants must get this pamphlet and sign a form saying, yes, I got this pamphlet. It would also be helpful if they read the pamphlet or you, your case worker, somebody read it with them so they understand and what this pamphlet says is there might be lead in your home. Dust is a big

hazard. So it's really important you keep the unit clean and if you have a child under six, they need to be kept away from the dust.

So we also give them any other information and they sign the form, which grantees will always have in their file. It's not this form and it's not any other form that doesn't look like this. This is the correct form. It's readily available and it has a set of questions on it. Failure to have this form in your file is a federal violation for any owner who does not have this and they are subject to fairly large financial penalties if there are any errors in this form, they're unsigned or worse, they aren't even present.

Grantees should also have a copy of this form in their files and tenants should have a copy of this form. If you don't have this form with this wording in your files, make sure to correct that situation. So that might be one thing that, after this training, you go check to make sure your files consistently contain this form completed and signed.

So with that scary prospect, we move on to the subparts that set out definitions and standards and talk about our specific programs. Ideally, we protect children through prevention, by hazard identification, control, removal. We would rather not get to a place where a child has an elevated blood lead level. So the way we do that is to evaluate these units, to share information with tenants so they can protect their children.

We make sure that all the workers, all the people who are doing evaluations, the people that are doing the work on these houses have certifications, training and so on. The lead-based paint methods and standards found in subpart R tell workers and evaluators exactly the protocol they should follow to do their work.

It's very detailed, printed out, the guidelines driven by subpart R and I think you have a picture in your drop box of the cover of this book and printed out it's at least three inches thick printed both sides of protocols, standards. Very useful, very helpful, well organized and should be part of your contracts with contractors.

So here's another chart with a little more detail than the one I showed you before. This chart walks through the steps, disclosure. It tells you where the exemptions are and the -- tells us about evaluation and hazard reduction. It also mentions the EPA rules, which we will get to in a moment. For TBRA, it notes the evaluation that we carry out, which is basically a visual assessment until we identify hazards.

Now, we've covered down to here so far in our discussion and when we get to the discussion of the amendment, we'll talk about EBLL requirements, what happens with an Elevated Blood Lead Level.

Kris Richmond: Hey, Phil, can we just go back to that chart?

Phil Jones: Yes.

Kris Richmond: Because I got a question that came in. I think it's a good point that we should really point out. So underneath the heading where it says, tenant-based rental assistance and there's that star in that first big chart here. Let me see if I can get the arrow thing to work. They just wanted to clarify that these Lead Safe Housing Rules for TBRA, do they only apply if there's a child under six living -- that's going to live in the TBRA unit?

Like they understand disclosure they have to do regardless of the tenants that are going to be living there, but do they have to follow all these other requirements if there are no children under six expected to live in that TBRA unit? Do you want to just highlight that a little bit?

Phil Jones: Yeah. Great question and yes, under the TBRA rules, we're only required to do all this, except the disclosure where there is a child under six expected to reside. Actually, disclosure stays in effect for any rental unit or a unit for sale, for that matter, but the rest, yes, we are only dealing with children under six.

So keep in mind, though, that our general goal would -- might be, in our community, to reduce lead hazards in our housing overall and I think anytime we have an opportunity to do that when we are running rehab programs, when we're operating our TBRA's, to encourage owners, say, hey, this is a hazard, it's going to go on being a problem for us until we take care of it and in many cases, removing the lead, particularly in windows and doors, for example, we can make our units a lot more energy efficient if we carry out those repairs, but that's not a rule until we have the child under six present. Good?

Kris Richmond: Yes. Thank you. That's helpful.

Phil Jones: So as I mentioned, we have an ongoing relationship with this tenant in the unit. And so there needs to be a plan in place to examine, evaluate the unit and the common areas to make sure that lead has not -- that the paint has not failed, we don't have deteriorated paint. And so there must be periodic visual assessments done by a trained visual assessor.

The beauty of this is that a visual assessor can get that training online, doesn't take long, takes a little bit of attention and effort, but owners and employees, any of your staff, your housing quality inspectors and so on can all be -- get this training very easily and be qualified to do a visual assessment. It's really important that owners keep track of when the visual assessment was done, what the findings were and if deteriorated paint was found, that it was repaired.

So addressing deteriorated paint is an important step for any owner and it's important that somebody do a visual assessment and document it at unit turnover and every 12 months. So as I said, visual assessors can be anyone and they can go online to take the training and print out their certificate. An easy step, but a necessary one.

Now, as I said, EPA had written a rule that applied to all renovation, repair and painting projects that disturbed lead-based paint in homes, childcare facilities and preschools built before 1978. So their firm must be certified. In other words, the supervisor or the head of the company needs to take a detailed course and receive a certificate for that.

Workers can be trained on the job, but it is essential that firms coming into your pre-'78 units or going to disturb paint have this certification and grantees and owners should document that and check in and there's some things additional that you should do as well as checking that certification.

One big difference between what the EPA rule says and what the HUD rule says is that at the end of the work in a HUD-assisted unit with a child under six present, a formal clearance, in other words, a chemical test of the dust, after this work is done, needs to be completed.

Now, there's some more details on this form and I think that it's important for you to know, I'll mention at this point, that when you got an invitation to the training or associated with the training when you go to take it, you will be given a link to a drop box which has all these documents in it, information about the definitions, the disclosure rule, a handout about responsibilities under the rule and this sheet, which is a two-page sheet, highlighting a comparison between the Lead Safe Housing Rule and the EPA rule, because there are some important differences.

One, if I want to know if there's lead-based paint, under the HUD rule, I need to do a formal test done by someone that's qualified and trained to send samples off to a lab or use an XRF machine. Under the EPA rule, I can do that with a swab from a hardware store and in both cases, workers and renovators must be trained.

There's a pamphlet that needs to be handed out that's driven by the EPA. Now, you can scroll down on your screen to the second page of this sheet and you will see that there are other differences. HUD has more rigorous methods that must be used and also a big difference, your RRP contractor will tell you that if they disturb less than six square feet paint under the EPA rule, then they don't need to take all these safety steps and so on, but the HUD Rule is two square feet in any given room.

So you might have to have a conversation with your RRP contractor, say, hey, this is a HUD-assisted unit, we've got stricter guidelines about what methods you can use to disturb paint, what size area you can disturb before getting into the rules and so on and again, the other difference is what happens at the end, formal clearance, under HUD projects, another method I won't even mention under the EPA standards.

So familiarize yourself with this document and you might want to hand it to any RRP contractor that you hire for the first time, but it's good to develop a relationship with contractors that understand these rules. That would be the best thing. So you want to find contractors who are certified under the EPA rule, you might want to find trainers who can train people under that rule and offer that training in your community or to all of your contractors.

You might also want to find people who are certified under the HUD rules as paint inspectors or risk assessors or clearance technicians and personally, I think for you having a risk assessor, a clearance technician and an RRP contractor that you know and have already procured in advance of you needing them, in other words, you've done a professional procurement for these folks, so

you don't have to go through that process in a hurry, is -- will get you a long way toward being able to have a stress-free response to the rule and to your compliance.

So you can go to the EPA's lead homepage. They will have -- there will be a list with addresses, names, phone numbers and so on and the qualifications of the entity. Many states have their own website. I know that where I am right now in Maryland and some other states you have to figure out which department is responsible.

Is it the Department of Health, is it public safety, is it Health and Human Services? But somewhere, if they had been authorized by EPA, they have a website and they're going to have a good, thorough list how to find people. So use that and develop relationships to get this done. So very quick recap of what we've covered so far before we move onto the amendment.

Every file needs a disclosure form and that's pretty much every file in your program where the housing was built before 1978. We need to keep track of who's performing the annual visual assessments that are required in every unit with a child under six, what they found, what they fixed and beyond that, if there is work that's done, we keep track of all of that as well.

Now, remember, states may have rules in addition to federal rules and it's important that owners and grantees and contractors follow the state rules. They may be slightly different and you must follow both. So make sure that whatever is the most stringent you have followed all of those rules. Moving on to the amendment, so this is the new stuff.

All that stuff before was -- has always been there. The new stuff is found in the sections of the rule related to our specific programs. Today we are on M, TBRA. Some new terms to think about. The index unit is a housing unit where a child with an elevated blood lead level resides. So in other words, we -- somebody's been identified with an elevated blood lead level and we're going to call that the index unit.

Now, if the index unit is in a property with multiple federally-assisted housing units, any other unit in that property where a child under six resides is called an other covered unit, because some things are going to happen there. If we have a child with an EBLL, then these other covered units will come into play. Another important term is environmental investigation.

We discussed risk assessment that involves looking at the paint and the paint hazards. An environmental investigation includes that, but also goes beyond that to try and find out how this child got an elevated level of lead in their blood.

So it might involve interviews with the family, it might involve testing the water, testing other things that the child is exposed to, maybe the dirt in the playground down the street, maybe the floor over at grandmom's house where the child goes to visit, could be any of that stuff, but we're really going beyond the basic risk assessment, environmental investigation.

Now, who's responsible? In TBRA programs, the owner and the grantee split -- in other words, the people providing the money, the assistance, split responsibility for some of these activities and you can refer to the chart of responsibilities here to see how it changes depending on what is

actually going on. I think you may have to scroll on your screen to see the whole thing, but again, this is available in the drop box.

I encourage you to pull it out and look at it. An example of how the responsibilities change, the grantee or the PHA, if they're running Section 8, for example, Housing Choice Voucher, is responsible for the environmental investigation, but everything that happens after that is the responsibility of the owner, except for monitoring the owner.

So it's important to understand how that -- where the responsibility and the cost falls. Amendments enforceable since 2017, 4 major changes. One, what qualifies an elevated blood lead level has been cut in half from 10 to 5 micrograms per deciliter of blood, major change and the level now that is the standard is set by CDC, not directly by HUD and not in the regulations.

So it could change. It could go lower. It might go higher, but I doubt it. Three other major changes, what happens in the child's unit is no longer a risk assessment, now it's an environmental investigation, because we really want to know how that child got lead in their blood. In addition, these other covered units are affected.

We will -- if we find hazards in the child's unit, we will then need to do a risk assessment on other assisted units in the property with young children under six living in them. Requirement number four, HUD gets tied into the notification loop as soon as we find a child with elevated blood lead level. They want to know what the incidence of this is and the housing that they're assisted and what's being done to correct it.

So we have a report, we've been told that a child under the age of six has an EBLL, our first response is to verify that report that came from a parent or somebody else with a healthcare provider or the local public health department immediately to make sure that the information is accurate. It doesn't have to be in writing, you can do that over the phone, just document the conversations that you have and what you find out.

And if you have trouble getting verification, because people are touchy about private information, you must contact HUD and let your HUD program rep know that you weren't able to verify. They will assist you -- the HUD staff has been instructed to assist you in getting that verification. Keep trying with the health department.

Have the -- maybe get the parent of the child to go assist you in getting that verification so you know what your obligations are going forward. The information needs to be private. So don't disclose the name or the medical results of a child unless you absolutely have to do that in some conversations, for example, with the health department.

At this point, we are primarily dealing with, okay, I have an address where we provide assistance and we got this report, we need to move forward. Your public health department can help you with how to manage privacy of information as well. They have a lot of experience with this. Now, what if the child is moved by the time you find out about this?

Well, the unit still falls under the rule if you want to keep providing TBRA assistance there. Doesn't matter who -- doesn't matter if a child moves in or not, that unit is considered to be in and the grantee and the owner need to follow the steps for the unit if you want to keep providing TBRA assistance to anyone.

Now, for TBRA programs, the original rule, and it's still in place, requires that the program share data with the public health department about where they are providing assistance in homes with children under six. So just the address. We are providing assistance to these addresses and a request to ask the public health department to inform you if anyone -- if they have identified an elevated blood lead level child in any of those units.

They may or may not respond, but still the grantee has this responsibility. So we have a confirmed result. Now we have to act on that. What happens next? And this is where the going gets a little challenging and the timing becomes crucial. The rule sets definite deadlines for what needs to happen next. We have a verified result and now we're on a clock.

So be prepared for that and think about are you ready to carry out these next steps in a timely and efficient manner so you can stay on the clock that's mandated by the rule? Responsibility here falls on the owner, but regardless, it has to happen.

Grantees can't just close their eyes if owners aren't complying, because this is -- this has to happen and if an owner is not complying, then you, the grantee, would be expected to carry out some action, like stopping their funding or pursuing some of these steps yourself, because as I pointed out, the grantee is responsible for actually doing the environmental investigation.

So notice must go to the local health department and HUD unless that's where you got the information from. Here's the address for HUD. And this is a great address if you have questions, any correspondence that you want to carry out with HUD headquarters about lead in general or where there might be money. This is the place to get that help.

Five business days to get it done. You can use email and here's the slide. This is slide 38, I won't read all these things to you. Here are the things that should go in a notification to the HUD field office and the HUD Office of Healthy Homes. So Lead Hazard Control and Healthy Homes get an email -- your HUD program rep gets an email with this information.

You might make a note, maybe print this slide out, put it in your file -- print all the slides and put them in a file where you can quickly go back and find them and make sure that you have bookmarked the drop box for where all these documents are found and I think HUD will keep that up and will periodically update it as well.

I know you might have questions and if you don't have questions now, you will later. HUD is publishing frequently asked question document on that drop box as well and updating it every time we have a training. We bring more questions and HUD works through an answer that they want to publish and that will be in that drop box as well.

So what do we do in the index unit? As I've said, environmental investigation. In other words, a risk assessment plus other things and that is done by a certified risk assessor. In other words, somebody that has had that formal training it is very important that you establish a relationship, do your procurement, maybe now, for a certified risk assessor with whom you have a -- can establish a rapport, who will respond when you need them to come.

Maybe you identify three certified risk assessors through your professional procurement process who -- so that you are ready when this comes up, because you have 15 calendar days to get this environmental investigation completed and I showed you a slide earlier where you might find those folks. You might also go over and talk to the folks in your local rehab program, because they have probably been using certified risk assessors and might already have a good relationship.

And the steps -- the standard for the risk assessment, the protocol, is the same. Now, that person might not have done an environmental investigation, but the guidelines offer a very detailed protocol for that. Must be done by a risk assessor. And I want to point out that there are also certified lead-based paint inspectors.

They are qualified to inspect paint and tell you whether a property contains lead-based paint, where it is and so on, but they are not qualified to do risk assessments. So make sure that you have a certified risk assessor.

The one exception is that health department personnel are trained in the same methods and protocols to do environmental investigations and whatever they call that examination, if you receive an environmental investigation from a public health department, you can accept that as your environmental investigation.

Now, that person may or may not help you with managing the remediation of hazards, but certainly, ask them for help and certainly, this is a way to reduce expense for grantees is to check in with the local health department to see if they can do the environmental investigation. It will be helpful in that they are also used to working with counseling families and have a lot of experience with this.

They're going to be working with the child. So good to establish a relationship there as well. So as with everything, everything that happens in the world of lead we carry out notifications. Here responsibility falls on the grantee. It might be a PHA, it might be a local HOME program or some other program that's offering tenant-based rental assistance, notification to the HUD field office, notification to the family.

Where lead work is being carried out in common areas, especially, the building residents need to know that that work is going on in their building and maybe in their development. So if work is going to be potentially creating dust or there are going to be barriers set up around the housing development, then other residents are entitled to notice as well that that work is going on.

And again, I have a clock, 10 business days -- after I get the results from the index unit, from the environmental investigation, 10 business days to notify HUD field office, 15 calendar days to get notice to residents.

Now, I know that this business versus calendar days might seem a little confusing, but I'll tell you this, all of the things that have to do with completing your physical tasks of getting a risk -- an environmental investigation done, other risk assessments done, getting the hazards reduced, all of those are driven on calendar days and I will show you that clock at the end of the training so that you understand how this all fits together.

Don't worry about remembering it all now or trying to keep track of it, we've got a slide that summarizes it later. Again, don't reveal private information. Everybody in the housing development doesn't need to know that there is an elevated blood lead level child living in unit 106. So avoid spreading that information.

They only need to know what is going to affect them. It's important to keep track of dates. If we've done an environmental investigation of particular units, it's good for a year. Now, if a second child exhibits an elevated blood lead level in that same unit within a year, technically, yes, your investigation is still valid, but there may be some places where the public health department would want to look at the lifestyle, practices, whatever of that other child.

Kris Richmond: Yeah. And so --

Phil Jones: Technically, under the rule -- yes. Go ahead.

Kris Richmond: Yeah. Just technically, under the rule, the -- if a second child in the family is identified with EBLL so many months later, another environmental investigation must occur, because that child might be in a different daycare center or they might have different patterns than the first child did. So another EI must be done.

Phil Jones: Thank you. So let's say that in the index unit we carry out the environmental investigation and lead-based paint hazards are not found, but there are some other lead hazards, so as far as the lead-based paint is concerned at this point, we notify the residents of this fact and we're done as far as lead-based paint hazards, but we still have a responsibility to inform the owner of the results, possibly try and assist the family to address the other problems there.

We've had reports of lead in ceramic tile, for example. It's not officially a lead-based paint hazard under the rule. Paint that was applied electrostatically or through a heat process like baking tile is not technically lead-based paint, but it's not out of the question that it could get into a child's bloodstream. Tubs are painted -- glazed electrostatically with paint that may have lead in them and that lead might leech out into bath water when there's hot water sitting in that tub and a child sitting in that tub, you can see the problem.

Again, not technically a lead-based paint hazard, but maybe something that, as a grantee, you can help the family correct maybe through your CDBG or HOME rehab program, for example, but it's important that people know how their children are getting exposed and we try to address

them. It's also important to notice that at this point that there is a child identified, the possibility of lawsuits for negligence, in particular, becomes high.

There's a whole industry of lawyers that are looking to help families get compensated if someone is damaged from lead in their blood. And so it's very important to make sure that you have carried out all these steps in detail and documented your compliance from the disclosure rule, the pamphlet, the visual assessments, all the work that you're supposed to doing, really critical to make sure you've documented all of your steps.

Now, let's say the environmental investigation did identify hazards, well, now we have more steps that we need to carry out beyond just notification. So the owner technically is responsible. Now your owner may claim that they don't have the money to do this. So this is a place where you have to have a conversation about who's going to pay for what and can you help them find funds and we'll examine that a little more later.

So clearly, we need to address the index unit lead-based paint hazards with a certified abatement firm, lead renovation firm depending on what we're carrying out. These are formal certifications. We control the hazards in the unit and in common areas and pass clearance and notice from the date that we get the environmental investigation results and that was required within 15 days after we know about the elevated blood level, we have another 30 days to address the hazards.

So my math says that our maximum time elapsed at this point is 45 days from the date we got the EBLL report. We have a fair amount of work to get done there. Beyond that, we need to look at the property as a whole and determine whether there are other assisted units with children under six residing or expected to reside.

These are the other covered units mentioned before. These units get risk assessments, not full environmental investigations, but complete risk assessments following the protocol. Now, because we have units that might be homogenous, in other words, many units with the same cabinets, same windows, same door trim and so on, the protocols, the guidelines allow for sampling in these other covered units.

Any risk assessor that you hire should be familiar with these sampling protocols and be able to talk with you about the steps that they're going to go through.

There's a balance between carrying out a detailed risk assessment and sampling all the surfaces and the fact that if you assume all the trim or presume that all the door trim, for example, contains lead, you need to replace all the door trim in all of those units, but your risk assessor could help you, the owner, you, the grantee, make that judgment, whoever's running the job and it will help if your risk assessor will also assist with writing the construction contract and with supervising the construction.

So that's another important aspect to your contract with the risk assessor. So lots of -- plenty of options for sampling, but it needs -- it's a -- every development takes a different strategy. Now, if those risk assessments don't identify any lead-based paint hazards, not all that likely, but possible

then the residents of those units get notified, as with everything, HUD gets notified and our response is complete regarding those other units.

However, if we found hazards in the index unit, then we went out and did risk assessments in the other covered units who are on this calendar. So as I said, hazards in the index unit address within 30 calendar days of the receipt of the EI. Risk assessments in the other covered units must be conducted within 30 days or 60 days depending on the number of other covered units and again, this clock starts not when we're done with the index unit, it starts from when we get the EI results.

So we're doing two things at the same time probably or on the same clock. We're addressing hazards in the index unit and we're doing risk assessments in the other covered units. Once we have these risk assessments from the other units, then we start a clock for actually addressing the hazards in those unit and again, that clock depends on how many other covered units in the property.

I hope you're following along the logic of my pen marks. I'll leave that there for a second to absorb and on we go. Again, best practice, plan ahead, do your procurements now and I would say not just for risk assessors, but for clearance technicians who can come in as soon as painting and renovation work is done, for risk assessors who can do environmental investigations and for your RRP contractors who are going to be involved in any kind of painting, even periodic repainting of units where paint will be disturbed.

In other words, not just slapping a new coat over dirty walls, the paint has deteriorated in some way and they need to scrape or otherwise remove paint. Great to have your risk assessor involved in the construction process as well. Another important thing that may have to happen is that you might need to relocate tenants while work is being carried out.

That's another discussion that you will want to have with owners. Can they provide a unit who will pay for the relocation of tenants? The rule is not specific about that. So plan ahead for your relocation. More detail here about that. There are some ways in particular units if certain work is being done that we can avoid relocation.

It is a challenge, however, to do that. I do want to draw your attention to this last bullet and the rule says relocate to a lead-safe unit. That means either it's after 1978 or it's past the visual assessment, in other words, no debris, and a clearance technician or risk assessor, someone with the qualification has done the sampling -- chemical sampling of the dust in the unit.

Decision is up to the owner, but HUD encourages abatement. Personally, I encourage abatement and/or removal unless you have really stable surfaces that are not going to be a maintenance problem and not likely to be damaged or destroyed by a tenant or moving or changing things. Remove the lead, let's get rid of the lead to the extent that we can.

If we can't remove it, let's make sure it's enclosed, covered with durable covering. Many of the abatements that were carried out that enclosed or encapsulated lead paint were now done -- now,

many of them are, as I said, 18, 19, even 20 years old and that was the expected lifespan of the repairs that were done.

So many of those repairs will be failing now and we're back facing the same problems in some of those places. So a quick recap, we are close to being finished with the training. Just want to mention a few things. Who can verify elevated blood lead level? A medical professional with the local health department and if you can't get that verification, grantee's responsibility to notify HUD and enlist HUD's help in getting that.

Question, and we already addressed this once, but remember, when we're talking about the TBRA specific rules -- not the disclosure rule, but the other rules we've been talking about apply to units with children under six residing or expected to reside. Make sure that your contractors are RRP qualified and can present that certificate.

Maybe you have a copy in your file so your owners have copies in their files. Make sure you're ready for these eventualities and you've talked with them -- talked about them with your owners, with your tenants. Make sure that your tenants understand the pamphlet. Don't just hand -- don't let it just get handed to the tenant.

Make sure the tenant actually understands that they need to keep their child out of the dust and they need to keep their units clean if they're pre-'78 units. Good idea under any circumstances, but particularly, in that situation. Now, control work, in other words, our hazard control work is finished when the unit passes clearance.

In other words, someone, a clearance technician or a risk assessor has gone in and taken dust samples, had them reviewed at the lab and always, as we complete these various steps, we have notification requirements to residents and the field office as we complete work. Remember that the records about the work, the clearance, the original evaluations all live with that property for the life of the property.

That's part of the disclosure rule. So it's really important that owners understand, grantees understand these records stay with that property for the life of the property. Now, we have a deadline for notifying residents, we have a deadline for notifying HUD, 15 calendar days for residents. This is after work is done/completed.

We can do central posting for this if we want, but again, don't identify specific people. So we have a hazard, you notify, you protect. In other words, we offer the pamphlet and advice and counseling. The control hazards, be clear after the work is done, then we notify. We have an ongoing relationship so we make sure that units are maintained on an ongoing basis.

Periodically, units are reevaluated if there is a lead risk assessment. It's important to keep track of the repairs that were done. In other words, if we carry out abatement or encapsulation, that our assessments are looking at the durability of those repairs. Here's the calendar and there's nothing new or different here, but notice calendar days drive your steps.

So let's say I start with -- and some of these things overlap. So if I start with a verification, I have 5 days, but that 5 days and the 15 days to get my EI done overlap. It's not 5 plus 15, that's 15 calendar days period. Once I get my EI results, I have 10 business days to notify HUD. I have 30 calendar days to conduct risk assessments in the other covered units, but I also have 30 calendar days to get the work done in the index unit.

These overlap. This 10 days, these 30 days, these 30 days all overlap. I've got a little bit of more breathing room if I've got a lot of units, but I'm carrying out all these activities on the same clock. Once I've got my risk assessments on the other units, the clock for completing repairs begins. So these timelines overlap.

You don't need to remember this, just remember that in many instances, you are working on a 45-day clock, once you have an EBLL, to get a whole bunch of work done and then after that -- after the risk assessment's done, you might have 30 days, you might have 90 days to finish the other units. So your risk assessor or your staff need to understand this.

Make sure that the testing, examinations that should be done are done, that you have records, your records are -- you can find your records.

Check especially for the existence of disclosure forms and receipts from tenants and if you don't have disclosure forms showing that tenants got the pamphlet and received other relevant information pertaining to the property, this is something that I strongly advise grantees to correct even if it's going around today to these units and getting -- handing people a pamphlet, talking to them about it and getting signatures on those disclosure forms.

Make sure you've got your staff and contractors ready and of course, there's nothing to prevent a grantee from having certified risk assessors and visual assessors and so on, clearance technicians on their staff. That would make this go even smoother. Some people ask, well, should we own an XRF machine?

That's a decision based on how many risk assessments or how many tests you would actually expect to do yourselves versus hiring somebody else. My sense is that most TBRA programs and renovation programs are pressed in terms of workload and probably makes more sense to hire a contractor, but that's a decision for each local community to make.

Reach out to your local or state health department and of course, keep residents informed and there's a broad effort to have children tested so we can find out if they are having elevated lead in their blood and we can assist them and assist their units before any more lead is absorbed. So lots of resources available. Kris, should we pause here, questions?

Kris Richmond: Sure. There's been a bunch of questions, a couple more from the beginning part of the training, but I think it would be helpful for everybody to learn about going back to disclosure, somebody wrote in, we put the lead language in the lease, so do we still need to do the pamphlet and the disclosure notice? Do you want to talk a little bit about that?

Phil Jones: I am not a HUD official. My understanding is that whatever a program is using if it's not the actual form printed off from the HUD website, it needs to contain all of the exact language from that form and clearly be a separately executed document that addresses those issues. So in other words, someone is signing that page in the lease form saying, yes, I got this, not just signing a lease and that language is buried somewhere in there.

Now, if you can write that question into HUD if you want to do something different, but that's my recommendation. And what was the other piece of that?

Kris Richmond: That's my understanding too. For the disclosure notice --

Phil Jones: Oh, the pamphlet.

Kris Richmond: -- but the pamphlet as well. Yeah.

Phil Jones: I don't feel that burying the language of the pamphlet in a multipage lease is good practice as well. The pamphlet is designed to a tool that the homeowner uses and might refer to. I don't think that's happening with most people's leases. They aren't keeping them on the kitchen counter to remind them. So I can't see --

Kris Richmond: Yeah. I also think --

Phil Jones: -- these agreements, but --

Kris Richmond: Yeah. I also --

Phil Jones: -- I would advise folks -- sorry.

Kris Richmond: No. I was going to say the pamphlet is written in easy-to-read language in plain English. And so I think it's a user-friendly document to help get the information across and I agree, I don't think it really belongs in the lease. I think it needs to be a separate document for them to understand the importance of what these hazards could trigger or what could happen.

Phil Jones: So here's, I think, a useful way to look at this, too, as a grantee or as an owner, you say, hey, technically, legally I covered my bases and I'll get my lawyer to stand up in court and make that argument if push comes to shove, but remember that the main goal here is to stop children from getting elevated blood lead levels and once a child has that elevated blood lead level, the grantee and the owner have an uphill climb in terms of potential liability.

There may very well be experienced lawyers aligned against you and they're going to be making the argument that burying this thing in the lease was not adequate. So I would recommend any program that has that information in their lease all well and good, maybe that's your legal defense, but you can certainly exhibit good faith and beyond just covering your legal liability, the idea is to make sure that homeowners understand this and act on it on a daily basis.

So beyond the idea is to make sure nobody gets -- not just that we've handed out enough paper, but the children don't get blood -- lead in their system. That's the goal and I think the best way to -- whatever you think the best way to achieve that goal is is what you might want to pursue, just a thought.

Kris Richmond: Great. Do you want me to go over a few more or did you want to keep going?

Phil Jones: Sure. We've got a few minutes to speak to questions.

Kris Richmond: Okay. So there was another one that came in about data sharing, remember, on a quarterly basis at a minimum, there has to be some type of data sharing where either the addresses of the TBRA -- TBRA addresses have to be shared with the health department or vice-versa, the health department needs to share addresses with the grantee on where there have been children with elevated blood lead levels identified.

And so they wanted to know like what happens if we're a grantee and we share those addresses and we don't hear back from the health department.

You know, I do recommend that you contact the health department again, document that you've sent that list of addresses and then I would also let HUD know as well, because there is this expectation that you do have a working relationship with the health department and if you're having trouble with that, HUD might be able to help intervene on your behalf to help create that relationship.

I taught this class this summer in Buffalo and I had a gentleman from Rochester, which is a small city about an hour away from Buffalo and he was saying -- he works for a public housing authority and they were running Section 8 vouchers and he was saying that the incidence is so high in their area that they are getting information from the health department on a monthly basis.

So instead of quarterly and they have so many units, the health department is actually providing the addresses to the housing authority on a monthly basis for them to be able to do a review and to identify any matches. So just some information about that. I did get another question, too, about verification. So what if you do a verbal verification?

Remember, we have to verify with either the health department or a medical provider and we did say it didn't have to be written, it could be verbal. So if you're on the phone with somebody or if you actually go and have a meeting with them, you do want to make sure that you document the date, the name of the person that you spoke with, what their contact information is and what's their title and then a brief summary of your discussion.

So you do want to make sure you have that in your files if you did not receive written verification. Anything else you want to add, Phil?

Phil Jones: No.

Kris Richmond: Okay. There was also --

Phil Jones: Well said.

Kris Richmond: -- a question about RRP saying -- I think they were maybe getting confused when we were talking about some of the requirements for training for RRP versus the requirements for a visual assessor. And so they were asking, doesn't the RRP require hands-on training not just online training? So remember, a visual assessor can take the online training, that's free.

It's available on the -- HUD's website, but for RRP training, it does involve hands-on. It's not an online training. And do you want to speak a little bit to that, Phil, about this type of training for RRP?

Phil Jones: Yeah. RRP does require in-person training for the lead renovator. And so that normally takes six hours out of a person's day, something like that. If your local contractors have not been trained, I know in many areas, the county housing department or building department will sponsor trainings.

In a program, a grantee could sponsor a training. You find a trainer on the EPA and there's likely one in a nearby community, someone who's certified to train. You bring them in and you invite contractors to attend and you can probably even get contractors to pay for that. So most places you can cover your costs, because contractors do want to have that certification, because it gives them access to work. But yeah, visual assessment online, renovators RRP will in-person one day.

Kris Richmond: Great. And then one of the last questions they wanted to know how often do we need to do that visual assessment again? And so I reminded them that -- they said, does it have to be done annually? And the answer is yes, it does -- the visual assessment does need to be done annually or at unit turnover, whichever is sooner.

And the owner can do that visual assessment as part of the ongoing maintenance or the owner staff as long as they've been trained and taken that online visual assessor training.

Phil Jones: I think part of the confusion there is that Housing Choice Voucher and some other programs have gone to two-year or even three-year housing quality inspections. That does not take away -- that does not eliminate the responsibility for the once-a-year visual assessment for deteriorated paint, but owners can do it themselves.

Kris Richmond: Great. Do you want to go over some of the resources that are available for everybody?

Phil Jones: Yeah. Let's go back to -- I had highlighted that handout on the RRP, back to the slides and Kris, I encourage you to chime in, because I know you have some thoughts about these. Here is your HOME. If you're looking for information, this is the place to start. I love this version of the rule, it's electronic, it's -- you can pan through it very quickly, go to the table of

contents and then go to any section and skip around very easily and it is updated with the amendment.

The amendment itself is here, but not so critical to look at now that the rule has been updated. There's some very useful information in the PIH notice. These folks are people who got extra money, they got grants from the Office of Healthy Homes to do special things -- special projects related to lead. They might be a source of money, they might be a source of information or just staff that could help you with things. So this is a good reference. Do you want to comment on this page, Kris?

Kris Richmond: No. My favorites are actually on the next page.

Phil Jones: Okay. Take over.

Kris Richmond: Okay. So on this page, some of my favorites here are under the resources for public housing authority. There are all sorts of resources on here that you can hand to owners. So the housing authority created some fact sheets that fall under the TBRA under Section 8 housing.

So even if you're not a public housing authority, if you're a HOME program and you're running TBRA or if you're a homeless provider giving out TBRA vouchers, you might want to look at those handouts that were created for Section 8 housing, because you might want to maybe steal some of that language, create a handout to be able to give to your own owners.

There's also some really nice videos that you can get to from there. I also really like the Lead-Based Paint Compliance Advisor. This is an online tool that you can walk through if you're not quite sure what are the actual requirements that I need to do as it relates to the Lead Safe Housing Rule. So I know we didn't talk about rehab here, we didn't talk about homebuyer program, but if you do run those types of programs, this might be a good resource for you to use in addition to TBRA.

So it walks you through like what type of activity you're running. You would type in TBRA. You know, what's the year of the unit? And it talks you through what all of the requirements are. It also has some really good resources and some checklists and some forms. So remember, Phil talked about the exemptions at the very beginning, like when do I not need to follow this rule?

Well, you still need to document that it was exempt and there's a nice form in that Lead-Based Paint Compliance Advisor for an exemption documentation. So you can print that out, put the information in, stick it in the file so if HUD comes to monitor you and they want to know why you didn't follow the rule, you can show that you did a determination at this project or this unit is actually exempt and you'd have documentation for that.

Also, a big fan of the Interpretive Guidance document. This is also split into subparts. Right now we're talking about subpart M for TBRA, but it also follows rehab homebuyer programs, that type of thing. And so there's all sorts of Q&As in that Interpretive Guidance from when the rule came out back in the early 2000s.

There's a similar document for disclosure and there's actually three parts. That's how comprehensive the disclosure Interpretive Guidance is.

Phil, anything you want to add to these resources?

Phil Jones: I want to add my encouragement and my appreciation of folks that do this work. This is difficult and challenging to run these programs, to serve tenants, to keep owners participating in the program and I think one of the challenges is to stand ready to inform owners, to inform tenants, but also to help owners if you run into this situation.

I know it's hard, especially in these housing markets these days, to get owners to continue to participate. So your level of expertise and your dedication to this purpose is important. So thank you for joining us.

Questions, comments on the training or any other comments about the rule, so on, suggestions, again, lead regulations at hud.gov and remember to check out the drop box and make sure you understand all those documents in it. And that's it.

(END)