

In the rehabilitation of housing using federal funds, Grantees and Regional Administrators must comply with federal lead-based paint protection, removal and preventative measures as set forth in CFR 570.608 and 24 CFR Part 35. The basic requirements, as applied by the Project Management Office of the Virginia Department of Housing and Community Development (DHCD), include: notification of occupants, contracting limits and prohibition requirements, training and certification of contractors and workers, inspection, use of interim measures, clearance testing by a licensed lead risk assessor, temporary relocation, and where needed, abatement of documented lead-based paint. The lead based paint requirements apply to all Indoor Plumbing Rehabilitation Flex Program (IPR Flex) and Community Development Block Grant (CDBG) contracts. The lead paint regulations provide recipients with a choice of testing for lead paint or assuming that lead is present and using a series of practices known as “interim measures” or “interim controls.” *If there is a child in the home with an elevated lead level in their blood contact DHCD immediately for further instructions.*

Critical Steps for Lead-Related Compliance

All affected rehab programs shall carry out and document the following:

1. **Training of Risk Assessor:** All Risk Assessors operating in the IPR and CDBG construction programs must have received 40 hours of training and passed the accompanying tests administered by the Virginia Department of Professional and Occupational Regulation (DPOR) to receive licensure as a lead risk assessor.
2. **Notification:** All occupants of housing built prior to 1978 and rehabilitated under one of the programs as outlined above will receive two notices before rehabilitation begins: the *Notification of the Presumption of Lead Based Paint*, and a pamphlet, *Renovate Right*. Signed statements from the owner or tenant that the notices were received must be in the project files. Brochures are available by contacting your Community Development Specialist or downloaded from the internet at <https://www.epa.gov/sites/default/files/2020-09/documents/renovaterightbrochurecolor.pdf> . Additional notifications may be required by the contractor.
3. **Contracting requirements:** All rehab and construction contracts must contain prohibitions against use of lead-based paint. Further, only contractors certified by the Environmental Protection Agency as a firm and with a certified lead renovator may be determined as qualified to work on these federally-funded rehabs using interim measures. It is the responsibility of the certified lead renovator to be assigned to any pre-1978 job and document the training of all workers on site.

4. **Education of contractors and workers:** DHCD has provided a mechanism for assuring that contractors have the opportunity to receive free training in HUD's lead safe work practices and reimbursement for EPA required *Renovation, Repair and Painting* (RRP) training for one individual per contractor as a Certified Renovator. OSHA has additional requirements of which contractors must be aware. If your contractors and crews have not yet received this training and you are unsure of your next step, contact your Community Development Specialist.
5. **Inspection:** DHCD is neither requiring nor encouraging a sampling of paint as part of the initial inspection process. Instead, DHCD requires the inspection to note whether there is a defective paint surface, friction surface, or impact surface present. If there are NO defective surfaces and no activity will trigger application of interim measures (note that in these types of rehab, this situation will be rare), the rehab proceeds with no special precautions. If there ARE defective surfaces, the contractor shall be required to use "interim controls" or "interim measures" to protect the occupants of the unit being rehabilitated, as well as the workers. Abatement of lead paint is also an option for defective paint surfaces.
6. **Interim measures:** Interim measures are a series of steps meant to protect occupants and workers. These measures are called *standard treatments* when they are performed without the benefit of an evaluation such as a risk assessment or lead hazard screen. Items a. through e. shall be addressed:
 - a. The work will be of a scope and scale that allow it to be done within the cost limits outlined elsewhere (base construction cost never exceeding \$25,000);
 - b. The contractor or subcontractors awarded the job must be trained in EPA's *Renovation, Repair and Painting* with dual certification as a firm and individual certified renovator, including but not limited to how to isolate work areas, and safe methods of paint removal;
 - c. The areas in which potentially lead-disturbing work occur must be thoroughly cleaned;
 - d. At the completion of the work, the risk assessor must complete appropriate dust and soil sampling, and the sampling reveal that lead – if present – is within acceptable limits. If not, the areas must be cleaned and additional samples taken until the levels are determined to be within acceptable limits; and
 - e. Temporary relocation will be required in most cases.
7. **Temporary relocation:** All households benefiting from housing rehab will be temporarily relocated unless one or more of the following conditions exists:
 - a. All household members are 62 years of age or older;

- b. The house was constructed after 1978;
- c. All interior work will be completed in one eight-hour period;
- d. All interior work will be completed in five consecutive days and the bedrooms, bathroom, and kitchen can be isolated from the rehab work; or
- e. Only exterior work will be done.

DHCD has made financial provision for accommodating the extra cost of temporary relocation. Thus, it is not acceptable to choose to not rehab a house, or to place the house lower on the priority list, because of the need to temporarily relocate the occupants. Further, a safe, decent and affordable temporary relocation dwelling or unit must be made available. Referrals to charitable organizations, shelters, or the Department of Social Services are not acceptable methods of temporary relocation.

8. **Clearance Examination:** At the completion of lead hazard reduction activities and prior to occupants returning to their home after the rehab is completed, the Risk Assessor must complete a Clearance Examination. This involves a visual assessment, conducting dust wipe samples and soil samples and sending them to an accredited laboratory to determine the level of lead in the samples. If the level is too high, additional cleaning and sampling must occur until the lab report indicates that the lead levels are below the threshold determined to pose a hazard. Note that final payment may not be made to the contractor until the unit “passes” the Clearance Examination. Please note also that only the “successful” laboratory analysis is eligible as a cost “exception.” The cost of additional lab tests must be covered with other funds. A written Clearance Report and Lead Hazard Reduction Activity Notice must be submitted by the risk assessor to the program administrator within 15 days of completion of the Clearance Examination.
9. **Abatement:** In certain cases, lead paint abatement may be necessary particularly if there is a child in the home with elevated blood lead levels. If this is the case, the Regional Administrator or Grantee may contact DHCD immediately for further information, and assistance with determining the best approach.

Definitions

The following lead-related definitions are applicable to all rehab projects:

Defective or Failing Paint Surface – any surface exhibiting one or more of the following characteristics:

- a. Paint that is peeling, chipping, pitting or otherwise unstable;
- b. Finishes on **friction and impact surfaces** that rub, bind or crush causing dust;
- c. Finished horizontal surfaces that are rough, pitted or porous;

- d. Unenclosed surfaces known to have been chewed by a child under the age of seven years old; or
- e. Bare soil onto which deteriorated paint might have fallen.

Chewable Surface – any chewable protruding painted surface up to five feet from the floor or ground, which is readily accessible to children under the age seven, e.g., protruding corners, window sills and frames, doors and frames, and other protruding woodwork.