

RSA-130A Lead Paint Poisoning Prevention and Control

What You Need to Know

NH Division of Public Health Services
Department of Health and Human Services
Healthy Homes & Lead Poisoning Protection Program

Important Definitions

- **Child:** a person 72 months of age or less
- **Dwelling:** a structure used or intended for human habitation, including interior and exterior surfaces, and may include common areas and all other property within the same lot
- **Dwelling Unit:** any room, group of rooms, or other interior area of a dwelling, all or part of which is offered or made available for human habitation and may include common areas of the unit and exterior

Important Definitions

- **Child Care Facility:** a facility required to be licensed under the provisions of RSA 170-E:4
- **Interim Controls:** measures designed to reduce **temporarily** human exposure to lead exposure hazards
- **In-place Management:** use of maintenance or controls to **prevent** lead based substances from becoming lead exposure hazards

Important Definitions

- Lead-based Substance: When present in...
 - (a) paint or other coatings, lead equal to or greater than $(\geq)1.0$ mg of lead per square inch or **0.5%** lead by weight
 - (b) soil, ≥ 400 ppm in bare soil in children's play area or $\geq 1,200$ ppm average for bare soil in the rest of the yard
 - (c) surface dust, lead ≥ 40 micrograms of lead per square foot on floors, ≥ 250 micrograms per square foot on windowsills, and ≥ 400 micrograms per square foot on window wells

Important Definitions

- **Lead Exposure Hazard: lead based substances:**

(a) on chewable, accessible, horizontal surfaces that protrude more than $\frac{1}{2}$ an inch and are located more than 6 inches but, less than 4 feet from the ground

(b) which are peeling, chipping, chalking, or cracking or any paint located on a surface that is damaged or deteriorated and likely to become accessible to a child

(c) on surfaces subject to abrasion, friction or damage by repeated impact (such as floors, windows, and doors)

Important Definitions

- Lead Exposure Hazard:

(d) lead located in bare soil, equal to or greater than **400ppm** in a children's play area or **1,200ppm** average for bare soil in the rest of the yard

- Lead base Substance Abatement: measures designed to **permanently** eliminate a lead exposure hazard

The Department of Health and Human Services

- Licenses and certifies training providers, lead inspectors, risk assessors, abatement contractors, supervisors, and workers
- Implements comprehensive case management and investigation for cases of lead poisoning when a child's blood lead level meets or exceeds 10 micrograms per deciliter of whole venous blood
- Conducts inspections during lead hazard reduction activity to ensure compliance

Investigations

- Conducted when a child's blood lead level exceeds 10 micrograms per deciliter of whole venous blood
- Conducted for the purposes of identifying the presence of lead base substances
- Includes but, is not limited to inspections of dwellings, or dwelling units or any child care facility, and testing environmental samples
- May result in an order being issued requiring the reduction of lead exposure hazards if present

Investigations

- Findings of investigations are provided to owners and occupants
- If the leased or rented dwelling has multiple units, and a lead exposure hazard is determined to exist all dwelling units shall be investigated
- When a lead exposure hazard is determined to exist in a leased or rented dwelling or dwelling unit an order shall be issued to the owner requiring lead hazard reduction

Enforcement

- May include a notice of violations for rule violations, administrative fines, or a request for injunctive relief
- The order shall include findings of the inspection, methods appropriate for lead hazard reduction, copies of the rules, the period of time within which lead hazard reduction shall be completed, standards for re-occupancy, and responsibility for verification
- The order which is recorded with the registry of deeds is enforceable and binding against whom the order is issued and any other person or entity that may acquire ownership of the property

Interim Controls

- May be used as an acceptable alternative to lead hazard abatement only with prior written approval
- When interim controls are approved and maintained in response to an order the property owner shall submit a certificate of compliance (COC) for interim controls from a licensed risk assessor annually prior to the expiration of the current certificate
- When a certificate of interim controls expires and a new one has not been issued or when inspection reveals the property no longer meets the requirements a COC for abatement shall be required

Relocation of Tenants

- If a dwelling or dwelling unit is rented when a lead exposure hazard becomes known, the owner may temporarily relocate the family during the lead hazard reduction activity
- The replacement dwelling must be safe, sanitary, and does not contain an interior lead exposure hazard
- The owner shall make reasonable effort to locate a replacement dwelling in the same school district

Relocation of Tenants

- The rent for the replacement unit shall not exceed the rent for the unit from which the family is being displaced
- The owner shall agree in writing to permit the family to reoccupy the original dwelling unit as soon as the lead exposure hazard has been reduced
- The owner shall pay the reasonable and actual costs of relocation from and back to the original dwelling unit

Relocation of Tenants

- The eviction of a family based on the presence of a lead exposure hazard shall not be permitted when the method of lead hazard reduction is interim controls or encapsulation
- The owner may bring action to evict a family when lead hazard reduction can reasonably be expected to require more than 30 days to perform, a dwelling which meets the relocation requirements is offered, prior to the time the family vacates the unit the owner shall return the tenant's security deposit, and the landlord provides the tenant a 30 day eviction notice

Relocation of Tenants

- Re-renting for residential purposes without first reducing the lead exposure hazards shall be subject to penalties
- Any owner who conveys, sells, or transfers an interest in a dwelling unit which has been withdrawn from the residential market without disclosing the existence of an order shall be subject to penalties
- Any tenant who is party to a written lease and forced to relocate due to a lead exposure hazard may terminate the lease (7 days written notice required)

Questions

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For a full version of RSA 130-A, go to :

<http://www.dhhs.nh.gov/dphs/bchs/clpp/rules.htm>