

## CONCISE EXPLANATORY STATEMENT

---

In accordance with the Administrative Procedures Act, R.I. Gen. Laws § 42-35-2.6, the following is a concise explanatory statement:

**AGENCY:** Rhode Island Department of Health

**DIVISION:** N/A

**RULE IDENTIFIER:** 216-RICR-50-15-12

**RULE TITLE:** Lead Safe Work Practices

**REASON FOR RULEMAKING:** This regulation is being created to include all lead safe work rules and regulations originally found in the Lead Poising and Prevention regulation (216-RICR-50-15-3). This regulation also includes alignment with new Environmental Protection Agency and Housing and Urban Development standards and procedures regarding Lead Hazard Mitigation and Certificates of Lead Conformance, which authority to perform and/or enforce has been granted to RIDOH by the Housing Resource Commission.

**ANY FINDINGS REQUIRED BY LAW AS A PREEQUISITE TO THE EFFECTIVENESS OF THE RULE:** N/A

### TESTIMONY AND COMMENTS:

A comment was received regarding how RIDOH defined partial demolition as federal regulations prohibit demolition of painted surfaces. RIDOH refers to partial demolition as long as razing of the building is not occurring. This language is found in § 12.3.1(A)(9). No additional language is needed at this time.

A comment was received regarding how/if RIDOH addresses securing object and furniture in area of interior renovation in § 8.5.4. The comment further asked if this was addressed anywhere. Object containment is addressed in § 12.5.2(C) and meets federal standards. No additional language is necessary at this time.

A comment was received noting that at least six feet of floor covering from wall is required per federal regulations and that RIDOH should specify at least six inches from baseboards and wall joints. RIDOH's regulation is more protective than the federal requirement. § 12.5.6(A)(4)(b) requires interior mechanical paint removal to seal baseboards (if present) with an additional layer of six mil polyethylene sheeting attached with duct tape over the baseboard and extending down the wall and out onto the floor at least six inches from the wall and secure with duct tape. This has been the standard since the creation of the regulations when there was only lead hazard reduction. Interior mechanical paint removal was prohibited except by an LHR Contractor under full containment. RIDOH now allows interior mechanical paint removal because the EPA RRP Rule allows it. RIDOH collectively agreed to retain the additional baseboard requirement to prevent dust generated by mechanical paint removal or demolition to lodge in the

baseboard/wall joint where it couldn't easily be adequately cleaned. This comment will not be accepted at this time.

Several comments were received about lead in soil, specifically § 12.5.13(A)(4)(a).

- a. A comment suggested that the depth of tilling and mixing soil should be increased from three inches to eight inches to match the HUD guidance. The current regulations are more stringent than the HUD standards. The depth requirement is the same for all tilling and mixing soil for HUD and does not take into account the lead concentration of soil. RIDOH's regulations require a different depth depending on the lead concentration.
- b. A comment was received noting that soil alteration (e.g., surface coverings such as grass, turf etc.) may not be appropriate in all instances and suggested adding language to note that exception. RIDOH agrees clarifying language should be added and modified the section accordingly.
- c. A comment was received noting that HUD has issued guidance on monitoring and maintaining interim controls. It was suggested that RIDOH include regulations on interim control monitoring and maintenance. RIDOH requires reinspection every two years as a requirement for obtaining a conditional lead safe certificate. This comment will not be accepted at this time.

A comment was received regarding § 12.5.8(C)(1)(a)(6) and noted that federal regulations require machines to have shrouds or containment systems in addition to HEPA vacuum. The comment asks if RIDOH regulation have similar requirements. RIDOH added clarifying language to be consistent with federal standards.

#### **CHANGES TO THE TEXT OF THE RULE:**

Various corrected PBL – 30 form to newly titled forms and definitions LHM-2-1, LHM-2-2 or LHM-2-3. This original form has been divided into three different forms to be more specific about the lead work that was performed.

§ 12.5.8(C)(1)(a)(6) added “without a shroud or containment system equipped with a HEPA vacuum” to align with federal regulations.

§ 12.5.13(A)(4)(a) added “if area to be controlled is heavily traveled this may not be appropriate” to align with federal guidance.

#### **REGULATORY ANALYSIS:**

In development of this rule, consideration was given to:

- 1) Alternative approaches;
- 2) Overlap or duplication with other statutory and regulatory provisions; and

3) Significant economic impact on small business

No alternative approach, duplication or overlap was identified based on available information. RIDOH has determined that the benefits of the rule justify its costs.