State of Rhode Island and Providence Plantations
Rhode Island Department of Administration
Office of Housing and Community Development
Rhode Island Housing Resources Commission
One Capitol Hill
Providence, RI 02908

NOTICE OF PROPOSED AMENTMENT TO REGULATIONS AND NOTICE OF PUBLIC HEARING

Pursuant to the provisions of Chapter 42-128.1 of the General Laws of Rhode Island, and in accordance with the Administrative Procedures Act Chapter 42-35 of the General Laws, the Rhode Island Housing Resources Commission hereby gives notice of its intent to amend the Building Homes Rhode Island Program Regulations.

The purpose of this amendment is to define the allowable surface areas the property owner or designated person can perform spot removal of interior paint under the Lead Hazard Mitigation Rules and Regulations.

The proposed Lead Hazard Mitigation Regulations and a concise summary of non-technical differences between existing and proposed Lead Hazard Mitigation Regulations are available for public inspection at www.hrc.ri.gov , in person at Rhode Island Housing Resources Commission, One Capitol Hill, Providence, RI 02908 or requested by email Simon.Kue@doa.ri.gov or by calling Simon Kue at 222-4897.

In the development of the proposed amendment 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 upon available information.

All interested parties are invited to submit written or oral comments concerning the proposed regulations by June 21, 2011 to Michael Tondra, Executive Director, HRC at One Capitol Hill, Providence or by email to Michael.Tondra@doa.ri.gov . A public hearing to consider the proposed amendment shall be held on June 21, 2011, at 9:30 a.m. at Conference Room A, Department of Administration, One Capitol Hill, Providence, RI 02908 at which time and place all persons interested therein will be heard.

The room is accessible to the disabled and interpreter services for the hearing impaired will be provided if requested 48 hours prior to the hearing. Requests for this service can be made in writing or by calling Michael Tonrda at 222-6490 or TDD 222-1205.

Signed this 20th day of May 2011

Michael Tondra
Executive Director

RHODE ISLAND Department of Administration
Division of Planning
Office of Housing and Community Development
BUILDING HOMES RHODE ISLAND BOND REGULATIONS

Concise Explanatory Statement Pursuant to RIGL § 42-35-2.3

The Housing Resources Commission promulgated Regulations in November 19, 2008 that stated that under Rule 6C-2 "Spot removal of interior lead-based paint may be performed by the Property Owner or Designated Person if the surface areas from which paint is to be removed are less than thirty (30) square feet in any dwelling unit and less than six (6) square feet in any common area, provided further that no room or common area contains more than eight (8) components with damaged lead-based paint, regardless of the square footage amount of paint that must be removed. Subsequently, the Rhode Island Housing Resources Commission proposed changes in its regulations that would limit the spot removal of interior lead-based paint to less than six (6) square feet per room, including common areas, of any dwelling units or where more than twenty (20) square feet of lead-based paint is disturbed on the exterior. These proposed amendments are necessary to amend the regulations on file with the Office of the Secretary of State to align with existing State and Federal Lead Regulations.

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ADMINISTRATION

Housing Resources Commission

Rules and Regulations

GOVERNING LEAD HAZARD MITIGATION

Adopted on 3/14/2003
As Amended: **07/21/04, 12/10/04, 01/06, 04/07 and 10/08**

Regulation Short Title:
[Lead Mitigation Regulations]

AUTHORITY: These regulations are adopted pursuant to Chapters 42-35, etc. of the Rhode Island General Laws of 1956, as amended.

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ADMINISTRATION
HOUSING RESOURCES COMMISSION

RULES AND REGULATIONS FOR
LEAD HAZARD MITIGATION

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STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ADMINISTRATION
HOUSING RESOURCES COMMISSION

RULES AND REGULATIONS
GOVERNING LEAD HAZARD MITIGATION

RULE 1. PURPOSE

The purpose of these rules is to establish implementing regulations for the Lead Hazard Mitigation Act in Chapter 42-128.1 of the general laws of the State of Rhode Island

RULE 2. AUTHORITY

These rules and regulations are promulgated pursuant to Chapter 42-128.1-5 of the general laws: Housing Resources Commission - Powers and Duties with respect to lead hazard mitigation. The Housing Resources Commission (hereafter referred to as HRC) shall serve as the lead state agency for lead hazard mitigation, planning, education, technical assistance, and coordination of state projects and state financial assistance to property owners for lead hazard mitigation in accordance with 42-128.1-5 of the general laws. The HRC shall implement and put into full force and effect rules and regulations under the powers, duties, and responsibilities assigned to it by the Lead Hazard Mitigation Act, chapter 42-128.1 of the general laws, and by § 42-35, Administrative Procedures, of the Rhode Island General Laws of 1956, as amended.

RULE 3. APPLICATION

The terms and provisions of these rules and regulations shall be liberally construed to permit the HRC to effectuate the purposes of state law, goals, and policies.

RULE 4. SEVERABILITY

If any provision of these rules and regulations, or the application thereof to any person or circumstances, is held invalid by a court of competent jurisdiction, the validity of the remainder of the rules and regulations shall not be affected thereby.

RULE 5. SUPERSEDED RULES AND REGULATIONS

On the effective date of these rules and regulations, all previous rules and regulations, and any policies regarding the administration and enforcement of 42-35, and 42-128.1-5 shall be superseded. However, any enforcement action taken by, or application submitted to, the HRC prior to the effective date of these rules and regulations shall be governed by the rules and regulations in effect at the time the enforcement action was taken, or application filed.

RULE 6. REGULATIONS

RULE 6. A Definitions

1. Affidavit of Completion of Visual Inspection –An affidavit, in a form approved by HRC, signed by the Property Owner or a Designated Person, attesting that he or she has conducted a visual inspection of the individual rental unit and that the individual unit meets the standards for Lead Hazard Control.

2. At Risk Occupant - Means a person under six (6) years of age or a pregnant woman who is a tenant in a dwelling unit (See definition 38.).

3. Certificate of Conformance (also Certificate of Compliance) -A certificate issued by a Lead Hazard Mitigation Inspector which certifies that an individual unit, common areas and exterior are in conformance with the Lead Hazard Mitigation Standards and has passed an Independent Clearance Inspection.

4. Certificate of Presumptive Compliance – A property owner of ten (10) or more dwelling units shall be eligible to obtain a certificate of presumptive compliance from the housing resources commission provided that the following conditions are met: (A) the dwelling units were constructed after 1960, (B) there are no major outstanding minimum housing violations on the premises, (C) the property owner has no history of repeated lead poisonings, and (D) independent clearance inspections have been conducted on at least five (5) percent of the dwelling units, not less than two (2) dwelling units and at least ninety (90) percent of the independent clearance inspections were passed. "Repeated lead poisoning", for purposes of this paragraph, shall mean a lead poisoning rate of less than one half (.5) percent per dwelling unit year, with dwelling unit years being calculated by multiplying the number of dwelling units owned by the property owner by the number of years of ownership since 1992. Major minimum housing violations shall be defined by rule by the housing resources commission. The housing resources commission shall not arbitrarily withhold its approval of applications for presumptive compliance. A certificate of presumptive compliance shall be deemed to be satisfactory for purposes of demonstrating compliance with the requirements of this chapter. If a unit qualifies for a presumptive compliance certificate, by itself having passed an independent clearance inspection at least once, that unit's compliance may be maintained by a visual inspection as set forth in this chapter.

5. Damaged Painted Surface – Surface which has loose, delaminating, flaking, peeling, chipping, or chalking paint, or paint which is abraded by friction, shows evidence of teeth marks, or is damaged by water. For purposes of these Regulations, painted surfaces shall not be considered damaged if the paint is adhered to the substrate and the surface contains only minor impact damage (e.g., a nail hole), minor stress fractures, or other minor damage which is not related to deteriorated paint.

6. Designated Person – The property owner, or the agent of the property owner (See Definition 31.b.), who has completed a HRC approved lead hazard awareness seminar on lead hazards and their control and who has charge, care or control of the dwelling, dwelling unit or structure.

7. Designated Play Area – Land and/or buildings that include play equipment, sand boxes, or are otherwise designed for use by children.

8. Dwelling or Dwelling Unit – Means an enclosed space used for living and sleeping by human occupants as a place of residence, including, but not limited to, a house, an apartment, or condominium, but shall not include hotels or "temporary housing".

9. Elderly Housing - Means a federal, state, or local housing program that is specifically designed and operated to assist elderly persons, sixty-two (62) years of age, or older, as set forth in a regulatory agreement or zoning ordinance.

10. Environmental Lead Poisoning Level – Shall have the same meaning as "Lead Poisoned".

11. Feathering – Light sanding, performed after damaged material has been removed by scraping, to soften abrupt transitions between bare substrate and remaining Intact Paint; or exposed layers of Intact Paint; or patching materials and the surrounding surface. Proper Feathering will produce a surface that, after painting, has no edges that can be lifted with a fingernail.

12. Friction Surface- Any painted surface which may generate dust from abrasion during normal use. Such surfaces include, but are not limited to, interior stair treads and components of windows and doors.

13. High Traffic Area – Shall mean areas of the Dwelling Unit regularly used by or accessible to an at risk occupant.

14. Independent Clearance Inspection – An "independent clearance inspection" means an inspection performed by a person who is not the property owner or an employee of the property owner and who is authorized by the housing resources commission to conduct independent clearance inspections, which shall include: (A) a visual inspection to determine that the lead hazard controls have been met, and (B) dust testing in accordance with rules established by the department of health and consistent with federal standards. A certificate of conformance shall be issued by the person who conducted the inspection on the passage of the visual inspection and the required dust testing. An independent clearance inspection shall be required at unit turn over or once in a twenty-four (24) month period, whichever period is the longer. If the tenancy of an occupant is two (2) years or greater, the certificate of conformance shall be maintained by a visual inspection.

15. Impact Surface –Shall mean an interior or exterior surface that is subject to damage by repeated sudden force, such as certain parts of door frames.

16. Intact Paint – Painted surface that does not have loose, delaminating, flaking, peeling, chipping or chalking paint, and is not abraded by friction, and does not show evidence of teeth marks or water damage. For purposes of these Regulations, painted surfaces shall not be considered damaged if the paint is adhered to the substrate and the surface contains only minor impact damage (e.g., a nail hole), minor stress fractures, or other minor damage which is not related to deteriorated paint.

17. *Lead Free* – Means that a dwelling, dwelling unit, or premises contains no lead or contains lead in amounts less than the maximum acceptable environmental lead levels established by regulation by the Rhode Island Department of Health.

18. *Lead Abated* – Means a dwelling and premises which are lead free or lead safe.

19. *Lead Hazard Mitigation Compliance* – "Lead hazard mitigation compliance" means an independent clearance inspection and certificate, as specified in this subdivision, undertaken to determine whether the lead hazard mitigation measures have been completed. Said inspection shall be valid for two (2) years or until the next turnover of the dwelling unit, whichever period is longer. The requirements for a clearance review inspection shall be met either by an Independent Clearance Inspection or a visual inspection.

20. *Lead Hazard Controls* – Shall means those sections of the Lead Hazard Mitigation Standard pertaining to repair of deteriorating paint, correction of dust generating conditions, provision of cleanable surfaces, and correction of soil lead hazards that can be identified by Visual Inspection or inspections conducted in accordance with R.I.G.L Chapters 45-24.2, entitled "Minimum Housing", and 45-24.3, entitled "Housing Maintenance and Occupancy Code."

21. *Lead Hazard Mitigation Inspector* – Shall mean a person approved by the HRC to perform independent clearance inspections.

22. *Lead Hazard Mitigation Standards* – "Lead hazard mitigation standards" means standards adopted by the housing resources commission for a dwelling unit and associated common areas that provide for:

(i) A continuing and ongoing responsibility for lead hazard control that includes: (A) repair of deteriorated paint; (B) correction of dust generating conditions such as friction or impact areas; (C) provision of cleanable surfaces to eliminate harmful dust loading; (D) correction of soil lead hazards; (E) safe work practices;

(ii) At unit turnover: (A) the provision of information on lead hazards and their avoidance and control to tenants; (B) documentation of lead hazard mitigation compliance; (C) an explicit process for notification by tenants to property owners of instances of deterioration in conditions effecting lead hazards; and

(iii) Maintenance of "lead hazard control." "Lead hazard control" means those portions of the lead hazard mitigation standard pertaining to repair of deteriorating paint, correction of dust generating conditions, provision of cleanable surfaces, and correction of soil lead hazards that can be identified by visual inspection as provided for in paragraph (5)(ii) of this section or through inspections conducted in accordance with chapter 24.2 of title 45, "Minimum Housing Standards", and chapter 24.3 of title 45, "Housing Maintenance and Occupancy Code".

23. *Lead Poisoned* –Means a confirmed venous blood lead level established by the Department of Health pursuant to § 23-24.6-4(1).

24. Lead Safe – Means that a dwelling, dwelling unit, or premises has undergone sufficient lead hazard reduction to ensure that no significant environmental lead hazard is present and includes, but is not limited to, covering and encapsulation and is evidenced by a Lead Safe Certificate issued by the Department of Health.

25. Major Minimum Housing Violations - are defined by rule by the Housing Resources Commission to include violations of the following Sections of Chapter 45-24.3 Housing Maintenance and Occupancy Code or as amended from time to time:

(i) Section 45-24.3-6 (b) Every owner of a multiple dwelling is responsible for maintaining, in a clean and sanitary condition, the shared or public areas of the Dwelling Unit and Premises. Occupants of two (2) and three (3) family dwellings shall share the maintenance of clean and sanitary condition within the shared or public areas of the dwelling and Premises;

(ii) Section 45-24.3-7 (ii) Cabinets and/or shelves for the storage of eating and drinking and cooking equipment and utensils, and of food that does not, under ordinary maximum summer conditions, require refrigeration for safe keeping, and a counter or table for food preparation; the cabinets and/or shelves shall be adequate for the permissible occupancy of the Dwelling Unit and of sound construction finished with surfaces that are easily cleanable and that will not impart any toxic or deleterious effect to food.

(iii) Section 45-24.3-9 (1) Every Dwelling Unit must have heating facilities properly installed and maintained in safe and working condition, and capable of safely and adequately heating habitable rooms, bathrooms, and water closet compartments in every Dwelling Unit located at a distance of eighteen inches (18") above the floor level under average winter conditions to a temperature of at least sixty-eight (68) degrees Fahrenheit.

(iv) Section 45-24.3-10 (1) Every foundation, floor, roof, ceiling, and exterior and interior wall must be reasonably weather tight, watertight, and damp free, and shall be kept in sound condition and good repair. All exterior wood surfaces, other than decay resistant woods, must be protected from the elements and decay by paint or other protective covering or treatment. Potentially hazardous materials will not be used where readily accessible to children. Walls must be capable of affording privacy for the occupants. Every Premise must be graded, drained, free of standing water, and maintained in a clean, sanitary, and safe condition;

(v) Section 45-24.3-10 (2) Potentially hazardous material on the interior surfaces of any Dwelling Unit, rooming house, rooming unit, or facility occupied by children is prohibited. The interior surfaces shall include, but are not limited to, window sills, window frames, doors, door frames, walls, ceilings, stair-rails and spindles, or other appurtenances;

(vi) Section 45-24.3-10 (3)Lead based substances are prohibited whenever circumstances present a clear and significant health risk to the occupants of the property, as defined by the Department of Health;

(vii) Section 45-24.3-10 (18) Every plumbing fixture and all water and waste pipes must be properly installed and maintained in good condition.

26. Occupant – A tenant of a rental property.

27. Paint- Any substance applied to a surface as a coating, including, but not limited to, household paints, varnishes and stains.

28.*Person* - Means any individual, firm, corporation, association, or partnership and includes municipal and state agencies.

29.Premises – Shall mean a platted lot or part thereof or un-platted lot or parcel of land, or plot of land, occupied by a dwelling or structure and includes any building, accessory structure, or other structure thereon.

30.Property Owner – "Property owner" means any person who, alone or jointly or severally with others:

(i) Shall have legal title to any dwelling, dwelling unit, or structure with or without accompanying actual possession of it; or

(ii) Shall have charge, care, or control of any dwelling, dwelling unit, or structure as owner or agent of the owner, or an executor, administrator, trustee, or guardian of the estate of the owner. Any person representing the actual owner shall be bound to comply with the provisions of this chapter, and of rules and regulations adopted pursuant to this chapter, to the same extent as if that person were the owner.

(iii) Notwithstanding the foregoing, no holder of a mortgage or other lien holder who, in enforcing a security interest, acquires title by foreclosure or deed in lieu of foreclosure shall be considered a property owner for purposes of this chapter, if the holder transfers the title within one year after the date the title is acquired; provided, however, if the mortgagee or lien holder, subsequent to acquiring title, is notified of a lead hazard under chapter 24.6 of title 23 or § 42-128.1-8(a)(5), then and in that event, the mortgagee or lien holder shall take any steps to reduce the lead hazard that shall be required under the provisions of chapter 24.6 of title 23 or this chapter, as applicable.

This definition does not include the agent of the property owner where the agent is only responsible for the property management and does not have authority to fund capital and/or major property rehabilitation on behalf of the owner.

31. Regulatory Agreement – Shall mean a recorded land deed or mortgage restriction as to the use of the property.

32.Repeated Lead Poisoning – Shall mean a lead poisoning rate of greater than one half percent (.005) per dwelling unit year, with dwelling unit years being calculated by multiplying the number of dwelling units owned by the property owner by the number of years of ownership since 1992.

33. Rental Property – Any premises containing dwelling unit(s) that are let, leased or rented to a person for the purposes of living, sleeping, cooking, or eating therein.

34. Substrate- means the material directly beneath the painted surface out of which the components are constructed, including, but no limited to, wood, drywall, plaster, concrete, brick or metal.

35. Temporary Housing – Means any seasonal place of residence that is rented for no more than one hundred (100) days per calendar year to the same tenant, where no lease renewal or extension can occur, and any emergency shelter intended for night to night accommodation.

36. Tenant- A person having the legal right under a rental agreement to occupy a dwelling unit.

37. Tenant Turnover – The time at which all existing occupants vacate a unit and all new occupants move into the unit.

38.*Visual Inspection* – Means a visual inspection by a property owner or designated person to determine that the lead hazard controls have been met. If the designated person concluded that the lead hazard controls specified in this chapter have been met, the designated person may complete an Affidavit of Completion of Visual Inspection. The affidavit shall be valid upon its being notarized within thirty (30) days after the completion of the visual inspection and shall set forth:

(i) The date and location that the designated person took the lead hazard control awareness seminar;

(ii) The date and findings of the lead hazard evaluation;

(iii) The date and description of the lead hazard control measures undertaken;

(iv) The date of the visual inspection; and

(v) The name and signature of the designated person and date of the Affidavit of Completion of Visual Inspection.

An Affidavit of Completion of Visual Inspection shall be valid for two (2) years after the date it was notarized or until unit turn over, whichever time period is the longer, and shall be kept by the property owner for a minimum of five (5) years.

RULE 6 B: Lead Hazard Mitigation Standards

1. **General Requirements** – Property Owners of rental housing constructed prior to 1978, who do not qualify for one of the exemptions set forth in RULE 6 D, Section 1, are required to mitigate or abate lead hazards in Dwelling Units, Premises and associated common areas. All Dwelling Units, Premises and associated Common Areas shall at all times be maintained in conformance with Lead Hazard Mitigation Standards and Lead Hazard Control Standards in accordance with RULE 6 B and RULE 6 C. The Lead Hazard Mitigation Standards shall include interior and exterior paint, dust generating conditions such as friction and impact areas, and soil containing lead. Property Owners have a continuing and ongoing responsibility for meeting and maintaining the Lead Hazard Mitigation Standard through visual assessments and dust testing.

   1.1. Exceptions. When a Dwelling Unit has been cited with a notice of violation by the Department of Health for lead violations, the unit shall be disqualified and prohibited from using the Lead Hazard Mitigation Regulations. Property Owners of such dwelling units shall utilize approved lead hazard reduction and/or lead hazard control techniques established by DOH, R23-24.6-PB, to address identified lead hazards and shall maintain a valid current Lead Safe Certificate for the unit issued by DOH. Alternatively, property owners shall administer the property identified on an expired lead-safe certification in accordance with the requirements of these regulations.

2. **Significant Environmental Lead Hazard Standard**. Lead levels in interior dust that are in excess of forty (40) μg/ft2 on floors, two hundred and fifty (250) μg/ft2 on window sills, four hundred (400) μg/ft2 in window wells, or forty (40) μg/ft2 on any surfaces shall be considered significant environmental lead hazards and shall require lead hazard control in accordance with RULE 6 C of this regulation.

3. **Lead Hazard Mitigation Standards.** The Standards apply to all rental units constructed prior to 1978 unless otherwise exempted elsewhere in the regulations. Exterior lead hazards identified between November 1 and May 31 shall be corrected and inspected by the following July 1. For rental Dwelling Units located in a condominium building or structure, the Lead Hazard Mitigation Standards shall only apply to the interior of the Dwelling Unit.

   3.1. All painted surfaces shall be assumed to contain lead unless constructed after 1978 or specifically determined to be Lead Free in accordance with regulations established by DOH, (R23-24.6-PB).

      3.1.1 Evidence that a painted surface was constructed after 1978 shall include documentation from the manufacturer, building permits or other documentation from a local governmental authority that the painted surface was constructed after 1978. In the case of absence of any of the above documentation, the Mitigation Inspector, using their professional expertise, may determine if the particular component was constructed after 1978. A description of the component and the reason that sustain the finding shall be

included in the "Comments Section" of the Mitigation Clearance Inspection Report.

3.2. All painted surfaces in dwelling units, associated common areas, exterior surfaces and other premises shall be free from chipping, chalking, and/or peeling paint. All painted surfaces shall be intact.

3.3. All friction surfaces including, but not limited to windows, doors, and cabinets that are painted shall be free from abrasion and friction points;

3.4. All painted impact surfaces shall be covered with a durable cover or lead free coating.

3.5. All horizontal surfaces including, but not limited to window sills, window troughs/wells, floors, and stairs, but excluding ceilings, in a Dwelling Unit shall be provided with a cleanable surface.

3.6. All soil within five (5) feet of the dwelling, other buildings on the Premises, and within five (5) feet of any Designated Play Area for children shall be covered or made inaccessible to children in accordance with the control standards set forth in RULE 6 C, section 8.

3.7. All surfaces shall be clean and free of lead dust in excess of the standards set forth in 3.1.8, below.

3.8. Mitigation Standards for Lead in Interior Dust. The permissible standard for lead in interior dust established by DOH shall be the acceptable level of dust for mitigation. The standards for wipe samples shall be defined as follows, or as modified by regulation by DOH:

3.8.1 _Lead Free Standard:_Shall be less than twenty micrograms of lead per square foot (20 μg/ft2) on any surface

3.8.2 Lead Safe Standard:

3.8.2.1 Floors: Twenty(20) micrograms of lead per square foot (20 μg/ft2) to forty (40) micrograms of lead per square foot (40 μg/ft2);

3.8.2.2. Window Sills: Twenty (20) μg/ft2 to two hundred and fifty (250) μg/ft2;

3.8.2.3. Window Wells: Twenty (20) μg/ft2 to four hundred (400) μg/ft2;

3.8.2.4 Any Other Surfaces: Twenty (20) μg/ft2 to forty (40) μg/ft2.

RULE 6 C: Lead Hazard Controls

1. All painted surfaces shall have Intact Paint, free from visible chipping, chalking, and/ or peeling.

2. Spot removal of interior lead-based paint may be performed by the Property Owner or Designated Person if the surface areas from which paint is to be removed are less than ~~thirty (30)~~ six (6) square feet per room, including common areas, of any dwelling unit or where no more than twenty (20) square feet of lead based paint is disturbed on the exterior. ~~in any dwelling unit and less than six (6) square feet in any common area, provided further that no room or common area contains more than eight (8) components with damaged lead based paint, regardless of the square footage amount of paint that must be removed.~~ Windows and doors shall not be counted as damaged components provided removal of lead is performed off the Premises.

2.1. Components that are repaired off the Premises shall not be counted for the purpose of the requirements in Section 2, above. Components shall include:

2.1.1. Walls
2.1.2. Ceilings
2.1.3. Floors
2.1.4. Window molding
2.1.5. Window wells
2.1.6. Woodwork/molding
2.1.7. Windows
2.1.8. Doors

~~2.2. Components that are repaired off the Premises shall not be counted for the purposes of the requirements in Section 2, above.~~

2.~~3.~~2. Removal of Damaged Painted Surfaces in excess of those cited in Section 2, above shall only be done by lead licensed contractors or remodeler/renovators as certified by DOH, R23-24.6-PB.

2.~~4.~~3. The Property Owner/Designated Person may repair Damaged Painted Surfaces in accordance with the standards in RULE 6 D.

3. **Training Requirement.** Unless otherwise certified or licensed by HRC or DOH as a Lead Hazard Reduction Contractor or Lead Safe Remodeler/Renovator, a Property Owner or Designated Person is required to attend a three (3) hour lead hazard awareness seminar approved by HRC before performing Lead Hazard Mitigation/Control work as identified in RULE 6 C and hiring a Lead Mitigation Inspector to conduct a Mitigation Inspection.)

4. **Repair of Damaged Paint Surface**: Repair shall include the application of a protective coating or paint. The surface substrate shall be dry and protected from future moisture damage before applying a new coating or paint. All protective coating and paint shall be applied in accordance with manufacturer's recommendations.

4.1. Repair of intact, factory applied prime coating on metal surfaces is not required. Finish coatings on such surfaces, however, require repair if those coatings contain lead-based paint.

4.2. Any physical defect in the substrate of a painted area or component that is causing deterioration of the surface or component shall be repaired before treating the surface or component. Examples of defective substrate conditions include dry-rot, rust, moisture-related defects, crumbling plaster, and missing siding or other components that are not securely fastened.

5. **Removal of Damaged Painted Surfaces.** Before applying new paint, all loose paint and other loose material shall be removed from the surface to be treated. Acceptable methods for paint removal/surfaces preparation include:

5.1 Wet hand scraping;
5.2 Wet sanding;
5.3 Feathering" of interior surfaces;
5.4 Utilization of non-flammable strippers which do not contain methylene chloride;
5.5 Use of a heat gun restricted to a temperature not to exceed one thousand (1,000) degrees Fahrenheit is allowed only if the occupants are not present on the premises;

5.6 Dry hand scraping is allowed only by a DOH lead licensed contractor using appropriate containment and where the occupants are not present on the Premises; or

5.7 Any other methods approved in writing by DOH and/or HRC.

6. **Friction and Impact Surfaces**. Lead Hazard Control for impact or friction surfaces shall be sufficient to protect lead-based paint from impact or abrasion.

6.1 Friction surfaces other than floors and stair treads located within the rental dwelling unit

6.1.1. Treatment of friction surfaces other than floors and stair treads located within the rental Dwelling Unit is required only if:

6.1.1.1 Lead-based paint is known or assumed to be present as required in RULE 6 B, 3.1; and

6.1.1.2 There is evidence that the paint is presently being abraded or that circumstances indicate that impact, rubbing, scraping, or other factors are present that may through normal use reasonably result in the creation of paint dust, paint chips, or other paint particles.

6.1.2 Treatment for friction surfaces other than floors and stair treads located within the rental dwelling unit, shall include repairing any damaged paint as required by Rule 6C, shall eliminate friction points or treat the friction surface so that paint is not subject to abrasion.

6.1.2.1 Doors: Examples of acceptable treatment include re-hanging and/or planning doors so that door does not rub against the door frame.

6.1.2.2 Windows: Examples of acceptable methods of eliminating friction surfaces on windows include:

6.1.2.2.1 Removing, wet stripping of all friction surfaces, repainting windows; and installing window linings according to 6.3.1.5.2, or

6.1.2.2.2 Replacing with lead free window(s) or

6.1.2.2.3 Installing window channel guides that eliminate abrasion of painted surfaces.

6.1.2.3 All window components which are abraded by friction and which are designed to be operable shall be made operable.

6.1.2.4 Floors and stair treads in the common areas of the building: Examples of acceptable treatment include covering with a durable cover such as carpeting, tile, sheet flooring, and plastic stair tread covers.

6.1.3 Treatment of exterior floors, stairs and porches is required only if:

6.1.3.1 Lead-based paint is known or assumed to be present as required in RULE 6 B, 3.1; and

6.1.3.2 There is a damaged painted surface(s) on the floor or stair treads.

6.1.3.3 Treatment of damaged painted surfaces on floors and stair treads shall be performed as required by Rule 6 C except that treatment for any abrasion to floors or stair treads caused by another building component shall eliminate the friction points with such component or treat the friction surface so that paint is no longer subject to abrasion.

6.2 Floors and Stair tread friction surfaces located within the rental dwelling unit:

6.2.1 Treatment of floors and stair tread friction surfaces within the rental dwelling unit is required only if:

6.2.1.1 Lead-based paint is known or assumed to be present as required in RULE 6 B, 3.1; and

6.2.1.2 There is a damaged painted surface(s) on the floor or stair treads.

6.2.1.3 Treatment of damaged painted surfaces on floors and stair treads shall be performed as required by Rule 6 C except that treatment for any abrasion to floors or stair treads caused by another building component shall eliminate the friction points with such component or treat the friction surface so that paint is no longer subject to abrasion.

6.3. Impact Surfaces

6.3.1. Treatment of impact surfaces is required only if:

6.3.1.1. Lead-based paint is known or assumed to be present; and

6.3.1.2. Paint on an impact surface is damaged, abraded, rubbed, impacted or otherwise deteriorated; and

6.3.1.3. The damaged paint is caused by impact from a related building component for example:

6.3.1.3.1. A door knob that strikes a wall, or

6.3.1.3.2. A window sash that strikes a window well

6.3.1.4. Treatment of impact surfaces shall protect the paint from impact in addition to repairing any damaged paint as required by Rule 6C.

6.3.1.5. Examples of acceptable treatment include:

6.3.1.5.1. Eliminating impact surfaces installing a door stop to prevent a door from striking a wall or baseboard, or

6.3.1.5.2. Installing window liners to prevent a window sash from striking a window well.

7. Provision for Cleanable Surfaces

7.1. Dust control shall involve a thorough wet cleaning of all horizontal surfaces, such as interior window sills, window troughs/wells, floor, and stairs, but excluding ceilings. All horizontal surfaces, including, but not limited to floors, stairs, window sills and window troughs, that are rough, pitted, or porous shall be covered with a smooth, cleanable covering or coating, such as metal coil stock, plastic, or smooth flooring such as wood tile, linoleum and vinyl.

7.2. Surfaces covered by rug or carpeting shall be cleaned as follows:

7.2.1. An attached carpet, if is not to be removed, located in an area of the dwelling unit containing dust-lead hazards shall be thoroughly vacuumed equipped with a working HEPA filter system or wet vacuum

7.2.2. Protective measures shall be used to prevent the spread of dust upon removal of a rug, carpet or padding from the dwelling. For example, it shall be misted to reduce dust generation during removal. The item(s) being removed shall be wrapped or otherwise sealed before removal from the worksite.

7.2.3. An unattached rug or an attached carpet that is to be removed, and padding associated with such rug or carpet, located in an area of the Dwelling Unit with lead dust hazards on the floor, shall be thoroughly vacuumed with HEPA vacuum or wet vacuum.

7.2.4. The floor surfaces under a rug or carpeting shall be cleaned where feasible, including upon removal of the rug or carpeting, with a HEPA vacuum or wet vacuum.

8. Acceptable Lead Hazard Mitigation Treatments for Soil

8.1. All visible paint chips on the ground in any areas accessible to children under six (6) years of age shall be cleaned up and properly disposed of.

8.2. The following treatments shall be acceptable to meet the Lead Hazard Mitigation Standard for exposed soil:

- 8.2.1. Establish full coverage with grass or other ground covering plants.
- 8.2.2. Cover with landscape cloth and 6" of mulch.
- 8.2.3. Cover with landscape cloth and 4" of crushed stone, stone dust, gravel, sand, etc.
- 8.2.4. Cover with asphalt or cement.
- 8.2.5. Make the area inaccessible to children by installing fences or hedges.

8.3. High traffic areas shall be covered using treatments described in Section 6.2.3 or 6.2.4, above.

9. Prohibitions.

The following Lead Hazard Mitigation/Control methods are prohibited under all conditions:

9.1. Abrasive blasting and/or utilization of mechanical removal equipment on interior surfaces containing lead-based paint; or

9.2. Utilization of a torch or open flame burning; or

9.3. Utilization of chemical strippers containing methylene chloride for interior work areas; or

9.4. Dry sweeping of lead-contaminated areas or surfaces; or

9.5. Dry sanding and scraping of interior painted surfaces except for "Feathering" of previously treated surfaces or as allowed in 5.6, above.

10. Occupant Protection and Work Preparation

10.1. Occupant Protection.

10.1.1. The Property Owner of a dwelling shall make all reasonable efforts to ensure that occupants are not present during Lead Hazard Mitigation/Control activities. Reasonable efforts shall include, as a minimum, providing written notification to the occupants at least one week in advance of the proposed Lead Hazard Mitigation/Control activities. Said notice shall be signed by both the property owner/designated person and the tenant. The notice shall include:

- 10.1.1.1 The days and hours during which the work will be performed;
- 10.1.1.2 The method by which the tenants will be compensated (e.g. pro-rata adjustment and abatement of the rent) for loss of use of living space if tenants are required to vacate the property overnight for three (3) or more days to complete the lead hazard reduction activities, and
- 10.1.1.3 Information on lead hazards and avoidance and control for tenants.

11. Worksite Preparation.

11.1. The worksite shall be prepared to prevent the release of leaded dust, and contain lead-based paint chips and other debris from Lead Hazard Mitigation/Control

activities within the worksite until they can be safely removed. Practices that minimize the spread of leaded dust, paint chips, soil and debris shall be used during worksite preparation. At a minimum, these practices shall include all requirements of the Occupational Safety & Health Administration 29 CFR 1926.62 and 29 CFR 1910 or their successor regulations.

RULE 6 D Duties of Property Owners

1. **Exemption**: The following types of pre-1978 rental Dwelling Units are exempt from the requirements of this regulation:

   1.1 Rental units with current lead-safe or lead-free certificates;
   1.2 Temporary housing;
   1.3 Elderly housing;
   1.4 Housing comprised of two (2) or three (3) units where one unit is occupied by the property owner.

2. **Responsibilities of Owners**: Property Owners/Designated Person of rental property constructed prior to 1978, and which do not qualify for one of the exemptions set forth in Section 1 above, shall mitigate lead hazards and shall comply with the following requirements.
   2.1 Learn about lead hazards by taking a lead hazard awareness seminar approved by the HRC;
   2.2 Evaluate the dwelling unit and premises for lead hazards, consistent with the requirements for a Lead Hazard Clearance Inspection;
   2.3 Correct identified lead hazards by meeting and maintaining the Lead Hazard Mitigation Standards;
   2.4 Provide tenants: (i) basic information about lead hazard control as approved by HRC; (ii) a copy of any Independent Clearance Inspections; and (iii) information about how to give notice of deteriorating conditions, on forms approved by HRC;
   2.5 Correct lead hazards within thirty (30) calendar days after notification from the tenant of a Dwelling Unit with an At Risk Occupant, or as provided by RIGL section 34-18-22; and
   2.6 Correct lead hazards identified by a Visual Inspection or Independent Clearance Inspection within sixty (60) calendar days of inspection or receipt of inspection report.

3. **Responsibilities of New Property Owners**: A new Property Owner, as evidenced by a change of title, of a rental Dwelling Unit constructed prior to 1978 that has not been certified Lead Safe or Lead Free or does not have a current Certificate of Conformance, and that is occupied by an At Risk Occupant, shall have up to sixty (60) calendar days after the property has been transferred by change of ownership to meet the requirements for Lead Hazard Mitigation, if those requirements were not met by the previous owner at the time of transfer, provided that the new Property Owner has the property visually evaluated within thirty (30) business days after assuming ownership to determine conformity with the lead hazard control standards.
4. **Responsibilities of Mortgage and Lien Holders:** A holder of a mortgage or other lien holder who, in enforcing a security interest, acquires title by foreclosure or deed in lieu of

foreclosure shall not be considered a property owner if such holder transfers title within one (1) year after the date such title is acquired. If, however, said mortgage or lien holder, subsequent to acquiring title, is notified of a lead hazard under the General Laws in Chapter 23-24.6 entitled "Lead Poisoning Prevention Act" or Chapter 128.1 entitled "Lead Hazard Mitigation Act", then said mortgage or lien holder shall take steps to reduce the lead hazard as required under the provisions of chapter 23-24.6 or shall correct lead hazards within thirty (30) days after notification from a tenant of a dwelling unit with an At Risk Occupant as in RULE 6 D, Section 1.5, as applicable.

5. **Inspection Requirements.** The Property Owner/Designated Person shall cause a Visual Inspections and /or Independent Clearance Inspection to be conducted in all rentals Dwelling Units owned by the Property Owners in order to comply with these regulations. Exterior lead hazards identified between November 1 and May 31 shall be corrected and inspected by June 1, or within 30 days from the date it was issued, whatever is the latest. The length of tenancy of an occupant in the Dwelling Unit(s) shall determine the frequency and type(s) of inspections required. Property Owners with ten (10) or more units may qualify for Presumptive Compliance, as defined under RULE 6 F.
   - 5.1 An Independent Clearance Inspection shall be required at unit turnover within thirty (30) days of re-occupancy, or once in a twenty-four (24) month period, whichever period is longer;
   - 5.2 A Certificate of Conformance (Compliance) shall be valid for two (2) years or until the next turnover of the Dwelling Unit, whichever period is longer, provided that no more than one (1) Independent Clearance Inspection shall be required in any twenty-four (24) month period.
   - 5.3 If the tenancy of the occupant is two (2) years or greater, the Certificate of Conformance (Compliance) shall be maintained by a Visual Inspection. A Visual Inspection shall be performed every two (2) years or an Independent Clearance Inspection shall be conducted at unit turnover within thirty (30) days of re-occupancy, whichever time period is shorter.

6. **Visual Inspections:**
   - 6.1 A Visual Inspection shall be conducted within 30 days of the expiration date of the certificate of Conformance by the Property Owner/Designated Person to determine that the Lead Hazard Mitigation Standards have been met. The Mitigation Standards are: all painted surfaces shall be assumed to contain lead unless constructed after 1978; all painted surfaces shall be intact; all friction surfaces shall be free from abrasion and friction points; <u>all painted high impact areas shall be covered with a durable cover</u> or high quality enamel or lead free coating; all horizontal surfaces shall be provided with a cleanable surface; all soil within 5 feet of the building or any designated play area shall be covered or made inaccessible; all surfaces shall be clean and free of lead dust.

     6.1.1. If the Property Owner/Designated Person concludes that the Lead Hazard Mitigation Standards have been met, the Property Owner/Designated Person may complete an Affidavit of Completion of Visual Inspection on forms approved by HRC. The Affidavit shall be notarized within thirty (30) days after completion of the Visual Inspection and shall set forth:

     6.1.1.1 The date and location that the Property Owner/Designated Person took the Lead Hazard Control awareness seminar approved by the Housing Resources Commission;

6.1.1.2 The date and finding of the most recent Independent Clearance Inspection;

6.1.1.3 The date and description of the Lead Hazard Control measures undertaken;

6.1.1.4 The date of the Visual Inspection; and

6.1.1.5 The name and signature of the Property Owner/Designated Person and date of the Affidavit of Completion of Visual Inspection.

6.2 An Affidavit of Completion of Visual Inspection shall be submitted for approval to the HRC within 30 days after the Visual Inspection was conducted and shall be valid for two (2) years after the date it was notarized or until unit turnover, whichever time period is the shorter, and shall be kept by the Property Owner for a minimum of five (5) years.

RULE 6 E: Lead Hazard Mitigation Compliance

1. **Independent Clearance Inspection**: The Independent Clearance Inspection shall be performed by a person who is not the Property Owner or an employee of the Property Owner and who is authorized by the HRC to conduct such inspections.

2. **An Independent Clearance Inspection shall consist of:**

2.1 Obtaining from Property Owner/Designated Person documentary proof that he/she has taken the Lead Hazard Awareness Seminar and has evaluated the dwelling unit in preparation for an inspection. A copy of the property owner's Certificate of Attendance to the three hour Lead Hazard Awareness Seminar shall be included as part of the Mitigation Inspection Report.

2.2 A Visual Inspection of the Dwelling Unit, common areas exterior and soil to confirm that the Lead Hazard Mitigation Standards in RULE 6 B, Section 3 have been met; and

2.3 Dust testing in accordance with the procedures established in Rule 6 E, Section 5, to determine that the requirements of RULE 6 B, Lead Hazard Mitigation Standards, have been met.

2.3.1 Dust testing shall be completed only after the Dwelling Unit, common areas, exterior and soil have passed a visual inspection, as specified in 2.2, above.

2.4. The property owner shall be eligible for an automatic weather variance if any exterior lead hazards are identified by the Mitigation Inspector between November 1 and June 1. The hazards shall be corrected by the following July 1.

3. **Priority of Inspection.** The priority of an Independent Clearance Inspection shall focus in and/or around areas where the conditions pose greater health risk to children under six (6) years of age; including the children's bedrooms; and the play areas in the unit.

4. **For rental Dwelling Units located in a condominium building or structure**, the inspection requirements shall be limited to the interior of the Dwelling Unit. The exterior, soil and common areas of the building are exempt from inspection requirements.

5. **Evaluating Lead in Interior Dust.**

5.1. General Requirements. Lead Hazard Mitigation Inspectors shall collect interior dust samples pursuant to this Section which represent a "worst case; for floors and carpets, the inspector shall collect these samples from areas nearest entries, in high traffic areas, and/or under windows. If any sample exceeds the permissible concentration for lead in interior dust established in Rule 6B, Section 3, Sub-section.3.8, the Lead Hazard Mitigation Inspector shall declare the entire dwelling unit to be in non-compliance with this standard.

5.2. Minimum Sampling Requirements for Dwelling Units. For each Dwelling Unit, Lead Hazard Mitigation Inspectors shall collect a minimum of one (1) field blank for each building/structure where wipe sampling is performed and one (1) interior dust wipe sample from each of the following three (3) areas:

5.2.1. Floors;

5.2.2. Window sills and/or wells; and

5.2.3. Carpets/upholstered furniture if present; if not present, the third sample shall also be taken from a floor, different than 5.2.1

5.2.4. Additional dust wipes as determined by the inspector to insure compliance with the Lead Hazard Control Standards.

5.3. Units with an At Risk Occupant. Lead Hazard Mitigation Inspectors shall comply with the minimum sampling requirements as established in Section 5, sub-section 5.2 above, and in addition, take:

5.3.1. One (1) dust wipe sample in each bedroom occupied by a child; and

5.3.2. One (1) dust wipe sample in each room used by children for play, such as a playroom, television room, or living area.

5.4. Procedure for Collecting Wipe Samples. Environmental Lead Inspectors/Inspector technicians shall collect wipe samples for interior dust in accordance with the following procedure:

5.4.1. New disposable gloves shall be worn for each wipe sample obtained;

5.4.2. The collection area shall be one square foot (1 ft^2) whenever feasible;

5.4.3 If the entire surface to be sampled measures less than one square foot (1 ft^2), the collection area shall be either a representative section of the surface or one-hundred percent (100%) of the surface, provided that the collection area shall not be less than one-tenth of a square foot (0.10 ft^2) to determine lead-free or lead-safe status. The exact collection area sampled shall be measured and recorded;

5.4.4 The pre-moistened wipe or towelette shall be placed flat on the surface to be sampled and rubbed in an "S" pattern once over the entire sample area;

5.4.5 The wipe shall then be folded in half and rubbed over the entire sample area in an "S" pattern once at a ninety (90) degree angle to the first series of wipes;

5.4.6 The wipe shall be folded and placed in a labeled tube for laboratory analysis;

5.4.7 A minimum of one (1) unused wipe for every package of wipes used shall be submitted to the laboratory as a sample blank; and

5.4.8 A minimum of one (1) field blank shall be submitted to the laboratory for each building/ structure where wipe sampling is performed. A field blank shall be obtained by removing an unused wipe or towelette from its packaging, immediately folding the wipe, and placing it in a labeled tube for

laboratory analysis. The field blank shall be collected prior to leaving the building/structure where wipe samples were collected.

5.4.9 In order for dust wipes samples to be valid for granting a Certificate of Conformance, samples must be submitted for laboratory analysis within three (3) business days of being collected.

5.4.10 A set of dust wipes that has a single failure requires a full set of new dust wipes.

6. Evaluation of Independent Clearance Inspection Results.

6.1 If the Clearance Inspection indicates that the unit does not meet the Lead Hazard Mitigation Standards, the Lead Hazard Mitigation Inspector shall provide the Property Owner/Designated Person with a Written Report on forms approved by HRC.

6.2 If the unit meets all of the Lead Hazard Mitigation Standards, the Lead Hazard Mitigation Inspector shall provide the Property Owner with a Written Report.

6.3 Lead Hazard Mitigation Inspectors who have conducted an Independent Clearance Inspection pursuant to this Section shall submit the Written Report of this inspection to HRC, on forms approved by HRC, along with a copy of the Certificate of Conformance, if one was issued, no later than five (5) business days subsequent to the receipt of all laboratory results or if no dust testing was performed, then five days from the date of the inspection

6.4 The Written Report shall include the Mitigation Clearance Inspection Report, on forms approved and supplied by HRC which include the Mitigation Inspector's verification of the Property Owner/Designated person having taken the lead hazard awareness seminar, and supporting laboratory documentation, if dust testing was conducted. .

7. Use of Licensed Laboratory. Lead Hazard Mitigation Inspectors shall only utilize a laboratory licensed in accordance with DOH, R23-24.6-PB, Section 19.1, or as amended from time to time.

8. Conflict of Interest.

8.1. Lead Hazard Mitigation Inspectors shall not have any interest, financial or otherwise, direct or indirect, or contractual, or engage in any business or employment, with regards to:

8.1.1. The Dwelling Unit that is the subject of a Lead Hazard Mitigation Inspection; or

8.1.2. The Property Owner who conducted the Lead Hazard Mitigation works at the Dwelling Unit which is the subject of the Independent Clearance Inspection; or

8.1.3. The contractor performing lead hazard control on the Dwelling Unit;

8.1.4. The laboratory that is used to analyze the Independent Clearance Inspection samples, unless the Lead Hazard Mitigation Inspector or his/her employer disclose his/her connection with the laboratory to the person requesting the inspection and on the inspection report.

8.2. Employees of public agencies and quasi-public agencies licensed to conduct inspection may perform Independent Clearance Inspections on properties in which the agencies hold a financial interest.

RULE 6 F Presumptive Compliance

1. General Requirements

1.1. A Property Owner/Designated Person of ten (10) or more Dwelling Units shall be eligible to obtain a Certificate of Presumptive Compliance from the HRC for units designated by the owner provided that the following conditions are met:

1.1.1. All Dwelling Units were constructed after 1960;

1.1.2. There are no outstanding Major Minimum Housing Violations on the premises; and

1.1.3. The Property Owner/Designated Person has no history of Repeated Lead Poisonings.

2. Application for Certificate of Presumptive Compliance

2.1. Notarized applications for Presumptive Compliance shall be submitted by the Property Owner/Designated Person to the HRC on forms provided by the HRC no later than sixty days (60) after the date of certification of the percentage of the qualified units. At a minimum the following information shall be provided:

2.1.1. A list of all units by address, plat, and lot;

2.1.2. The date of construction of each structure;

2.1.3. All Independent Clearance Inspection report(s) for a minimum of five percent (5%) of the units owned by this Property Owner issued in the past sixty (60) days;

2.1.4. Ownership information; and

2.1.5. The date of acquisition of each property

3. Presumptive Compliance Certification Requirements

3.1. To meet the requirements for certification, a Property Owner or Designated Person is required to cause Independent Clearance Inspections to be conducted on at least five percent (5%) of the dwelling units, but no less than two (2) dwelling units per year. The Dwelling Units to be inspected shall be selected by the inspector. The units selected shall be rotated until all units have been inspected. At least ninety percent (90%) of the units must receive a Certificate of Conformance (Compliance) as a result of the initial Independent Clearance Inspections.

3.2. Qualified units that receive and pass an Independent Clearance Inspection can be maintained by a Visual Inspection.

3.3. DOH must have no record of Repeated Lead Poisonings for the Property Owner or for the properties identified for certification.

3.3.1. Repeated Lead Poisoning for purposes of this paragraph shall mean a lead poisoning rate of greater than one half percent (.005) per Dwelling Unit years.

3.3.2. Dwelling Unit years shall be calculated by multiplying the number of Dwelling Units owned by the property owner by the number of years of ownership since 1992.

3.4. There are no Major Minimum Housing Violations on the property, as defined in RULE 6.A Definitions, 25.

3.5. The HRC shall not arbitrarily withhold its approval of applications for Presumptive Compliance.

3.6. A Certificate of Presumptive Compliance shall be deemed to be satisfactory for purposes of demonstrating compliance with the requirements of these regulations.

3.7. A Certificate of Presumptive Compliance is valid for twelve (12) months and may be renewed for a twelve (12) month period upon submission of evidence to HRC of continued compliance with this Section, within 60 days from the expiration of the previous Certification.

RULE 6 G Certification Requirements

1. General Requirements for Environmental Lead Inspectors/Technicians

1.1 A DOH licensed Environmental Lead Inspector /Technician, as defined by R-23-24.6 PB, "Rules and Regulations for Lead Poisoning Prevention", is required to successfully complete the Lead Mitigation Inspector class in order to become a Lead Hazard Mitigation Inspector. The Lead Mitigation Inspector class shall include:

1.1.1 A minimum three hours of classroom instruction; and

1.1.2 Seven hours of field experience to include, at minimum, four (4) Independent Clearance Inspections conducted under the supervision of a licensed Environmental Lead Inspector, with experience performing Mitigation Inspections, or a Technician with at least 5 years of continuous experience as a Lead Hazard Mitigation Inspector.

1.1.3 In order receive access to the password protected sections of the HRC Web-Based system, which allows Mitigation Inspector to issue Certificate of Conformance, the Inspector must provide HRC with a copy of the class certificate and the inspection reports to demonstrate compliance with the Section 1.1.1 and 1.1.2 above.

2. Requirements for Existing Environmental Lead Inspectors and Environmental Lead Technicians: A current Environmental Lead Inspector or Environmental Lead Inspector Technician may retain their certification to perform Mitigation Inspections upon completion of the 8 hour annual refresher class and meeting the requirements as specified by R23-24.6-PB, Section 16.

3 Certification Requirements to conduct Training Courses

3.1. General Requirement for Applicants

3.1.1. In order to obtain certification as a Training Provider for the Lead Hazard Awareness Seminar or for the Mitigation Inspector Training, an applicant shall submit an application to HRC for review at least forty five (45) days prior to the first scheduled course date and must complete courses

approved by the HRC. The application shall include the required information in the Form HRC-PB1, Application for Certification, and meet the requirements as listed on FORM HRC-PBLC 2. Requirements include but are not limited to: The name and address of the person(s) or organization which proposes to conduct the training course; identification and affiliation of course sponsor(s); the name of the responsible individual; criteria for instructors; documentation demonstrating that the applicant has employed or contracted with individuals, either on a full-time or temporary basis, a sufficient number of persons to serve as instructors (a minimum of two). These instructors must meet the training and experience criteria contained in the Form HRC-PB 2, Section 2 "Criteria for Instructors". The HRC may at any time require additional information to determine whether an application meets the requirements of this Section.

3.1.2. The certification shall expire on the last day of the month two (2) years from the date of issue by the HRC, unless sooner suspended or revoked.

3.1.3. The Training Provider must maintain their certification in "good standing" as defined in FORM HRC-PB2, in order to renew their certification

3.1.4. Notification of changes. Any person certified pursuant to this Section shall notify the commission in writing before making any changes which would amend the information contained in their application.

3.1.5. The HRC may audit any Lead Hazard Awareness Seminar or Mitigation Inspector Training for the purpose of determining compliance with RULE 6 G.

3.2. The ratio of students to instructors for the field experience component of Mitigation Inspector Training, as specified in Rule 6 G, Section 1, Sub-Section 1.1.2, shall be three Environmental Lead Technicians to one Environmental Lead Inspector/Technician (3:1)

3.3 Renewal of Certification. A training provider shall renew a certification every two (2) years upon submission of an application. The renewal application is subject to the approval of HRC, in accordance with the provisions of Sub-Section 3.1.1, above without reference to any previously submitted material. In any case in which the responsible individual of a certified training course has filed a renewal application in proper form not less than thirty (45) days prior to expiration of its existing certification, the existing certification shall not expire until final action on the application has been taken by HRC.

4. Suspension, Revocation, and/or Denial of Certification

4.1 The purpose and goals of this section include, but are not limited to:

4.1.1 Promoting safe and affordable housing

4.1.2 Ensuring compliance with these regulations

4.1.3 Obtaining prompt correction of noncompliance

4.1.4 Eliminating any economic benefit or other advantage realized as a direct or indirect result of any violation of these Regulations

4.1.5 Encouraging improvement of the performance of individuals certified or granted authority and access in accordance with these Regulations

4.1.6 Providing for the assessment of administrative penalties, where appropriate, which:

4.1.6.1 Reflect the nature and gravity of the violation(s) and the potential for harm to the public

4.1.6.2 Reflect the length of time during which each violation was repeated and continued

4.1.6.3 Will deter future noncompliance by the person in violation; and

4.1.6.4 Will encourage continued compliance by persons similarly regulated.

4.2 The Director of the HRC may issue a notice of correction, issue a warning, or suspend or revoke any certification, privileges or database access issued pursuant to these regulations for:

4.2.1 Failure to adhere to curriculum approved by the HRC; or

4.2.2 Failure to report scheduled classes in specified time frame; or

4.2.3 Failure to electronically report, on a monthly basis, required information from classes; or

4.2.4 Failure to deliver goods and services as promised; or

4.2.5 False representation of credentials; or

4.2.6 Making representations that are inconsistent with state regulations; or

4.2.7 Failure to comply with any part of the Lead Hazard Mitigation Regulations; or

4.2.8 Filing a false report or certificate; or

4.2.9 Use of a license or certification for fraudulent or deceptive purpose;

4.3 Suspension or revocation of any certification, privileges or database access issued pursuant to these regulations may be implemented in any circumstances of intentional, egregious, repeated or grossly negligent conduct. Otherwise, progressive discipline shall be implemented in all other matters.

4.4 Written notice of any disciplinary action taken by the HRC, including appeal rights and a detailed explanation of the facts and circumstances for which the disciplinary actions is being taken must be provided to the party being disciplined before such action shall take effect.

4.5. Denial of Application.

4.5.1. HRC may deny an application for certification pursuant to this Section if it determines that the applicant has not demonstrated the ability to comply fully with applicable requirements established by these Regulations.

5. Appeal of Suspension, Revocation, and/or Denial of Certification.

5.1. Any person whose Certification has been suspended, revoked or otherwise denied by the HRC under these rule, shall have the right under Chapter 42-35 of the Rhode Island General Laws, as amended, to appeal such suspension, revocation, or denial

5.2. Any request for a hearing must be made in writing and must be received by the Director within thirty (30) days of the occurrence of the matter being contested.

5.3 If a timely request for a hearing is made, the hearing shall be conducted in accordance with the provisions of Chapter 42-35 of the General Laws of Rhode Island.

5.4 Any appeal or request for hearing, if received within the thirty (30) days time limit, shall operate as a stay against the application, implementation and/or enforcement of the matter contested unless the HRC presents to the aggrieved party written

substantial reason to believe that imminent harm to health or safety shall occur if such a stay is imposed.

5.5 The operation of such a stay shall remain in effect until such time as the claim of appeal or contest has been decided on the merits at an administrative hearing convened by the Executive Director, and a Final written decision has been issued by an Administrative Hearing Officer, (AHO), or if such decision is also appealed then until such time as all appeals have been decided or further right to appeal has expired.

5.6 Upon request for a hearing or an appeal, the Executive Director of HRC pursuant to authority in Chapter 42-128.1 of the Rhode Island General Laws, as amended, shall appoint an independent Administrative Hearing Officer, (AHO), to conduct a hearing on the merits, and issue a written decision within 14 days of the conclusion of the hearing that details the issues addressed, the findings of pertinent facts, the applicable law and the reasoning for the decision.

5.7 Upon request for hearing or an appeal, a hearing before an AHO shall be conducted no later than 30 days from the date of the filing of such request for hearing or appeal.

5.8 The Final decision and Order of the AHO may be further appealed according to the administrative appeal process set forth in Chapter 42-35 of the Rhode Island General Laws, as amended.

RULE 6 H: Tenant Rights

1. Pregnant women and families with children under six (6) years of age shall be deemed to have a right to housing in which lead hazards have been mitigated or abated.

2. All tenants have a right to notify Property Owners of deteriorating paint conditions. Property Owners shall be required to provide a process for tenants to notify of deteriorating condition(s) in the Dwelling Unit and/or Premises.

3. If the tenant receives no response to the notification, if the response is, in the tenant's opinion unsatisfactory, or if the remedy performed is in the tenant's opinion unsatisfactory, the tenant may request a review of the matter by HRC. After its review of the matter, the HRC shall either send notice of violation to the Property Owner, which notice shall be issued in a manner substantially similar to a notice of violation issued pursuant to the Housing Maintenance and Occupancy Code, chapter 24.3 of title 45 of the general laws, or promptly inform the tenant of the reason such notice is not being given. If the owner does not respond to the notice of violation within 30 days, a second notice will be issued and the HRC shall file a complaint with the city or town pursuant to the Housing Maintenance and Occupancy Code. Copies of the second notice shall be sent to the Department of Health and the Office of the Attorney General. The HRC may recover the cost of inspections and filings from the Property Owner found to be in violation of the Lead Hazard Mitigation Standards.

4. Tenants shall receive basic information about lead hazard control from the Property Owner. Such information will be made available by the HRC.

5. Tenants shall have a right to housing without fear of retaliation for reporting unsafe housing conditions where lead may pose a hazard to their well being.

6. Unless requested and agreed to by an At Risk Occupant or parent/guardian, meeting the Lead Hazard Mitigation Standard shall not be construed to authorize a Property Owner to compel or cause a person, who is in tenancy on January 1, 2004, and remains in tenancy continuously thereafter, to vacate such rental unit temporarily, for three (3) or more days overnight, or otherwise unless the owner provides acceptable short term accommodations while lead reduction or mitigation work is performed.

RULE 6 I: Dissemination of Information

1. For rental housing constructed prior to 1978, Property Owners are required to certify at the time of transfer on or after November 1, 2005 whether the Dwelling and/or Premises meet the requirements for Lead Hazard Mitigation or Lead Hazard Abatement in addition to any other State and/or Federal disclosure requirements. Nothing in this Rule shall be interpreted to prohibit a Property Owner from transferring his property.

    1.1. Certification shall include all available records and reports pertaining to lead and/or lead hazards including, but not limited to, the most recent Certificate of Conformance (Compliance), Affidavit of Completion of Visual Inspection, Certification of Presumptive Compliance, or Lead Safe Certificate.
    1.2. If the property does not meet the requirements for Lead Hazard Mitigation or Lead Hazard Abatement, then the party or parties acquiring the property must be notified of the potential hazards.
    1.3. The Property Owner must provide any inspection reports indicating potential lead hazards and;
    1.4. The party or parties acquiring the property shall sign and acknowledge receipt of notification of potential lead hazards and shall correct those hazards in compliance with RULE 6 D, Section.2 of these regulations.

2. Property Owners shall provide tenants with:

    2.1. Basic information about Lead Hazard Control Standards This information includes, but is not limited to: "Protect Your Family from Lead in Your Home;" "Disclosure Form" and "Tenant Rights and Responsibilities Fact Sheet"
    2.2. A copy of the most recent Independent Clearance Inspection report within ten (10) business days after the owner receives the report from the Mitigation Inspector or copy of the Affidavit of Visual Inspections; and
    2.3. Information on how to give notice to the Property Owner about deteriorating conditions, including but no limited to the Notice of Deteriorating Conditions Form as approved by HRC.

3. The HRC shall provide copies of the second Notice of Violation to the Property Owner, the tenants, the Department of Health, the City or Town in which the property is located and the Office of the Attorney General.

4. Inspector Reporting Requirements:

4.1 Lead Hazard Mitigation Inspectors who conduct a Mitigation Inspection pursuant to these Regulations shall provide a copy of the inspection report to the following individuals/entities within five (5) business days of obtaining any laboratory results, and, if no dust testing was performed, within five (5) business days of the inspection:

4.1.1. Property Owner/Designated Person of the unit which was the subject of the inspection; and

4.1.2. The HRC.

4.2. Mitigation Inspection Report.

All Mitigation Reports shall be submitted to the HRC, on forms approved by the HRC, along with a copy of the Certificate of Conformance, a copy of the property owner/designated person's certificate of attendance to the Lead Hazard Awareness Seminar, and supporting laboratory documentation, if applicable, no later than five (5) business days subsequent to the date of the inspection or no later than five (5) business days subsequent to the receipt of all laboratory results. Mitigation Inspectors shall retain a copy of any completed Mitigation Inspection report files for a minimum of three (3) years. The copy of the inspection report and additional documents required by this Section shall be either delivered in person, mailed, or submitted electronically to the HRC

5 Lead Hazard Mitigation Inspectors are required to distribute the "Property Owner's Guide to Lead Inspection Services in Rhode Island" before providing any lead related services to consumers.

RULE 6 J: Variance from Regulations

1. A variance may be granted to a property owner where there exists a hardship to financing lead hazard mitigation, or where materials or personnel delay the mitigation completion.

2. A request for a variance must be submitted in writing, on a form approved by HRC

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3. An automatic weather variance shall be granted by the Mitigation Inspector between November 1 and May 31, when the weather prevents the property owner from correcting exterior hazards. The Mitigation Inspector must have the Property Owner/Designated person to complete and signed the Weather Variance Form, approved by HRC, and maintain a copy on records. Any identified hazards must be corrected by the Property Owner/Designated Person and inspected by the Mitigation Inspector no later than the following June 1 or within 30 days from the date it was issued, whatever is latest.

4. The Certificate of Conformance issued by the Mitigation Inspector, under the Weather Variance provision, shall be dated and entered upon the date of the initial inspection. Any further documentation of variances should be on forms approved by and submitted to the HRC, but no change is to be made to the original Certificate of Conformance.

5. Mitigation Inspectors granting a weather variance, as specified in Section 3, above are responsible to follow-up with the Property Owner/Designated Person to make sure the exterior of the property meets the standards by re-inspecting the unit no later than the following June 1 or within 30 days from the date it was issued, whatever is latest. . In the

event that the Property Owner/Designated Person is not in compliance by the following June 1, the Inspector must report that the property is not in compliance, providing the number of the Certificate that was issued, no later than June 30, following the above deadline.

6. The Housing Resources Commission may declare any variance granted pursuant to this Section immediately null and void if the HRC determines that the terms of the variance have been violated.

RULE 6 K: Enforcement

1. The standards for Lead Hazard Control and for Lead Hazard Mitigation in pre-1978 housing shall be considered basic housing standards and shall be enforceable through the provisions of this chapter and through procedures established in the Minimum Housing Standards in 45-24-2-3; and the Housing Maintenance and Occupancy Code in 45-24.3 of the general laws.

2. Injunctive relief: Effective November 1, 2005, if the Property Owner of a rental dwelling fails to comply with the standards for Lead Hazard Mitigation, or abatement, as applicable, a right of private action shall exist that allows households that include an At Risk Occupant to seek injunctive relief from a court with jurisdiction against the Property Owner in the form of a court order to compel compliance with the requirements for Lead Hazard Control Standards or Lead Hazard Mitigation Standards. A person who prevails is entitled to an award of the costs of the litigation and reasonable attorney's fees in an amount fixed by the court. Cases brought before the court shall be granted an accelerated hearing.

RULE 7: Effective Date

These rules and regulations governing Lead Hazard Mitigation, after due notice, are hereby adopted and filed with the Secretary of State this _____ day of _____, 20___ to become effective twenty (20) days thereafter, in accordance with the provisions of Chapters 42- 35, of the General Laws of Rhode Island of 1956, as amended. The requirements for Lead Hazard Mitigation as required in RULE 6 B and RULE 6 D of these regulations shall apply to the first change in ownership or tenancy after November 1, 2005.

Noreen Shawcross, Director/Administrator
Department of Administration/Agency

Notice Given on: [*Month day, year*]

Public Hearing held: [*Month day, year - IF APPLICABLE]*

Filing Date: [*Month day, year*]

Effective Date: [*Month day, year*]