

MEMORANDUM

To: Meg McCarthy, Brendan Atwood

From: Alan Bjerke, John Tracy, Ken Grillo

Date: August 21, 2023

Re: Draft Lead Control Regulation Amendments

Thank you very much for the opportunity to preview the draft proposed amendments to the Lead Control Regulations. We would like to suggest 4 changes to the proposed regulations and look forward to the opportunity to discuss these proposals with you at the meeting currently scheduled for August 29, 2023.

1. Eliminate the licensing fee on Certified Owners of Rental Property.

Shayla Livingston clearly testified in the Legislature that Landlords would not have to pay licensing fees to perform RRPM work on their own properties. This provision would maintain the integrity of the Health Department's public statements and the Legislature's intent.

12.2.75 For applications for the Lead-Safe RRPM Firm Certification for Owners of Rental Target Housing

~~12.2.7.5.1 Applicants shall submit the required fee for the lead-safe RRPM firm category listed in 18 V.S.A. §1753 payable to the Vermont Department of Health.~~

2. Allow Certified Owners of Rental Property to train and supervise other owners of the property being worked on.

Many Vermont rental properties are owned by couples or small partnerships. The prohibition on allowing more than one property owner to work on a property without being separately trained and certified imposes unnecessary costs and provides no additional measure of public safety.

12.2.75 For applications for the Lead-Safe RRPM Firm Certification for Owners of Rental Target Housing

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{Unnumbered} Applicants shall certify that they will not provide training to on-the-job workers to anyone other than another owner of the subject property and ~~shall perform all RRPM activities personally.~~

12.8.3 Certification Holder's Responsibilities: Owners of Rental Target Housing certified as firms to perform RRPM activities shall:

12.8.3.1 Not provide training to on-the-job workers to anyone other than another owner of the subject property and ~~shall perform all RRPM activities personally.~~

3. Allow an alternative path for Component Exclusion for clearly identifiable lead-safe surfaces.

The requirement that specific components on pre-1978 buildings can only be excluded from RRPM requirements by a certified lead inspector using a \$40,000 XRF gun is not necessary in some very obvious situations: A building exterior completely clad with Vinyl siding or Hardiplank siding for example.

5.4 Exemptions

5.4.1 Component exemption

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5.4.1.2 A component may be exempt from this rule if upon application and satisfactory proof, the Department has determined that the component was first installed after 1978 or is clearly lead-safe.

4. Allow blanket approval for connecting a power sander with a dust control system to a HEPA vacuum on a per-setup basis, instead of a per-project basis.

The EPA Regulations allow a certified RRP worker to use a power sander with a dust control system connected to a HEPA vacuum as a matter of course (40 C.F.R. §745.85(a)(3)(ii)). The Vermont Regulations require a new project permit application (and fee) for every use. Light interior sanding, drywall repair and other EPA compliant setups should be able to be permitted for use in more than one location.

5.1.3 A person may use powered, mechanical tools with a HEPA vacuum dust control attachment to disturb lead-based paint only if a person is licensed or certified pursuant to Section 12.0 of this Subchapter and have the express written pre-authorization of the Department [for a particular work area] under a specific set of circumstances that adequately minimize the risk of releases of and exposures to lead hazards. These practices may not be used for building components taken to an off-site facility and stripped of lead paint; this is considered lead abatement.

5.1.3.1 Authorized persons ~~Licenses~~ may apply to use powered, mechanical tools with a HEPA vacuum dust control attachment by submitting a written

request to the Department for review no fewer than 10 business days before the expected project start. The request may be submitted as part of the project permit application, if applicable, or separately, using forms provided by the Department.

5.1.3.2

Authorized persons may apply to use a specified powered, mechanical sander with a HEPA vacuum dust control attachment by submitting a written request to the Department for blanket approval to use the identical setup on multiple projects using forms provided by the Department.