

Lead Legal Strategies Partnership Technical Assistance Tool

Opportunities to Strengthen Local Lead-Related Policies: RRP Certification

In an ongoing effort to effect change at a systems level and improve outcomes today and for generations to come, the [National Center for Healthy Housing \(NCHH\)](#), [ChangeLab Solutions](#), and [Earthjustice](#) joined forces in 2019 to establish the Lead Legal Strategies Partnership. With funding from [The New York Community Trust](#), the Lead Legal Strategies Partnership mobilizes effective existing resources, data, model policies, and best practices to equip communities with the tools needed to actuate that change.

This series of informal technical assistance tools was developed in reaction to direct coaching requests and ongoing conversations between the [Lead Legal Strategies Partnership](#) and the [Equipping Communities for Action](#) cohort. You'll find the opportunities and real-world examples presented below useful as you work to improve local policies in your area. This concrete, direct glimpse at how other localities have structured policies and processes, combined with a discussion of points to consider as you plan, can guide your first steps as you determine the approach most suitable for your community.

Introduction

There are numerous ways local policies can be used as a lever to motivate and implement positive change and every community's technical assistance needs, ground-level realities, and potential solutions will be unique. However, as a starting point, it can be useful to compare and contrast a range of available actions. Building an awareness of what other communities are implementing, both successfully and unsuccessfully, can help you better design and advocate for policies to advance your goals.

Renovation, repair, and painting activities, particularly those in pre-1978 housing, can be a major source of lead exposure. The EPA [Renovation, Repair, and Painting \(RRP\) Rule](#) has the potential to ensure the widespread use of lead-safe work practices in homes and child-occupied facilities; however, federal RRP enforcement activities are underfunded and rest within the 10 EPA regional offices. EPA has [delegated authority to implement the RRP to these 14 states](#) (in order of adoption)—Wisconsin, Iowa, North Carolina, Utah, Mississippi, Kansas, Rhode Island, Oregon, Massachusetts, Alabama, Washington, Georgia, Oklahoma, and Delaware—but that still leaves 36 states relying solely on federal monitoring and enforcement of RRP violations.

The Opportunity

In tandem with efforts to increase enforcement at the federal level and/or encourage further adoption of state-level authority, there are local opportunities to increase both overall awareness of the RRP Rule and actual utilization of lead-safe work practices by better integrating RRP awareness and requirements into local building permitting processes. Even better, this integration can be relatively simple to enact and represents a great first step or “low-hanging fruit” to start a locality along a path toward additional action. Best of all, it provides a hefty, positive ROI (as outlined in the seminal 2017 report published by Human Impact Partners, [10 Policies to Prevent and Respond to Childhood Lead Exposure](#), increasing contractor compliance with EPA's RRP Rule **returns \$3.10 for every dollar** invested).

Two of the most effective actions a locality can take to operationalize the goals of the RRP Rule through local policy levers involve:

- Verifying a contractor's current EPA RRP renovator and firm certifications as a step within the overall permit application approval process helps localities limit household exposure to lead dust by ensuring that only contractors properly trained in lead-safe work practices are allowed to

conduct renovation, repair, and painting activities in homes pre-1978 housing.

- Requiring proof that the owners and occupants of target housing and child-occupied facilities have received information about potential lead-based paint hazards before any renovation, repair, and painting activities begin creates additional opportunities to educate the public about the threat of lead exposure; in turn, the public can help enforce the rule by reporting possible RRP violations to the appropriate authorities.

There are several ways to accomplish the spirit of these actions, though some are more effective than others. For example:

- Buffalo, NY, requires all “persons engaged in a home improvement business (e.g., painting, siding, roofing) or doing construction work in the City of Buffalo to obtain a City of Buffalo Contractor license.” As part of this application, shown in Figure 1, contractors are required to submit a copy of their RRP certificate, though the application does not specify whether it is the worker or firm certificate that is required. Buffalo’s contractor application also includes “a brief summary of important requirements applicable to home improvement contractors,” one of which mentions the RRP Rule. [View the complete form.](#)
- Greenwich, CT, employs an “RRP Intake Form for Building Permits for Pre-1978 Residential Projects” as an integral part of their process to secure a local construction or renovation permit, shown in Figure 2. This form requires proof of *both* RRP renovation firm and worker certifications as well as a contractor pledge to provide EPA’s *Renovate Right* pamphlet to customers (or a confirmation from homeowners that they have received a copy of *How to Protect Your Family from Lead in Your Home*). The application must be countersigned by a health department official. [View the complete form.](#)
- Sugar Hill, NH, requires inclusion of the RRP license number directly on their [permit application](#) for pre-1978 work, shown in Figure 3. However, while the form notes that an RRP license is required, it does not specify between the worker or firm certification and will accept either. EPA’s RRP Rule states that both the firm and worker certifications are required for full compliance. [View the complete form.](#)
- Rochester, NY, requires anyone working to correct violations identified during lead

Figure 1. Buffalo, NY – Contractor Application

Makes explicit requirement to provide proof of RRP certification

Identifies RRP certification as a requirement in the permit checklist

Figure 2. Greenwich, CT – RRP Intake Form

[illegible]

Who's “a Worker,” and What's “a Firm”?

When determining who is and is not required to carry a firm or worker certification—or both—it's necessary to look at the work transactionally: who's performing renovation work and who's paying for it? However, what can qualify as a "transaction" may not be obvious.

- A handyman working out of a truck or van with no office or other staff: The handyman is required to carry a worker certificate, and his company must register with EPA as a lead-safe certified firm—even if the company's name is his given name and he is its only employee.
- A general contractor who sells his services as a project manager but doesn't perform the renovation

- A real estate investor who purchases a property and makes repairs with the express purpose of reselling the property: The investor must register with EPA as a lead-safe certified firm and must also carry a current worker certificate. Because the property is being renovated specifically for the purpose of resale, which involves accepting payment from a buyer, the investor's work is RRP Rule eligible.
- A real estate investor who purchases a property with the express purpose of reselling it but doesn't personally perform renovation work on the property: In this scenario, the investor is effectively a general contractor and must register with EPA as a lead-safe certified firm but would not be required to obtain a worker certificate. As with the general contractor example described earlier, any outside (subcontracting) company hired by the investor must carry current firm and worker certifications. Because the investor's goal is to resell the property once the renovation work is complete, which involves accepting payment from a buyer, the investor's project is RRP Rule-eligible.
- A landlord (or property manager) who makes repairs to her rental properties: The landlord must carry a worker certificate, and her business must register with EPA as a lead-safe certified firm—even if the company's name is merely her own. Because she accepts rental payments from her customers, her work is RRP Rule-eligible.
- A landlord (or property manager) who employs a regular handyman to repair her properties: The landlord must register her business with EPA as a lead-safe certified firm, and her handyman must carry a worker certificate. Again, because she accepts rental payments from her customers and the handyman is her employee, her work (and the handyman's) is RRP Rule-eligible.

Some Considerations

As you determine the best approach for your community, it is important to consider the following:

- How effectively can your locality oversee the proof-of-certification requirement? The goal is to ensure that only certified contractors handle this potentially hazardous work. Regulations don't accomplish anything without proper oversight and enforcement.
- Minor actions—such as posting simple reminders of the RRP Rule on relevant city permitting web pages or including it in formal permitting guidance but not in the actual permit application or permitting process—are unlikely to improve compliance.
- Requiring proof of RRP certification is a mechanism to manage expectations and routinely confirm that the certification is needed but does not actually add to the requirements themselves. Furthermore, requiring companies to include evidence of their unexpired firm and worker certifications helps contractors to stay current on the RRP Rule's registration and continuing education requirements. Not requiring proof does not remove or exempt contractors from certification requirements or absolve them of liability.
- RRP protects workers and their families too. Contractors and workers can bring lead dust home on their clothes and other belongings or in their vehicles. When followed correctly, RRP requirements minimize this exposure risk.
- Certification programs can unintentionally impact access to necessary services. Certification programs play an important role in ensuring that hazardous work is done safely, but they can also pose a twofold barrier to people's ability to access the services requiring certification:
 - First, certification programs can have the unintended effect of overly limiting the number of contractors in a community able to perform

the work, which can enable predatory business practices where services requiring RRP are only offered at higher rates.

- Second, contractors with existing resources will be better positioned to acquire certification, while other contractors, including minority- and women-owned businesses, may find it harder to achieve certification, whether it be due to lack of resources or lack of clear communication surrounding the need for certification.

To address these considerations, localities may consider pursuing complimentary steps, such as:

- Providing subsidized or free RRP classes.
- Pursuing targeted outreach to minority- and women-owned businesses, including translation services if necessary.
- Include language from and links to pages on EPA's site to educate contractors about the requirements of the RRP program.

We gratefully acknowledge the other members of the Lead Legal Strategies Partnership for participating in the development of this technical assistance tool:



ChangeLab Solutions



EARTHJUSTICE

For additional resources and technical assistance tools related to other valuable local policy change opportunities, visit...

<https://bit.ly/LLSPtoolbox>

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This technical assistance tool is part of a Local Policy Tool Box, available at <https://nchh.org/tools-and-data/technical-assistance/lead-legal-strategies-partnership/local-policy-tool-box/>.

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