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## MEMO

**To:** The Honorable Donald L. Carcieri  
Governor of Rhode Island

**From:** David Gifford, MD, MPH  
Director of Health

**Date:** March 26, 2007

**Subject:** Environmental Lead Interagency Coordinating Council Report on Lead as required by the Lead Hazard Mitigation Law

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- **Keeping property owners and tenants informed about the requirements of the Lead Hazard Mitigation Law**

The Housing Resources Commission and its partner agencies have worked tirelessly throughout 2006 to ensure that property owners are aware of their requirements under the law. The additional staff hired by the Housing Resources Commission through its HUD Lead Outreach Grant have greatly aided in assisting property owners and tenants and ensuring quality technical assistance and customer service to Rhode Islanders.

By the close of 2006, over 22,500 property owners had taken the three-hour Lead Hazard Awareness Seminar. This number is well over the goal of training 9,900 property owners between the periods of 2004-2007 as outlined in the Comprehensive Strategic Plan. There are currently 30 organizations that are certified to offer the Seminar. These organizations are providing classes that range from no cost to fifty dollars (\$50).

Rhode Island continues to make great strides to make the Lead Hazard Awareness Seminar available to property owners through a variety of media and languages. Classes are now available to the public on DVD. The Seminar ran on Cable and Public Access in March and June 2006, and is scheduled to run during 2007 as well. DVD's are available for sale and online classes continue to be offered. In-person classes are available in the following languages: English, Spanish, Cambodian, Vietnamese, Laotian, and Hmong.

The Housing Resources Commission and the Department of Health have continued to collaborate on a series of public awareness campaigns to inform property owners and tenants about the law. In 2006, the public awareness campaigns ran in July and August and included TV spots in English and Spanish.

The Housing Resources Commission, in coordination with the Department of Health, has developed a protocol to respond to tenant complaints regarding units that are not in compliance with Lead Hazard Mitigation Regulations. Standardized forms have been developed to assist tenants in providing landlords with the required notification of lead hazards on their property. If the property owner does not respond to the complaint in a manner that is satisfactory to the tenant, the tenant can issue a formal complaint to HRC. After reviewing the complaint, HRC will determine the appropriate response based on the conditions in the unit and tenancy of at risk residents.

Property owners and tenants have also been informed through the following efforts:

- More than 350,000 booklets/fact sheets on the Lead Hazard Mitigation Act and lead information have been distributed to landlords and tenants.
- Over 6,000 individuals have been assisted through the HRC telephone hotline.

Efforts will continue in 2007 to ensure that both property owners and tenants are aware of their rights and responsibilities under the law. However, HRC's HUD Lead Outreach Grant, the only source of funding for the Lead Technical Assistance Center and all its outreach and education activities, is not being renewed. Starting July 2007, HRC's staff and outreach capacity will be greatly impacted, creating a setback for the Lead Hazard Mitigation Act implementation.

#### ○ **Certificates of Conformance**

The Department of Health has 221 certified Environmental Lead Inspector Technicians and 49 certified Lead Inspectors to perform comprehensive, limited, and mitigation inspections in 2006. These professionals continue to issue Certificates of Conformance to property owners across the state. To date, 10,926 rental units have proactively received Certificates of Conformance, 2,003 of which have Presumptive Compliance. That is in addition to the 1,356 Lead Safe Certificates and 35 Lead Free Certificates that were issued in 2006.

There are currently two training providers licensed to conduct the 24-hour Environmental Lead Inspector Technician course, one training provider licensed to conduct the 40-hour Environmental Lead Inspector course, and two training providers licensed to conduct the 8-hour annual refresher training necessary for inspectors and inspectors technicians to renew their license as lead professionals.

#### ○ **Property owners' information**

The public list requirements of the Lead Poisoning Prevention Act, as amended, (Highest Risk Properties, Properties with Multiple Poisoning, Second Notices of Violation Listing) are maintained on the Department of Health website. The "highest risk properties" list is updated as information changes, and the other lists are updated monthly or more often if needed. Organizations such as the Lead Hazard Reduction Programs utilize these public lists to encourage property owner participation in funding opportunities to abate lead hazards. The Department of Health also shares Lead Safe and Lead Free Certification data with the Housing Resources Commission.

The Housing Resources Commission plans to have a search engine available by April 2007 so that the public can access information on rental units that have achieved compliance under the Lead Hazard Mitigation Act.

- **Lead Hazard Reduction**

There are currently five Lead Hazard Reduction Programs in Rhode Island offering low or no-interest loans to property owners and/or landlords/investors in order to make their housing unit(s) lead-safe. These programs have played a large role in improving the safety of housing units in Rhode Island communities. The chart below details the number of units achieving lead safe certificates through these programs in the year 2006.

<b>Lead Hazard Reduction Program</b>	<b># housing units achieving lead safe certificates</b>
City of East Providence Lead Safe and Home Rehabilitation Program	8
City of Providence Lead and Healthy Homes Program	107
Warwick Lead Hazard Reduction Program	37
Woonsocket Safety First! Home Repair Cost Assistance Program	41
Rhode Island Housing Lead Paint Clean Up Program	252
<b>Total</b>	<b>445</b>

- **Insurance companies' lead liability policies**

The Department of Business Regulations promulgated Insurance Regulation 101, effective on April 8, 2003, to establish a uniform policy regarding lead poisoning coverage in pre-1978 residential rental property and to set forth requirements to assure the availability of insurance coverage for losses and damages caused by lead poisoning. Following the promulgation of Insurance Regulation 101, the Department issued Insurance Bulletins #2003-9, #2003-13, #2003-17, #2004-1, and #2005-6 to address issues that arose out of consumer complaints and miscellaneous inquiries relating to the insurers' issuance of lead liability coverage in Rhode Island. In order to implement the 2005 amendments to RIGL § 42-128.1-9 and to incorporate issues that have been addressed by bulletins since the initial enactment of RIGL § 42-128.1-9, the Department amended Insurance Regulation 101 effective October 17, 2005.

Insurers are required to file Annual Reports with the Insurance Division on February 1, 2007 regarding insurance coverage for pre-1978 rental properties in Rhode Island. The reports are designed to determine which insurers are writing the coverage and how many insured are purchasing the coverage. The Department is currently compiling the data in those annual filings, which it will share with the Coordinating Council and include in the next annual report.

○ **Exterior Lead Paint Removal Certification Program**

The Department of Environmental Management's activities in Exterior Lead Paint Removal take place in two areas:

**Exterior Lead Paint Removal Certification Program** - administered by the Office of Technical & Customer Assistance (OTCA), the program involves self-certification by exterior painting contractors of compliance with DEM Air Pollution Control Regulation # 24 (Removal of Lead Based Paint from Exterior Surfaces), and with the federal Pre-Renovation Education Rule, and related activities.

**Enforcement of DEM Air Pollution Control Regulation # 24** - For the most part, enforcement of this regulation is administered by the Office of Compliance & Inspection, with involvement of the Office of Air Resources with some specific requirements in the regulation.

**Activities conducted by staff from the Office of Technical and Customer Assistance:**

- Set up a Lead program display and participated in a Pro Show for painters on April 20<sup>th</sup>, with 150 persons attending
- Conducted two (2) compliance audits of jobs performed by participating exterior painting contractors
- Distributed outreach materials throughout the year, including Exterior Lead Paint Removal Certification Workbooks and Checklist Packages, Exterior Lead Paint Removal Program Fact Sheets, Pre-Renovation Education Rule documents such as the pamphlet "Protect Your Family from Lead in Your Home" and the Lead-Based Paint Renovation Education Rule handbook for contractors, property managers and maintenance personnel, and Lead Poisoning Prevention Resource Guides
- Handled telephone and email requests for information throughout the year, including information about the certification program, Air Pollution Control Regulation # 24, other exterior renovations involving Lead, such as siding and window repair and replacement, disposal inquiries, the federal Pre-Renovation Education Rule, and the RI Lead Hazard Mitigation Law.
- Twenty-three (23) exterior painters contractors began participating in the program, and certified to compliance with the applicable regulations
- As of December 31, 2006, forty-four (44) exterior painters contractors were participating in the program, and had certified to compliance with the applicable regulations
- Maintained current information and made additions on the RI Exterior Lead Paint Removal Program webpage on DEM website in April, found at <http://www.dem.ri.gov/programs/benviron/assist/extlead/index.htm>
- Enforcement actions include:
  - 135 Lead Paint Related Complaints Received
  - 112 Lead Paint Related Complaint Investigations
  - 129 Lead Paint Complaints Addressed by Investigations
  - 28 Investigations where Violations were found
  - 28 Lead Paint Reinspections
  - 21 Informal Enforcement Actions
  - 18 Sites Verified Clean

- 3 Notices of Violation and Penalty, also referred to a collection agency as the administrative penalty was the only outstanding issue. Additionally, the Department of Health receives copies of all informal and formal enforcement actions. HEALTH is also notified should we determine children may be affected by an exterior lead paint removal operation.

- o **The Attorney General's Office fight against lead for the public health of the State of Rhode Island**

On October 4, 2005, the constitutionality of the entire Lead Hazard Mitigation Act was challenged by a group of absentee landlords. Superior Court Justice Fortunato declined to enjoin the enforcement of the Act as requested. In June of 2006, the Department of Attorney General convinced the Rhode Island Supreme Court to grant certiorari to review the constitutionality of the Lead Hazard Mitigation Act.

On February 22, 2006 a Superior Court jury found in favor of the State of Rhode Island and held the Sherwin Williams Company, Millennium Holdings, and NL Industries (formerly the National Lead Company) liable for the public nuisance created by the cumulative presence of lead pigment in paints and coating on buildings throughout Rhode Island and ordered them to abate the nuisance. This verdict came after what is believed to be the longest civil jury trial in Superior Court history (four months) and after more than six years of hard fought litigation by the Department of Attorney General and outside counsel. After trial, the Defendants' moved for a new trial and the State moved for the appointment of a special master to deal with the abatement. Judge Silverstein took the post trial motions under advisement at the end of August. On February 26, 2007, Judge Silverstein issued his decision on the post trial motions upholding the jury's verdict. Judge Silverstein denied the Defendants motions for a new trial and granted the State's request for the appointment of a Special Master to facilitate the abatement. The State anticipates that judgment requiring the Defendants to abate the public nuisance will enter shortly.

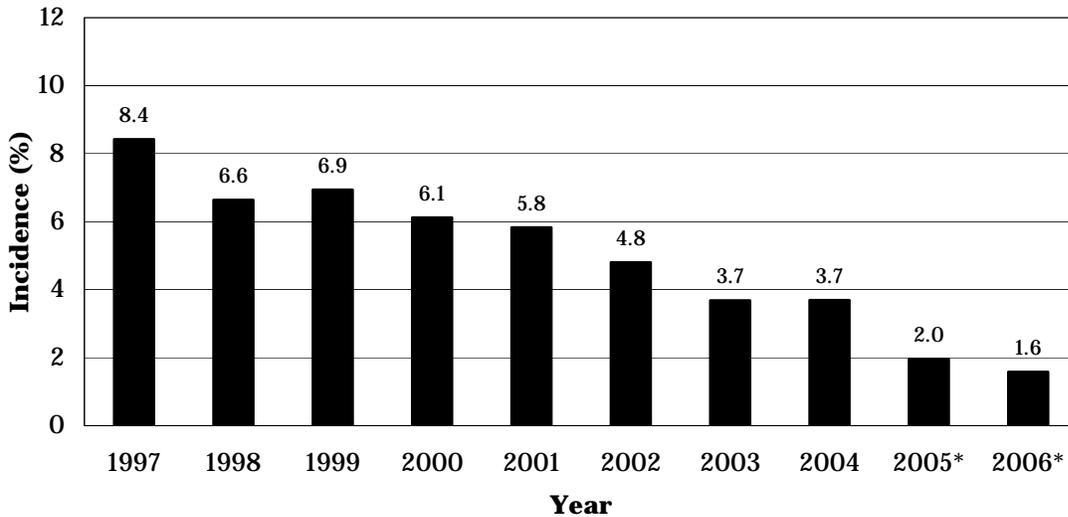
In July of 2005, the State dismissed the Dupont Company from the lawsuit against the lead paint manufacturers. Dupont agreed to provide funds over several years to abate the lead from 600 units and increase public awareness and enhance enforcement of lead laws. In October of 2005, Attorney General Patrick C. Lynch announced the formation of the Attorney General's Advisory Commission on Lead Paint. The Advisory Commission spent 2006 identifying areas and drafting a proposed Lead Remediation Program to maximize the impact of the available funding.

In 2006, the Department of Attorney General closed 31 Department of Health (HEALTH) referred lead poisoning prevention cases. Presently, of the approximately 320 HEALTH referred cases since the 1990's, only 70 remain open in various stages of prosecution by the Attorney General's Office. Additionally, letters were sent to landlords relating to 68 properties that were not referred for prosecution.

- o **Lead Poisoning in Rhode Island**

Five-hundred (500) children (1.6% incidence) were poisoned (had a blood lead level equal to or greater than 10 mcg/dL) for the first time in their lives during calendar year 2006. Rhode Island is making progress toward the elimination of childhood lead poisoning; however, eliminating lead hazards in the environment is the only way to protect more children from becoming lead poisoned in the future.

### Incidence of Lead Poisoning Statewide RI 1997-2006



\*Data reported for 2005 and 2006 are based on venous tests and confirmed capillary tests only.

#### o Lead Centers

In 2006, the Department of Human Services continued to provide comprehensive services through its network of certified Lead Centers. A total of 132 families received comprehensive lead center services in 2006. Lead Centers assist families with a lead poisoned child through case management, education, advocacy, support, and referrals to other programs such as WIC, Early Intervention, RIte Care, Food Stamps, etc. In addition, Lead Centers replace windows and perform certain other lead abatement activities in the homes of families who meet designated criteria. In 2006, a total of 12 windows were replaced in the homes of Lead Center families. These window replacements can help reduce the risk of future lead poisoning in children who reside in these housing units.

In 2006, the Department of Human Services also certified an additional Lead Center, East Bay Community Action Program, which will serve the East Bay area, from East Providence to Newport. With the addition of this Lead Center, four Lead Centers (located at Blackstone Valley Community Action, St. Joseph Hospital and West Bay Community Action) now provide services on a statewide basis to families with a lead poisoned child.