

## **Engagement with The Source: Reasoning with Targets of Lead Paint Enforcement to Elicit Willing Compliance and Reduce Lead Exposure Risks**

This is the final report on EPA-funded project Targeted Lead Grant X8971689020, Trustees of Boston University, "Full Spectrum Outreach", the *Regulated Community Compliance Project*, Rick Reibstein, Director.

December 5, 2010

### **Summary**

The Regulated Community Compliance Project (RCCP) has provided courses and presentations on the federal rules pertaining to lead-based paint throughout New England, personally reaching more than 3,000 individuals covered by federal requirements, and reaching thousands more through print and electronic communications. The approach of the RCCP has been to help these regulated individuals to understand the rationale for the requirements, how they can actually benefit from full and careful compliance, and why they should consider going beyond compliance to implement actual risk reduction activities.

The responses to pre- and post-presentation surveys indicate a substantial shift in attitude from regarding lead as a relatively unimportant matter to recognizing the need to take it very seriously. The responses to the course from recipients and hosts has been overwhelmingly positive, with many pointing to the RCCP as a reliable source of information fostering greater respect for the law.

The work of the RCCP suggests that simply telling the regulated community about requirements and that enforcement may result from violations is not enough. It shows that the regulated community can be receptive to a greater understanding and sensitivity to the purposes of the law. It is likely that increasing understanding and appreciation of the importance of federal rules pertaining to lead will lead to reductions in exposures through more effective communication to those potentially affected by lead, through more scrupulous attention to lead-safe work practices, and through more active consideration of other lead-risk reduction options.

## **Context, Background, Strategy**

*The purpose of this grant was to perform outreach to regulated entities that are covered by federal lead rules, (specifically, the Disclosure Rule, 40 CFR part 745, Subpart F, and the new Renovation Rule, 40 CFR Part 745, Subpart E), and to attempt to coordinate with key organizations that members of the regulated community trust, such as trade and professional associations, and with municipal and/or regional entities with an interest in performing outreach to regulated entities.*

This project must be seen in connection with three other grants, all forming one continuous effort conducted from 2004 to the present in New England, targeting real estate professionals, and attempting to increase their compliance with federal and state laws pertaining to lead paint. The initiative, the Regulated Community Compliance Project at Boston University's Center for Energy and Environmental Studies, was funded by the U.S. Enforcement Protection Agency until the end of 2010. Its principal is the author, an instructor in environmental law and policy at the Center, who served as an attorney in EPA's New England Region from 2000-2003, and during part of that time was responsible for enforcing the federal rule requiring sellers and lessors, and the agents representing them, to disclose information about lead to purchasers and lessees.

The project grew out of a recognition that the many violations being detected by the Region's inspection program seemed to stem from a failure to understand and appreciate the law, and its purpose. Over these years, the RCCP reached more than 3,000 members of the regulated community individually, thousands were reached through print media, and many more through electronic notices and word of mouth. Dozens of organizations hosted RCCP events and were enlisted in the lead exposure effort. Responses indicate a large portion of those reached changed their attitudes toward lead to become more mindful of the importance of compliance with lead rules and action to reduce the risks of lead exposure. The project created a strategic means of communicating the importance of lead-safe activities, entitled "Don't Spread Lead", which was pioneered in Manchester New Hampshire as a means of promoting the use of contractors trained in lead-safe work practices. It was presented to other lead prevention professionals and activists at a New England Lead Coordinating Council conference in 2006. The phrase Don't Spread Lead, originated by the RCCP, and expressly given away at that conference for use in other lead prevention programs, has been used by several entities, including the Connecticut state program, the U.S. Environmental Protection Agency, the National Center for Healthy Housing, and the city of Omaha, Nebraska.

The strategy of the project has been to consciously engage in respectful interaction with the regulated community. The RCCP represented itself as providing information from EPA, the regulators, in a safe manner so that the regulated community could ask questions without fear of revealing potential violations. The concept of focusing on respect in the interaction between regulator and regulated community is that it will increase willing compliance, and decrease the need to punish failures to comply. Violations may be more than just a failure of the regulated community, if they are due to

misunderstanding or a lack of appreciation, if that can be addressed by effective education that has not reached the regulated entities.

EPA has faced this issue before, as concerns enforcement generally, and in the 1990's OECA adopted many new policies and programs to widen its view of the regulated community. The agency's Performance Track program, and its many voluntary initiatives, flow from a perspective that views the regulated community as a rich mixture of actors, some of whom are responsible, and do not require punishment. These programs assume that through respectful interaction willing compliance (and "beyond compliance" behavior, can be elicited. An interactive mode of respect also differentiates the mistake, a kind of violation by a good faith actor, from the very same violation committed through willful ignorance or recalcitrance. This is a useful principle when engaging with members of the regulated community, who often pride themselves on trying to be socially responsible, and yet make sometimes make mistakes in compliance. Emphasizing the distinction between more and less responsible intent and behavior on the part of the regulated community creates more allies for the law's mission, than treating all members of the regulated community as potential violators.

The results of this report should be taken as supporting the idea that both kinds of respect - for the regulated community, and for the law and its enforcers - are necessary. A clear message has emerged from interacting with thousands of real estate professionals concerning the lead law: most have not adequately respected the law, but seem more likely to do so after respectful engagement about the law. It is the prospect of enforcement that has been a primary driver for attendance at the sessions described herein. *But without respect for the regulated community's deeper motivations, that compliance is likely to be minimal and to lack any real risk reduction.* With respect for the intelligence and concerns of the regulated community, it is possible to inspire respect for the purposes of the lead law, which should lead to a higher and more reliable level of compliance, and the "beyond-compliance" behavior that actually reduces the risk of lead poisoning.

In 2003, EPA Region One began an outreach effort to address the problem identified through the inspection program: the fact that real estate professionals just did not seem to "get" the disclosure law. EPA inspectors and attorneys gave talks to real estate and housing associations, explaining the provisions of the law. After leaving the agency, the author applied for a grant to do more than just explain what the rules were. He applied for a grant to convince people that they should take the law seriously. He formed the RCCP and began offering his services as a speaker at meetings of landlords and realtors. His previous efforts are detailed in three reports to EPA, which may be summarized as follows:

Real estate professionals had little understanding about the hazards of lead and the importance of reducing risks.

Real estate professionals had little understanding that when risks to purchasers and lessees are reduced, their own risks of suit, fine or orders to perform costly abatement are reduced.

Real estate professionals had little understanding of the benefits of taking action to reduce lead exposure risks.

Real estate professionals had little understanding of the nuances of the lead disclosure rule and risked violation of several aspects because of this lack of understanding.

The attitudes of real estate professionals appeared to change significantly when they were helped to understand the letter and spirit of the lead disclosure rule, and many commented that they would act differently as a result of this changed understanding. It was possible – indeed surprisingly easy, to inspire a substantially greater respect for the rule and its intent.

The most recent grant to the RCCP has confirmed these findings, with additional data. This same lack of understanding and potential for positive attitude change applied to the new Renovation Rule, as well as the Disclosure Rule. This new rule has generated a significant amount of controversy, with a large portion of the real estate and contractor communities covered by the law resistant to its provisions and intent. It must be noted that the inspiring of respect for the law on the part of the contractor community has not been as easy as for the real estate community, and within the real estate community, it has been easier to cause changes in the perspectives of realtors, than in the perspectives of landlords. However, in all three populations, it is possible, through respectful engagement, to increase positive views of the law. This is reflected in the comments received by the instructor, in the responses to dozens of courses and presentations, and in the responses to surveys, directly probing attitudes relating to the lead laws.

A few samples of comments received by the RCCP to its courses are included here to illustrate the response it has generated.

I have received feedback from our agents on how thorough this class was and even the experienced agents learned so much. Your class encouraged us, not only to perform at a higher level of professionalism, but to do the right thing as well.

I'd like to thank you so much for a fabulous presentation on lead paint the other day. I've been a real estate broker for 26 years and FINALLY have the right info!!

Absolutely excellent. This should be a core course. I was amazed.

Wow opened my eyes to this issue!

Never thought that 'lead paint class' could hold my interest for 3 hours! Great job.

Excellent class. I have taken other lead paint classes and not learned as much as I have today.

Was informative – especially the new information about contractor compliance requirements.

Will strongly suggest that NHAR offer this program as well. Hold it at a facility that can accommodate at least 300 realtors.

Excellent class. Best real estate class I have taken for recertification. I recommend Mr. Reibstein contact the NH Real Estate Commission and request this class be made mandatory requirement for all licensees.

Rick was knowledgeable and connected with the audience in a way that we understood and "got" the importance of this subject. Thank you.

Thank you for being the best instructor for our real estate re-certification classes that I have attended in my 26+ years in the business. I actually dreaded another 'lead' info session, but I learned so much and enjoyed your presentation so much that I thought I should let you know. I certainly will be more diligent in my disclosures after learning more from you last week.

I believe people really liked the class. A lawyer who teaches for us wants to take your class next time you're in Vermont. He keeps hearing about it.

Excellent presentation of the "purpose" of the lead disclosure.

Rick was awesome! Get this guy back several times a year.

You have become a resource for so many and we cannot thank you enough. There is no doubt in my mind that you have put a huge dent in the ignorance of the dangers of lead based paint in our homes and the need to protect so many children from this harm.

Please impress upon the EPA that it is very important that they continue to "subsidize" this course.

I absolutely do think that the courses have prompted action to reduce lead risks. There are a lot of positive comments about the courses and the students have indicated they learned a lot they did not know.

The community only has a good understanding and more importantly a respect for the compliance issues as a result of your talks. Outreach was only successful as a result of your ability and perseverance in getting the message across. Most property owners and contractors that were fortunate enough to hear one of your talks, commented on the fact that only after your talk did the light actually come on for them.

## Results of Presentation Surveys

As part of this grant the instructor provided 50 presentations to 1446 attendees. At the start of 27 presentations, he asked a number of questions, including the following:

How do you rank lead in importance, in the conduct of your day-to-day business? Do you treat as something of High, Medium, or Low importance?

At the end of the session the question was asked again. No matter how variously people ranked themselves in the first instance, the essential aim was to detect if there was any change in attitude by the end of the session. Even if each session described high, medium and low differently, a similar change would be a reliable indicator of the effectiveness of the presentation in changing attitude. *For every single presentation, there was a marked shift from low to high concern.* (More, below).

Half of the 50 presentations were continuing education courses for realtors, for which credits were provided (an approach to reaching the regulated community pioneered by the RCCP in previous grants, and shared with other lead professionals, and now replicated in various areas across the country). The other half were talks to landlord and property-owner associations, contractors, and mixed audiences, hosted by programs interested in community health and/or specifically devoted to lead poisoning reduction. More than 1,700 participated in RCCP events under previous grants, making a total of more than 3,000 reached by the RCCP from 2004 – 2010 (the RCCP had no funding and was not active during 2007 and 2008, although it continued to receive many queries from the regulated community, answering them without charge, and received payment for delivering courses on a few occasions).

### *Targeting High Risk Areas*

The intent of the project was to reach key populations - regulated entities, those who interact with regulated entities and might be able to influence their behavior, (such as local officials, bankers), and those who might be able to disseminate information and concepts that could change behavior to risk reduction (such as community health professionals) – in eight cities where lead risks are high. Through consultation with EPA and extensive consultation with state officials responsible for lead risk reduction, presentations were conducted in well more than the required number of cities, in the following areas of high risk: Lewiston, Bath, Bangor, Augusta, Sanford and Portland, Maine; several southern and central cities and towns in New Hampshire as well as rural locations, including Nashua, Manchester, Concord, Bedford, and Portsmouth; and Burlington and Montpelier, Vermont (a complete record of presentations is attached to this report).

### *Invitations*

In addition, a remarkable phenomenon occurred during the conduct of this grant, which contrasted sharply with the conduct of the previous experience of the RCCP: invitations to speak were received by

the program. In the earlier years of the RCCP's outreach efforts, virtually all presentations were arranged at the initiation of the RCCP. The project director would contact a likely host and present a "pitch" – a set of reasons why the organization should agree to host an RCCP presentation on lead. This often involved discussion of the likelihood of enforcement, information about enforcement in the area, and a description of what the RCCP would tell attendees, involving how attention to lead rules is good for business, as well as staying out of trouble. After the first dozen or so presentations following the launching of this most recent grant project, word spread and the RCCP's presentations were in high demand. No pitch was necessary. The RCCP responded to invitations, assuming that any group motivated to invite the RCCP was already motivated to listen well to information about lead.

There were three sources for this demand: realtors wished to receive education in full compliance with the Disclosure Rule; realtors, contractors, and landlords all wanted to understand the new Renovation Rule, and the presentations were free (in the case of continuing education courses, the subsidy provided either for free or subsidized course credit acquisition – hosts sometimes charged a fee to cover their costs, but always reduced it because the instructor did not require that they pay for his time).

### *Attendees*

Of those reached by the presentations, 879 were realtors. Realtors are regulated by the disclosure rule, but are also affected by and in a position to raise awareness about the Renovation Rule and its mission of lead-safe work practices. About one-third were also landlords, and a smaller percentage also performed property management, and were thus directly regulated by the Renovation Rule. In the audience were 129 who were solely there because they were contractors. Two-hundred and sixty one identified as landlords, but some proportion of those were also contractors subject to the Renovation Rule. What the RCCP said to each of these populations is explained below. In addition, 15 bankers, 90 lawyers, 47 local officials, 24 property managers (not otherwise identified as landlords, realtors or contractors), and 65 other interested parties (such as health officials, psychologists, and school administrators) were reached individually. Not counted in this tally are state officials with whom the RCCP met, who also received briefings from the RCCP on the new Renovation Rule. The RCCP reached dozens of state and local officials in New Hampshire, Maine, Connecticut, Rhode Island, and Massachusetts through meetings, phone calls, and email communications, all of which was performed before the Renovation Rule came into effect, and which in nearly all cases constituted the first time these officials had considered the details of the coming rule. This aspect of the RCCP outreach was not quantified, but the project played a significant role in alerting state and local officials to the new Renovation Rule and its importance. The points stressed by the RCCP are noted below, in the section entitled *The RCCP Message to Specific Populations*.

Of the 1446 attendees, 1061 responded to RCCP surveys conducted during each presentation that they are engaged in real estate transactions subject to the Disclosure Rule. Responses indicated that about one-third of realtors are also landlords, and about one-third of landlords claimed to engage in do-it-yourself property management: about 287 are estimated to be directly subject to the Renovation Rule.

### *Attendee Attitudes*

When asked to report on how important they thought it was to pay attention to lead in their work, before hearing any of the presentation, nearly 12% reported that it was of low importance. (Five-hundred seventy one responded to the question when asked at the outset of the presentation, 596 responded when the question was asked at the end). It is of interest that sixty-eight considered lead to be of low importance, yet they had troubled themselves to come to the presentation. If they were all realtors, that might reflect a desire to receive continuing education credits, but contractors, landlords, and many others were not receiving such credits. It may be conjectured that they were answering honestly, as they were asked to do, but were open to changing their attitudes. This is an important point, because although the project described in this report demonstrates that it is quite possible to change attitudes, it does not demonstrate that it does this for all members of the regulated population. It shows that attitude change can be stimulated amongst a population that is willing to consider new information. We must assume that no one would have come to any of the RCCP events without being in some measure willing to consider what the RCCP would present.

More than half, 57 percent, (329 respondents), rated themselves as treating lead as a subject of medium importance. Thirty percent, (174 respondents), rated themselves as treating lead as a matter of high importance.

After delivering the presentations, nearly 80% rated lead as of high importance (475 respondents). Nearly twenty percent (114 respondents) considered it of medium importance, and about one percent (seven respondents) rated it low.

**The RCCP caused a shift in attitude on the part of attendants at RCCP presentations.** *This may be roughly described as causing 11% to cease considering lead as of low importance, and causing about half of all participants to increase their regard for the importance of lead, resulting in a change from less than one third considering it of high importance to an overwhelming majority considering lead as of high importance.*

Other specific findings of the RCCP surveys are reported below. First, in order to understand how the RCCP caused this shift, it is necessary to describe the message delivered to each population. The general finding of the project is that when the regulated population is given information about what it must do, and that it must comply or it shall face fines or suit, that this provides a certain foundation for motivating compliance. But it does far less than can be achieved when more is done. The response concerning the importance of lead from attendees before the presentation indicates the impact on the regulated community of the enforcement program and the information they had already received, which primarily concerns the existence of the rules they must obey (and, information about why the rules exist). The responses after the presentations indicate what can happen when someone personally engages with them in discussion about why the rules make sense, and why they should take them seriously, when that engagement creates a context of mutual respect, for them, their business concerns, their personal and moral conscience, and for the law itself and its purposes, including the rights of those intended to be protected by the law. Engaging in this respectful interchange can cause a much higher regard for the law, and accord with its goals.



The assumption of this project is that changing attitudes to generate this higher regard and respect for the law will result in lead risk reductions, because the regulated community is in a position to take such action. Landlords who see that a lead-safe apartment is in their interest are presumably more likely to ensure their premises are lead-safe. Realtors who see that transmission of information reduces liabilities are more likely not just to ensure minimal compliance with the Disclosure Rule, but to ensure that there is a real effort to communicate about lead risks. Contractors who see that protecting occupants and their own workers from lead exposures will be in their interest will likely ensure that the Renovation Rule's provisions will be followed, and not regarded as an annoying interference.

### **The RCCP Message to Specific Populations**

#### *Contractors.*

The essential message to contractors, in addition to explaining the features of the law, was that performing lead-safe work practices is in their interest. It would protect the property from contamination, and ensuring that dusts are not generated and left behind is simply part of providing a decent service. It would also protect themselves and their workers. To ensure that this message had an impact, some effort was made to impress upon contractors why lead is hazardous. It was stated that the primary impetus behind lead rules is to protect children, and that it is exposure to dusts that is the primary cause of lead poisoning. It was made clear that dusts are created not just for the familiar reasons of deteriorated paint, but also because of activities that disturb paint. Contractors were informed that they would increase the risk of poisoning children if they did not take the precautions required by the rule. In this way a certain portion of the contractor population was motivated to be responsible.

To reach others not motivated by this approach, the RCCP stressed that lead is not only harmful to children, but also to adults. A range of potential harms were described, including hypertension, chronic stomach aches, kidney disease, headaches, deafness, and mood disorders. These seemed to elicit visible discomfort on the part of some listeners.

The quality of our knowledge about lead was discussed, so that the listeners might lend more credence to the assertions above. It was made clear that what we know about lead comes from epidemiological evidence, and though these studies can only show associations, when there are very many of them all telling the same story, the evidence is very much stronger. The RCCP then recounted how epidemiological evidence has shown associations with decreases in IQ, ADD, dropping out of school, violent behavior, and so on. It was made clear that the problems associated with lead are not just a problem for the affected individual, but for those around them, for society as a whole.

Mention was made of animal studies, and studies showing biochemical changes in the brain, illustrating how information from so many different sources all told the same story about lead. It was noted that ancient man had lead content orders of magnitude lower than average amounts found in human bones today, and that lead is not a substance that the body needs in any amount. The RCCP would explain that lead can take the place of calcium in the nervous system, when calcium is not present, and can thus interfere with the development of the nervous system. Finally, the RCCP would refer to recent brain

imaging studies, showing diminishment of brain size and structures, particularly affecting the parts of the brain that control executive decision-making. This portion of the RCCP talk, designed to overcome what has appeared to be a strong instinct to deny or discount the potential risks of lead, always seemed to have a strong impact.

When going over the requirements of the renovation rule, the RCCP attempted to make them seem doable and to transmit the message that the actions were not just important but need not be terribly expensive. The overall concept was that it is not professional or appropriate to leave any workplace dusty, and so ensuring that poisonous dust is not left behind simply makes sense, and the promulgation of this rule is really something that should have happened long ago. In other words, the rule merely codifies good sense and embodies concepts of quality in work.

At one talk, hosted by the Massachusetts chapter of the Painting and Decorating Contractors Association, contractors initially upset about the advent of the rule told the RCCP that they were glad to have a better understanding, for what they heard was logical and sensible. The instructor received many such positive comments from contractors. However, a significant portion remained unconvinced. At two meetings (in New Hampshire and Maine) some contractors became angry and made statements about how the government was interfering with their ability to make money. One claimed that the rule was going to put him out of business. But for every angry or recalcitrant contractor, there were several who responded positively. One said that he had just taken the renovation training, and that he expected he would have to add considerably to the amounts he charged his customers. The RCCP made some suggestions to him that he might be exaggerating what he had to do, and asked if he would not ordinarily take the same sort of precautions against dust dissemination. The contractor later told the RCCP and said that he had given the matter much thought and figured out how he could implement the provisions without significantly increasing his costs.

#### *Landlords and Real Estate Agents*

The most important point is that the disclosure rule protects them. The overwhelming majority had never thought about the rule's liability protection. They had little knowledge of the provisions for joint and several liability, or that the agent acknowledgment can protect them from joint and several liability. Few knew about treble damages, or that the disclosure rule provides for court costs, expert witness and attorney's fees if the plaintiff prevails.

What is that landlords and realtors fear? They fear suit by injured plaintiffs, an abatement order from the department of public health, and a fine from EPA. By actually opening up the pamphlet and discussing what's in it, they might enhance the chance that valuable risk-reduction information will be transferred. By actually testing they will reduce risks, either by using the test results to raise awareness, or by undertaking risk reduction actions. All of these will reduce the chances they themselves will face liabilities. If what they are afraid of is that they will be sued, fined, or ordered to abate, they should recognize that the key to reducing the risks of all three of these things is to reduce the risks that someone will be harmed. They help themselves stay out of trouble by protecting others. Acting in good faith helps reduce liability risks for both administrative and civil actions. It reduces the likelihood that a

plaintiff's lawyer will even take a case, or a government lawyer will make the case a priority, or seek a large penalty. It was certainly a new thought for landlords and real estate agents attending the RCCP talks to consider that the lead pamphlet could reduce their own risks of liability. They had always thought of it as something that served the interests of the pamphlet recipient only.

Another important perspective is the right to know idea – that tenants and purchasers have a right to the information they might have on lead, to the warning statement. That the professionals and owners are in a position to know more about the condition of the house, and that this is a moral question. The RCCP would suggest that they reverse positions and imagine themselves buying or renting. Would they wish to know? This was often framed in specific terms, by discussing the existence of a test that was only 65% accurate, indicating the presence of lead. First the group would be asked if they would disclose this, given that it was not proof of the presence of lead. Then, they would be asked if they would want to know about it, if they were the purchaser or tenant. Finally, a copy of EPA's Interpretive Guidance clarifying that it would have to be disclosed was handed out to them. Over the course of the RCCP's existence, the answer to this question has changed significantly, from a majority of attendees asserting they would not disclose a test that was only 65% accurate, to the majority claiming they would. The RCCP does not possess the data to know its contribution to this, but when attendees were asked why they chose to err on the side of disclosure, many would refer to learning about the benefits of doing so from the RCCP.

The idea that the disclosure rule is a mere paperwork requirement, involving harmless error, was directly addressed in two ways. One, a discussion of the impacts of lead, as discussed above, including an explanation of how someone who had not been well informed might sand or scrape the paint and generate dusts, leading to exposure (this was underlined by presentation of the facts of an actual case in which this happened, poisoning a child). And secondly, by noting Toxic Substances Control Act authority that ensures EPA can inspect documents, and subpoena them if not produced voluntarily. Thirdly, if they treat it as mere paperwork, they get and give no benefit: just handing over the pamphlet is compliance, but without discussing what's inside it at all, no risk-reduction effect is achieved.

The reduction of the risk of exposure to lead was presented as a critical issue not just for protecting the individual from injury but also for society, as lead is linked to crime, dropping out of school, increased health care costs, etc.

The RCCP would note that the law could have made them incur costs for lead removal but instead it required information transmission, virtually costless (some resent the responsibility and need to hear this to recognize there is minimal burden).

Many risk-reduction actions are low cost, and/or consistent with upgrading properties and should be considered for their energy-saving or property-enhancing qualities. Taking action to render their properties less risky would also make it easier and less costly to comply with any abatement order, should one be received.

If abatement is required, they should consider how to ensure they get their money's worth when they use an abatement professional, - the relevant parts of Subpart L were discussed.

Many other points needed clarification. The Disclosure Rule requires that sellers and lessors must make a real search of the files for relevant information (the definition of “available” is “reasonably obtainable”). It is not proof of lead but knowledge of information pertaining to lead that must be disclosed. The definition of lead paint includes all coatings, varnishes. They should use the form only for housing built before 1978. They need to provide the materials in the language of the contract. They are well advised to keep their records for more than three years in light of the possibility of civil suit and that statutes of limitations can be tolled. The definition of common areas is extensive. The exemption for foreclosure is limited to same-day foreclosures and if the foreclosing entity takes title of the property and holds it for any length of time they are covered.

Agents in particular needed to learn that the rule strongly specifies that the agent must “personally ensure” compliance. What that means exactly is not easy to make clear, in the absence of specific information on that topic. However, it was an excellent springboard for interaction with the audience, who would be asked to speculate on what it meant, and told at the end that in any case, it means the provisions of the rule, the responsibilities of the agent are to be taken very seriously. The RCCP advised agents to do more than minimal compliance, to ensure that their clients (sellers) fully understood the need to search for reasonably obtainable information pertaining to lead.

Attendees at RCCP events were made aware of the EPA’s Enforcement Alert, a list of EPA resources, the actual rules, and the complaint form for Region One.

Concerning the new Renovation Rule, realtors and landlords were told they should hire only certified contractors because the existence of the rule will raise the standard of care and they are more likely to be at risk of liability for hiring someone who cuts corners.

They were told that they should include in their contracts the provision that the work be performed in accordance with Subpart E, that they can ask to be present when the contractor does the cleaning verification, and they should watch for when that provision might change, and where they can get information from EPA. They were told, well before it became even a proposed requirement, that they can ask for copies of the documentation the contractor must provide for inspectors as assurance of compliance and proof of their own good faith.

## **RESULTS**

In recent years, as the data shows, realtors have dramatically improved. Many now say they do discuss what’s in the pamphlet, particularly pages 7 and 9, which are critical for families. When the RCCP began its work, only a small percentage ever answered yes to this question. Now, 26% say they open it up and discuss it. When asked why they do this, they invariably answer that they learned this from the RCCP. Many more, after taking the class, say that they will do so.

In this most recent period, the RCCP has not had to sell its class to realtor associations. In 2004, 2005, and to some extent in 2006 it was difficult to gain agreement to host classes, even with the subsidy. In 2009 and 2010 the RCCP was regularly invited to speak on this issue.

In 2004, only 30% said they would disclose a doubtful lead test to the next prospect. In 2009 and 2010, 51% said they would disclose. Looking at realtors alone, 67% would now err on the side of disclosure. These are very significant improvements in respect for the right to know of prospective purchasers or tenants.

Landlords and real estate agents have both improved, however, there is still a hard core in the landlord category that is hostile and suspicious and afraid that saying the word “lead” to tenants will be a bad idea. This somewhat negative assessment is mitigated, however, by a very positive development – the complete change in the attitude of the New Hampshire Property Owners Association. The NHPOA was resistant to the RCCP’s offers to educate their members from 2004 – 2006, when offers were made with some persistence. In 2009, however, the NHPOA not only hosted the RCCP on three occasions, but also printed a long article (attached) on why lead-smart renovation and comprehensive disclosure are vital, distributing it to all chapters. As a result, thousands of New Hampshire landlords were exposed to the concepts of responsibility that the RCCP promotes.

In 2004 and 2005, virtually no attendees had heard of the prerenovation education rule, and only twenty percent had ever heard of lead safe or lead smart renovation. Although knowledge of lead safe renovation is still poor among realtors, (contractors and landlords have become aware of the rule, even if they are confused about it), many more real estate professionals now know there is a new rule pertaining to renovation. They do not know what it requires, or what it means for them. The RCCP’s perspective was everywhere regarded as a new and useful one.

Contractors were not easy to reach with this project. With the exception of the Massachusetts Painting and Decorating Contractor Association, and Preservation Burlington, no other contractor group responded positively to the RCCP’s offer of a free presentation. Several pledged cooperation but never came through.

For every meeting at which it was appropriate, the RCCP urged hosts to invite local contractors. This often worked when property management associations were involved, as landlords have relationships with contractors, and invited the ones they use. Attempts were made to reach contractors by involving city officials and code enforcers. This was only successful when state officials initiated the relationship. In some cities the RCCP contacted city mayors, managers and other officials, and received nearly a complete lack of response from all but health or emergency response officials. Before April 22, 2010, contractor associations generally told the RCCP that they would consider a presentation, but did not follow through with an invitation. After April 22, 2010, contractors generally told the RCCP that they were intending to take the 8-hour training and saw no need for its services.

Comments received by the RCCP from participants are attached.

## **CONCLUSIONS**

Responses to the RCCP presentations provide strong indications that its approach is an effective means of producing attitude and likely behavioral change as well. It would appear that the RCCP has demonstrated that respectful engagement on the purposes of the federal rules pertaining to lead can

enlist cooperation, increase compliance levels, foster risk reduction, and respect for the right-to-know pertinent information, of those who might be harmed by lead.

The need for this outreach is still great, particularly to landlords and property managers. Contractors too will continue to need help understanding the new requirements.

Although progress has been made, much more is needed. What follows are the responses of hosts of RCCP events to query made about the impact of the project.

## RESPONSES TO QUERY ON NEED FOR EDUCATION

From: **Rick Reibstein** <[rickreibstein@rcn.com](mailto:rickreibstein@rcn.com)>

Subject: Your thoughts on lead education, for the Regulated Community Compliance Project!

Hi - you have all hosted a talk by the Regulated Community Compliance Project (me) on lead. As you recall, that talk was subsidized by EPA under a grant - that is now ending. In order to write the final report, I need to ask you some questions. I wonder if you would be kind enough to consider these questions, and send me a response to include in what I submit to EPA? This is a chance to educate EPA (the U.S. Environmental Protection Agency) on what it should be doing. If you want a copy of the final report, please do not hesitate to ask.

1. Would you (or your organization, that is) have paid for the talk the RCCP provided, if it had not been subsidized by EPA?
2. Do you think that the regulated community has a good understanding of the laws pertaining to lead paint? (The disclosure rule and the renovation rule, primarily. Please elaborate a little bit, including your opinion).
3. Do you think they have a good rate of compliance with these laws? (Again, any specific comments would be great).
4. Do you think the approach of the RCCP has any impact on the attitude, understanding, or probable rate of compliance of the regulated community?
5. Do you think it might have prompted any actions to reduce lead risks? (This is either your sense or what attendees may have said to you about that).
6. Do you have any suggestions for what EPA should do in the future, to prompt greater rates of compliance and actions to reduce the risks of lead exposure?
7. Do you have any other comments to provide about the RCCP?

I thank you so much, in advance, for taking the time to respond to this. If you are interested in doing a lead presentation again, or an overview of environmental issues in residential real estate, please contact me (unfortunately, unless I receive another grant, this would not be subsidized). Do not hesitate to call!

Kathy Roosa

Kathy Roosa School of Real Estate

aka New England School of Real Estate

<http://www.kathyroosa.com/>

Good Morning Rick,

Thank-you once again for sharing your knowledge and expertise with me and many other instructors, brokers, licensees and consumers. The guidance you have given us has been so helpful. Licensees are always faced with concerns about lead paint issues and making sure they are doing the right thing. The right thing can be at times what homeowners do not want to do and I am so pleased to have had you as a resource to say "Call Rick Reibstein if you want to hear it from the well educated, informative and experienced source". You have been so involved with the real estate community and your talks in my classes, as well as talking with licensees directly, has been the best resource we have and a direct link to the consumers.

You have always been consistent with what you tell us. The Pre-1978 disclosure form was very confusing for quite sometime until you started to get involved and helped to impress upon the community how crucial this disclosure form is and how necessary it is to have all parties correctly fill it out. You even explained how adding info to the form under EXPLAIN is allowed. This opened up such a floodgate of support from sellers and buyers knowing they could add to the form any info that may be of help to protect children that may occupy the house in the future. Sometimes consumers and licensees are afraid to "touch or alter a federal form" out of fear of improperly filling it out and possibly being subjected to fines.

One seller had no records to support the presence of lead paint in her home but wanted to caution the buyers that her home was BUILT IN 1928. She was told by the licensee that she could put this info AGAIN under "Explain"(on the form) and she did so in RED INK. At a later date this property became part of a lawsuit where a judge commented on how helpful it is to have these cautions spelled out in writing to better educate the consumer about the serious threat lead based paint poses to children and pregnant women. You had previously mentioned this as a permissible option in a Newburyport, Mass class and a listing agent, in that class passed the info on to a seller.

This is just one of many, many situations that shows how important your work has helped our industry. Your delivery to instructors at the NHREC workshop was so needed and so appreciated. You have become a resource for so many and we cannot thank you enough. There is no doubt in my mind that



you have put a huge dent in the ignorance of the dangers of lead based paint in our homes and the need to protect so many children from this harm.

Thank-you so much for what you did and continue to do.

Kathy

Chris Seufert

From <http://seufertlaw.com/seufert.php>: Attorney Seufert is former President of the NH Association for Justice. He holds national certification as a Civil Trial Specialist. He is licensed in NH, MA, and NC, Federal Courts, and the U.S. Supreme Court. He has his doctorate from Suffolk University and has practiced law since 1984.

1. We probably would not have the funds to be able to pay for your assistance.
2. I think the disclosure rule is a little better understood over the renovation rule but am still amazed at how many in the regulated community know little about either .
3. I do not think compliance is as good as it could be. Recently it came to my attention that one department of the State of NH were renting their "surplus" residential properties without any disclosure - how could that be with all the public education. In another instance a local NH city sold a residential "surplus" property without any disclosure. You would think these things don't happen anymore. They do.
4. Yes, it has a great impact, it was informational and not confrontational. But without training, training, and more training we won't get to full compliance.
5. Yes, those who listen to the message do take action and sometimes become great spokesmen themselves - but more need to hear the message.

6. More public education. You would think there has been enough but there has not.

7. If you could keep up the message maybe someday we will get through to everyone.

Hi Rick.

Please see below... and good luck getting the grant re-instated!

Rachel Eames

From <http://www.eamesrealty.net/>: Rachel is currently President Elect of the (Concord) Board and will be President again in 2010. She sits on the NH Association of Realtors Finance Committee since 2006. Rachel has earned her Graduate of the Realtor Institute (GRI) designation in November of 2005. Less than five percent of Realtors ® earned this designation nationally. She has also earned the coveted Certified Residential Specialist (CRS) designation. Rachel is also active in the Concord Chamber of Commerce and many community organizations.

1. Would you (or your organization, that is) have paid for the talk the RCCP provided, if it had not been subsidized by EPA? **Our funds are very limited for speakers so more than likely we would not have been able to pay.**
2. Do you think that the regulated community has a good understanding of the laws pertaining to lead paint? (The disclosure rule and the renovation rule, primarily. Please elaborate a little bit, including your opinion). **I do not think that the regulated community has a good handle on the issues of lead paint and disclosure and this was evidenced by how many agents and brokers at our meeting with you came away learning many new things about the program. As a matter of fact, comments still surface in our Board about how wonderful the lead paint program was....**
3. Do you think they have a good rate of compliance with these laws? (Again, any specific comments would be great). **Getting better....**

4. Do you think the approach of the RCCP has any impact on the attitude, understanding, or probable rate of compliance of the regulated community? [Absolutely](#)
5. Do you think it might have prompted any actions to reduce lead risks? (This is either your sense or what attendees may have said to you about that). [I don't have knowledge that it has,, but education is the first step](#)
6. Do you have any suggestions for what EPA should do in the future, to prompt greater rates of compliance and actions to reduce the risks of lead exposure?
7. Do you have any other comments to provide about the RCCP?

Joe Robinson

Project Director, Maine Lead Poisoning Prevention Fund

<http://www.maine.gov/dhhs/eohp/lead/contactus.shtml>

Rick,

Of course most of my answers are opinion or my sense of what has or is happening.

Thanks for you help!

JOE

1. Would you (or your organization, that is) have paid for the talk the RCCP provided, if it had not been subsidized by EPA?

A: The LPPF would have thought about it and depending on the cost might have considered it. Though because RRP is more of a DEP issue we would have expected they would have funded it.

2. Do you think that the regulated community has a good understanding of the laws pertaining to lead paint? (The disclosure rule and the renovation rule, primarily. Please elaborate a little bit, including your opinion).

A.: Yes and no. Those that have heard your talk (or others by DEP & CLPPP) should have a better understanding. From hearing the folks that attended your sessions and their responses before you “educated” them, I would say many do not have a good understanding.

3. Do you think they have a good rate of compliance with these laws? (Again, any specific comments would be great).

A: Do Not Know. But I would guess that rate of compliance is less than good.

4. Do you think the approach of the RCCP has any impact on the attitude, understanding, or probable rate of compliance of the regulated community?

A: I would say (hope) that those you spoke to got the message and will act in a way that will improve compliance.

5. Do you think it might have prompted any actions to reduce lead risks? (This is either your sense or what attendees may have said to you about that).

A: I want to believe yes...but have no sense one way or the other.

6. Do you have any suggestions for what EPA should do in the future, to prompt greater rates of compliance and actions to reduce the risks of lead exposure?

A: Come to Maine and make some examples out of the worst landlords. I have been told by landlord types that big fines will get their attention.

7. Do you have any other comments to provide about the RCCP?

A: Thanks for coming to Maine. I think your message was right on target.

Lorraine Deminico

Lorraine F. DeMinico, ABR,CRS,CRB, Coldwell Banker Residential Brokerage  
Former Nashua Manager, 103 Ponemah Road, Unit 6, Amherst, NH

Hi Rick,

Sorry that I am just getting back to you on the questions/concerns that you asked about.

I would hope that the Grant could be extended as it is most important that we continue to educate real estate agents in regards to Lead Paint.

You asked if we would be willing to pay and I will tell you that there are so many Title Companies that offer "free" CE Elective Credit Courses that I am afraid that the agents would take advantage of those courses offered rather than pay for a Lead Paint Credit Course.

As you know, every time that we have had you, it is a good group of agents that attend for 3 reasons:

TO BE EDUCATED REGARDING LEAD PAINT ALONG WITH THE IMPORTANCE OF THE LEAD PAINT PAMPHLET AND DISCLOSURE.

IT IS A FREE CE ELECTIVE COURSE--since it has been, and hopefully will continue, to be subsidized by the EPA through a Grant.

YOU ARE THE INSTRUCTOR - YOU HAVE EARNED RECOGNITION AS THE "Guru" of Lead Paint.

One of the topics that comes up numerous times when I am attending meetings on the Local and State level is the issue of Lead Paint and that we need to continue to educate our members regarding Lead Paint.

Please impress upon the EPA that it is very important that they continue to "subsidize" this course.

This is a course that members need to attend more than once and it is very important that we are all educated to the point that we are making sure that the Lead Paint Disclosure is filled out properly, the Lead Paint Pamphlet is discussed with the buyers, and most important, that we are able to explain about Lead Paint to the consumers so that they are aware and educated regarding Lead Paint both the seller and buyer.

Also, I believe that the agents need to be aware of the mitigation process so that they can speak intelligently sharing this information with both buyers and sellers.

I do hope that the EPA realizes the education still needed regarding Lead Paint and will consider extending the grant that they made possible to educate real estate agents.

Thank you for the sessions that you have done for us in the past - and, yes, I will attend another session as I know that every time that I listen to you, I pick up something new regarding Lead Paint.

Lorraine

Mike Bush

Michael Bush, Housing Developer  
Penquis, Bangor, Maine

From [www.penquis.org](http://www.penquis.org): Penquis was created as a result of the Economic Opportunity Act of 1964 to bring locally developed solutions to the multifaceted problems faced by the poor. Its mission is to assist individuals and families in preventing, reducing, or eliminating poverty in their lives and, through partnerships, to engage the community in addressing economic and social needs. Penquis primarily serves low- and moderate-income individuals in Penobscot, Piscataquis, and Knox Counties, though several programs extend well beyond these boundaries.

Rick, my comments follow the question. Hope this helps. Thanks.

1. Would you (or your organization, that is) have paid for the talk the RCCP provided, if it had not been subsidized by EPA?

Probably not

2. Do you think that the regulated community has a good understanding of the laws pertaining to lead paint? (The disclosure rule and the renovation rule, primarily. Please elaborate a little bit, including your opinion).

Yes, a unique perspective was provided that was particularly relevant to landlords.

3. Do you think they have a good rate of compliance with these laws? (Again, any specific comments would be great).

I don't believe we have a good rate of compliance right now. It is impossible to say what that rate might be, but it is more likely to see a paint job without proper safeguards than one that does employ these safeguards.

4. Do you think the approach of the RCCP has any impact on the attitude, understanding, or probable rate of compliance of the regulated community?

Yes, I think the message Rick provided really spoke to liability issues, as well as a higher ethical ground. I give credit for Rick and use of the terminology 'a higher standard of care', not sure if his words or not, but he introduced it to me and our audience.

5. Do you think it might have prompted any actions to reduce lead risks? (This is either your sense or what attendees may have said to you about that).

It is difficult to tell. We have a good audience, 50+ or more, and I know people listened hard when he spoke.

6. Do you have any suggestions for what EPA should do in the future, to prompt greater rates of compliance and actions to reduce the risks of lead exposure?

It is both a case of ongoing education and awareness, and I believe at some point some well publicized enforcement. Delay of instituting law likely contributed to an impression that this is another case of government reach and lack of money or will for enforcement. Hate to say it, but true, I think.

Christine Lavalee

Housing Justice Project Director/Staff Attorney, NH Legal Assistance, Manchester, NH

[http://www.nhla.org/location\\_information.php?location=Manchester](http://www.nhla.org/location_information.php?location=Manchester)

Hi Rick -

Here are my answers to your questions:

1. Would you (or your organization, that is) have paid for the talk the RCCP provided, if it had not been subsidized by EPA?

Yes b/c we had a grant for outreach activities from the city of Manchester (a CDBG (Community Development Block Grant) ) and we could pay speakers for our conference from that grant.

2. Do you think that the regulated community has a good understanding of the laws pertaining to lead paint? (The disclosure rule and the renovation rule, primarily. Please elaborate a little bit, including your opinion).

No b/c it still amazes me how many landlords/property owners are unaware of their obligations under the state and federal lead laws - although heavily advertised it seems that if someone still chooses not to know, they don't. They do know they have to get a disclosure statement signed by tenants but don't seem to understand what that really means - they just always say they don't know if there are any lead hazards on their prop regardless of the truth of that statement.

3. Do you think they have a good rate of compliance with these laws? (Again, any specific comments would be great).

I don't have any specifics, only anecdotal from clients who come to us w/complaints - and it seems that they are always asked to sign disclosure statements but landlords are still not complying w/our relocation law and I am not sure how many people are still having work done by none certified workers.

4. Do you think the approach of the RCCP has any impact on the attitude, understanding, or probable rate of compliance of the regulated community?

Don't really know.

5. Do you think it might have prompted any actions to reduce lead risks? (This is either your sense or what attendees may have said to you about that).

Hope so, but don't really know. It seems that the state lead poisoning prevention team may have a better idea if compliance has gone up.

Art Gary

Owner, Arthur Gary School Real Estate.

From [http://www.arthurgary.com/info.php?info\\_id=67](http://www.arthurgary.com/info.php?info_id=67): The Arthur Gary School of Real Estate has received recognition from the Real Estate Educators Association of Maine for "Real Estate Course of the Year" for four different courses for four years. School instructors have received recognition as the Real Estate Educators Association of Maine's "Educator of the Year" for two years.

1. Would you (or your organization, that is) have paid for the talk the RCCP provided, if it had not been subsidized by EPA?

Some of them. The ones Portland and South of Portland.

2. Do you think that the regulated community has a good understanding of the laws pertaining to lead paint? (The disclosure rule and the renovation rule, primarily. Please elaborate a little bit, including your opinion).

Not as a whole. There are still a lot of contractors, painters, etc. that do not have a clue about this law and its impact.

3. Do you think they have a good rate of compliance with these laws? (Again, any specific comments would be great).

Not as a general rule. Most that I have seen doing work that have taken the course do a fairly good job of complying. If they have not taken the course they are not coming anywhere near complying.



4. Do you think the approach of the RCCP has any impact on the attitude, understanding, or probable rate of compliance of the regulated community?

I do think that it has had a tremendous impact on the people who have taken the course. I do think that, for the most part, they want to comply when they understand the issues involved.

5. Do you think it might have prompted any actions to reduce lead risks? (This is either your sense or what attendees may have said to you about that).

I absolutely do think that the courses have prompted action to reduce lead risks. There are a lot of positive comments about the courses and the students have indicated they learned a lot they did not know.

6. Do you have any suggestions for what EPA should do in the future, to prompt greater rates of compliance and actions to reduce the risks of lead exposure?

Start enforcing the lead renovations law at the beginning of 2011. Too many contractors are not taking this seriously.

7. Do you have any other comments to provide about the RCCP?

I think this is a good program that needs to be continued.

Pam Murray

Mid-Coast Area Housing Association

1. Would you (or your organization, that is) have paid for the talk the RCCP provided, if it had not been subsidized by EPA?

Yes

2. Do you think that the regulated community has a good understanding of the laws pertaining to lead paint? (The disclosure rule and the renovation rule, primarily).

No, I am continuously running across the contractors who are not aware of the law. There are very few consumers who are aware of the law. In fact it is surprising how many consumers are even aware of the dangers for lead and how one gets exposed.

3. Do you think they have a good rate of compliance with these laws?

The contractors who know of the law have mostly taken the course and gotten their license, it is the many who don't know the law and /or have no interest in following the law.

4. Do you think the approach of the RCCP has any impact on the attitude, understanding, or probable rate of compliance of the regulated community?

I feel that the RCCP has all of the above because of the power of the DPA (sic) to force them to comply. I am not sure if the power of the DPA was removed how compliant the regulated community would be. By regulated community I interpret it to mean the contractors, landlords and other effected by the law excluding the general public.

5. Do you think it might have (or did, if you happen to know) prompt any actions to reduce lead risks?

There again it caused actions to reduce lead poisoning exposure by complying to the law, for those aware of the law and willing to comply with it.

6. Do you have any suggestions for what EPA should do in the future, to prompt greater rates of compliance and actions to reduce the risks of lead exposure?

I think that they have to continue to inform and educate those causing the danger and those effected by the lead exposure as well as enforcing the law. As I understand it there is little to no enforcement at this time. Let's face it they are not going to go through all the precautions (time, money + inconvenience) if there is no enforcement.

7. Do you have any other comments to provide about the RCCP?

I don't know how to obtain it but if those effected could somehow see the precautions as a good thing instead of a cost, time and inconvenience thing I believe that a better prevention job would be done and more of a heartfelt compliance would be taken. The attitude is somewhat like the attitude of the youth that they are invincible and they continue to smoke as if cancer can't happen to them. Those in control appear to act as if there won't be any problems for this job, or this won't hurt anything. And then there are those old timers who say what is the fuss we have been doing it this way for years and we are fine.

Debbie Valente

President, New Hampshire Property Owners Association

Would you (or your organization, that is) have paid for the talk the RCCP provided, if it had not been subsidized by EPA?

I would love to answer without hesitation that we would have, but in all honesty, I would have to say either - very little or no. Property owners would find this an outreach expense which should be paid for by the EPA or the State. They would find it more convenient to continue on the same basis as they have had for the last few years and that is, plead ignorance or one of denial "I gutted the building therefore I have no lead". Property owners tend not pay for information unless that information makes them money. Hence the good turnouts at the NHREIA meetings. People at these meetings come to listen how others have made millions from their properties and

are apparently willing to teach them how for \$20. If the NHPOA was financially flush we would have no hesitation in paying the RCCP to provide critical information to our members.

2. Do you think that the regulated community has a good understanding of the laws pertaining to lead paint? (The disclosure rule and the renovation rule, primarily. Please elaborate a little bit, including your opinion).

I can answer this with 100% certainty. The community only has a good understanding and more importantly a respect for the compliance issues as a result of your talks. Outreach was only successful as a result of your ability and perseverance in getting the message across. Most property owners and contractors that were fortunate enough to hear one of your talks, commented on the fact that only after your talk did the light actually come on for them. For this reason, I (as president of the NHPOA) purchased a copy of one of your talks and I have contracted with a webmaster to publish it on NHPOA State-wide website so that the people that were not fortunate enough to hear you in person, may receive the benefit of your message at their leisure! I also have a business website as a Lead inspector/Risk assessor and have arranged to have your talk published on my website as well (with your permission, of course). Hopefully, this will ensure that your message continues to get through to the community. Unfortunately, there are still many property owners and landlords that believe that if they ignore the issue for long enough, it will go away. What I have found during my experience as a Risk Assessor, is that many contractors were unaware of the RRP rule until hearing about it through attending meetings such as the ones where you provided your presentations. Essentially the people who have attended your talks appear to have a good understanding of the lead laws, however, to answer your question, I do not believe that the regulated community at large has a good understanding of the laws pertaining to lead paint. To illustrate the point, we speak to people that have had RRP training and now believe that the "Renovate Right" brochure has replaced the "Protect your family from lead in the home" brochure. This is extremely dangerous and obviously taught by someone who has limited knowledge. We still meet too many property owners and contractors who have no knowledge of lead paint and have no intention of becoming informed.

3. Do you think they have a good rate of compliance with these laws?

As stated above, it is a common occurrence to meet contractors and landlords who have no knowledge of lead paint at all, including the disclosure rules! I do not think there has been a high rate of compliance.

4. Do you think the approach of the RCCP has any impact on the attitude, understanding, or probable rate of compliance of the regulated community?

I know from personal experience from comments made after hearing your presentations, that within the community, compliance only became important after hearing your presentation stressing the irrefutable necessity to become compliant. So yes, you had a phenomenal rate of the community becoming compliant but only as a result of you being able to communicate the necessity of compliance. You made it make sense so that even the most stubborn of the contractors understood the importance of compliance. Unfortunately, many of the contractors do not attend regular meetings with the State or local non-profits, so tend to hear about changes in legislation through the grapevine - which tends to be rumor filled and inaccurate. Your continued participation in providing outreach is critical to ensuring compliance with both the RRP and local and federal lead laws. Most big organizations became compliant before April 22, 2010 for the obvious reason, however the majority of the small guys were insistent that they were not participating in this program. However after your common sense approach they realized that minimal effort generated a great reward of easy compliance and eagerly participated in the classes. Participants realized that they could not afford not to be compliant, therefore their attitude in class has become more friendly and receptive. One of the major obstacles to full compliance appears to be the "apparent" lack of enforcement. The common thread we are hearing in our lead classes and in the regular NHPOA meetings, is that if the EPA does not show visible and aggressive enforcement, they are less likely to become compliant and remain compliant. The trick is convincing people to actually practice lead safe work practices, and not just get their certificates to comply. It is difficult to convince these participants that their work ethic must be changed forever. It is not merely, getting your certificate and now you're good. Your presentations on the actual ramifications of non-compliance does help them understand that the ways of old are no longer acceptable.

5. Do you think it might have prompted any actions to reduce lead risks?

Hugely! Especially in the members of the community that are rehabbing their own homes and landlords that conduct general maintenance on their own properties. The RCCP communicates

more than any other point: RESPECT LEAD to keep people safe. Most comments made after your presentation is the importance of respecting lead. As far as my personal experience after an RRP class (in the surveys taken), the most common comment is a newly found respect for the dangers of lead based paint and the ease in which a person or child may become poisoned. Your impact cannot be overstated. It is easy to assume that all property owners and landlords must now abate lead paint in their buildings, which is not the message. Your presentation makes it clear that abatement must only be conducted by professionals. It is a fine line to draw between abatement and renovation. Your discussion on intent is paramount to understanding this issue. People commonly and mistakenly believe that they are capable of addressing lead permanently without being aware of the potential dangers of their actions.

6. Do you have any suggestions for what EPA should do in the future, to prompt greater rates of compliance and actions to reduce the risks of lead exposure?

A revelation that I promote from personal experience is that addressing lead based paint components is not always as expensive or as complicated as what the community has been led to believe. Often this is the result of poorly administered grant programs (i.e.. Manchester - non-forgivable loans with a lien being registered against the title of the property). It is difficult to explain abatement costs of \$450 per door for abatement when the cost of the door is \$55. A stricter guideline of abatement costs would go a long way to leveling the playing fields on this issue. The other issue of major concern, being enforcement. There is no obvious evidence of enforcement and that has given the community no sense of urgency.

7. Do you have any other comments to provide about the RCCP?

Outreach would not have been as successful if it was not for the persistence, commitment and conviction of your presentations. I am certain that if you do not continue with your efforts, focus on the subject will die of natural causes. You made me believe the importance of this issue to the extent that I became a lead inspector / risk assessor to spread awareness. My motivation being that if property owners heard it from one of their own, it would be easier to promote. However, it seems as a lead inspector / risk assessor my motives are now always in question, as I am perceived as have an alternative financial motive. Thus premature termination of the RCCP would have serious consequence on outreach. New Hampshire, in particular needs more outreach. During the recent National Lead Awareness week, not a single event was scheduled

within the State to create awareness. Despite many conversations and meetings that something had to be done, it seems that there is either no incentive or money available to do so.

I'd be very interested in any information about the impact of that newsletter we put out.

Your published newsletter was distributed to approximately 1800 members statewide. NHPOA has Chapters in Littleton, Claremont, Keene, Salem, Derry, Nashua, Concord, Rochester, Sea Coast and Manchester. NHPOA are also affiliated with the Lakes Region Rental Association (LRRRA), Durham Landlords Association (DLLA) and the Apartment Association of NH (AANH). The issue of lead and your talks have made our association treble in numbers as a result of the importance of getting informed. Thank you.

Walt Ellard

Managing Broker, Masiello Group

Bedford, New Hampshire

Good Afternoon Rick,

I want to thank you for the many times you have come to my rescue pertaining to Lead Paint disclosure. I have known you for a little over two years now and appreciate your quick responses on the questions that I have thrown your way. Not only have you given me examples, but you have given me the page and paragraph of where to find the answer. As an instructor, especially teaching the New Hampshire CORE Course, I have been asked questions that I did not know the answers too. Knowing someone, as yourself, with the wealth of knowledge that you have in relation to the Lead Paint Disclosure Law makes my job a lot easier. What is really great, you don't "shoot from the hip", as the saying goes. The answers I get from you, I am very comfortable passing on. So, what's this all about; just wanted to let you know, that on several occasions, I was very grateful that you were there to answer my questions.

Thank you,

Walt Ellard, CRS

[Beth Pratte](#)

[Lead Education and Outreach](#)

Division of Solid Waste Management

Maine Department of Environmental Protection

Would you (or your organization, that is) have paid for the talk the RCCP provided, if it had not been subsidized by EPA?

Unlikely given current budgetary constraints.

2. Do you think that the regulated community has a good understanding of the laws pertaining to lead paint? (The disclosure rule and the renovation rule, primarily. Please elaborate a little bit, including your opinion).

In general, yes. I feel that those who have any awareness of the regulations generally understand the requirements. However, there is still a significant segment remains unaware of the law at all. Without the benefit of contractor licensure, which we don't have in Maine, it's hard to quantify the numbers of people trained vs. total regulated community.

3. Do you think they have a good rate of compliance with these laws? (Again, any specific comments would be great).

Again, I think there is a chasm between the adopters (RCCP and RRP class attendees) and the folks who remain resistant to learning of the regulations and work practices. This is anecdotal on my part.

4. Do you think the approach of the RCCP has any impact on the attitude, understanding, or probable rate of compliance of the regulated community?

I do, on those who attended the informational sessions.



5. Do you think it might have prompted any actions to reduce lead risks? (This is either your sense or what attendees may have said to you about that).

I think attendance at the RCCP sessions have prompted some to comply with the RRP law, and served as a reminder to others about disclosure requirements.

6. Do you have any suggestions for what EPA should do in the future, to prompt greater rates of compliance and actions to reduce the risks of lead exposure?

In our area there has been very little outreach to consumers. This is a consistent message I hear from the regulated community. There is little demand for the service and the regulated community is left educating and justifying lead-safe work practices to an uninformed public. The existing outreach approaches have been effective at targeting the lowest hanging fruit – the contractors who are already “plugged in” to industry trends. The effectiveness of targeting municipalities for outreach is inconsistent. The variation in approaches by municipal governments leads to an uneven public awareness of the new regulations across the State.

The other question we hear a lot is about enforcement. Obviously there will always be people who hedge their bets. Others may be waiting to see how high the tide comes in. Interest in RRP courses has not regained momentum since the enforcement extension. I fear the action is perceived by some as a lack of commitment to the requirements on EPA’s part.

7. Do you have any other comments to provide about the RCCP?

We appreciated the project and the addition of another resource to spread the word about lead issues and the new federal requirements.

## **Event Details**

About 1/3 of realtors are also landlords or property managers

Total population attending RCCP events 2009-2010: 1506

## **Correlation of Final Report on Grant Activities with Work Plan**

The relevant work plan for this grant, X8-97168902-0, is the Novation-Revision dated 3/19/09, signed by James Bryson, U.S. Environmental Protection Agency, Region 1 New England.

This correlation notes every action promised in the Work Plan and describes the relevant work of the grantee.

The Narrative addressing each criterion separately provides under Criterion 1 that the project proponent “will begin by contacting state and federal officials working in childhood lead poisoning prevention programs to determine the areas of highest priority.” This was accomplished. All New England childhood lead poisoning programs were contacted. Nearly all events conducted in Maine were conducted in cities selected by the Maine program and with the endorsement and assistance of Maine officials. In Vermont, the RCCP and the state lead program worked together to train key personnel, as described in the grant, for full spectrum outreach: representatives who could then disseminate information on the value of new and existing lead rules to code officials, housing inspectors, school officials, health advocates, community housing advocates, relevant legal professionals, relevant real estate professionals, municipal officials and others were brought together to receive an indepth training from the RCCP and to discuss ways of working together. In Connecticut, the state program arranged for the RCCP to address all lead professionals working with the state program at their annual meeting. In New Hampshire, the state program hosted a meeting for the RCCP to inform relevant officials and lead advocates on the new renovation rule, and to discuss targeting and collaboration. In Massachusetts and Rhode Island, the RCCP communicated with relevant lead officials and discussed the main points of its approach to persuading the regulated community of the value of the lead rules.

The Narrative provides under Criterion 2 that the goal and objective the project is to develop and implement strategies for reaching the regulated entities in high-risk communities, where partners are available and interested in utilizing consultation and assistance in developing full-spectrum regulated community outreach. The project succeeded in enlisting the collaboration of many state partners. It succeeded in enlisting the collaboration of some local officials, generally those working with state programs. This enabled the grantee to do outreach in many more cities characterized as high-risk than the eight promised in the grant.

The outputs promised were:

1. at least one planning meeting with project partners, to plan outreach in at least eight locations. This occurred for the following 14 locations central to high-risk areas for lead:

Lewiston, Bath, Bangor, Augusta, Auburn, Sanford and Portland, Maine;

Nashua, Manchester, Concord, Bedford, and Portsmouth, NH;

Burlington and Montpelier, Vermont.

In addition, outreach occurred in the following 17 cities: New London, NH; Killington, VT; Waterville, Maine; Somersworth, NH; Berlin, CT (to officials, not regulated entities); Chelmsford, MA; Dedham, MA; Westbrook, ME; Windham, NH; Norwich, CT; Northampton, MA (to officials, not regulated entities); Pomfret, CT; Rochester, NH; Queechee, VT; Amherst, NH; Meredith, NH; Conway, NH.

The RCCP performed 51 educational events in 31 cities, well more than the eight promised. See attachment detailing the events.

2. at least one public event for the regulated community in eight cities with continuing education credits for real estate professionals. Of the 51 events 30 provided continuing education credits for real estate professionals.

3. expansion of the Don't Spread Lead campaign activities in eight cities or counties, "promoting the use of lead-safe renovation in the area." The attempt was made to interest local parties and state officials in undertaking promotional activities to foster interest in using contractors trained in lead-safe activities. In discussions with state program officials, this topic was welcomed and placed under consideration. No collaboration with the RCCP was forthcoming, however, apparently because of budget and time constraints and because the states would conduct such activities on their own if they were to do them. No interest in collaborating with the RCCP occurred on the local level for this aspect of the project. After the first year of failure in generating interest the RCCP ceased trying to achieve this particular goal, as it seemed a waste of time and there was a far better way to dedicate time, which was to respond to the invitations received by the RCCP to make presentations. Because of the failure to interest local officials in the Don't Spread Lead campaign, the specific activities in the Work Plan relating to that task were not completed, but the overall goal was reached by other means.

The ultimate goal of this task was to foster interest in using lead safe contractors. This was a major focus of the RCCP presentations to landlords. The RCCP presented a novel argument that they might face liability at common law if they did not use a compliant contractor. The RCCP communicated in its presentations and in published articles, emails, phone and personal communications with attorneys, activists, landlord associations, landlords, and many others the concept that the standard of care pertaining to lead dusts left in place has evolved and it is now increasingly feasible at common law to allege that the standard has been violated by someone not using a compliant contractor and thus negligently exposing tenants and purchasers to hazards that are foreseeable, and which would have been prevented by a reasonable person. The existence of the renovation rule is a powerful argument for a plaintiff's attorney. This argument, developed by the RCCP and apparently not considered beforehand by nearly all to whom it was communicated, and which was confirmed numerous times by legal experts, had a powerful effect. The RCCP used this strategy to accomplish the same end – to promote the use of lead-safe contractors – originally intended by the Work Plan's strategy of promoting the Don't Spread Lead campaign.

In addition, an important factor was the sense that people simply needed to understand the new renovation rule. In some cases, it was important to overcome resistance. During the time of this project Congress passed a law to force EPA to suspend enforcement of the renovation rule. It is possible that local officials were not interested in promoting something that had generated a popular backlash from the regulated community, and expected that enforcement and compliance assurance would be the more appropriate means of addressing the issue.

4. at least one final strategy meeting to consider outreach options for reaching those regulated entities not reached by the above activities, consideration of other tools and methods for effecting lead risk reductions, and evaluation of effectiveness of above activities. There was no single final meeting. This task was addressed through continuing discussion with partners during the conduct of the grant and through a survey sent to the event hosts. The Work Plan considered that this might occur, stating “In case it is impractical to have the key players come to one meeting, the proponent will interview them separately.” After each meeting the RCCP consulted on this with its hosts, and at the end of the grant the RCCP wrote to the hosts to ask a series of questions – the answers to which are included in the Final Grant report.

The Work Plan states that “The outcomes of the project will be regulated entities who are more aware of the need to take action to reduce risks, and local officials, experts, activists and other interested and key parties who are better informed of and equipped with ways to reach regulated entities, and motivate them to act.” The RCCP accomplished these goals to some extent. It reached many key parties and trained them in arguments to use in reaching the regulated population. The RCCP was invited by the state’s Real Estate Commission to train the real estate instructors of the state in the arguments that it used. The state of Connecticut had the RCCP train its lead officials from all over the state, as did New Hampshire and Vermont, who also invited interested nonofficial parties. The state of Maine arranged for the RCCP to work with local officials, and the RCCP presented its perspectives at the New England Lead Coordinating Council meeting. It was invited to write an article for the New Hampshire Property Owners Association, which was widely distributed. It was invited to train attorneys in NH Continuing Legal Education, and to train real estate investors. Many key parties were reached by the RCCP and became better informed and equipped with ways to reach regulated entities and motivate them to act. Thus, it is not only the thousands of regulated entities directly reached by the RCCP in person or in print, but many more who will be reached by those who have learned from the RCCP about ways to convince the regulated entities to take lead and lead law seriously.

Criterion 3: Measurable Results and Evaluation. Outcomes were delivered training events, with measurements of the quality of outreach. The RCCP administered pre- and post-event lead knowledge assessments that also measured attitude, in order to gauge whether attendees were persuaded by the information received. This was to be evaluated in terms of sectors, and this was done. The results of this were extremely positive and are summarized in the final grant report. The Work Plan also envisioned a “pledge campaign” (to employ lead-safe practices) and promised trials. This did not succeed. No host thought it worthy of attempting. When attempted, there was resistance. The pledge

campaign did not succeed and was dropped early in the project. The assessment of the strategies was performed through the survey sent to event hosts.

Criterion 4: Effective Partnerships and Leveraging Resources. This was accomplished through all the collaborative work described above. The RCCP's strategy was to work with key parties who could hear the arguments it delivered and use them in the absence of the RCCP. This has definitely occurred, and is reflected in the responses to the event host survey, which indicate that the RCCP has changed the understanding of many, for the positive, and that this change is regarded as significant, and has adherents who will continue to maintain and communicate a more positive view of lead law and its purpose. This is also borne out by the fact that the RCCP received many invitations to present.

Criterion 5: Community Involvement. This was accomplished as described above.

Criterion 6: Sustainability and Replicability. The work product of the RCCP is lasting and has been taken up by others.

Criterion 7: Regional Priorities. The proponent promised to consult with Region 1 and other key parties to determine target areas. This was accomplished, as described above.

## Summary

This project accomplished far more than what was promised. Its innovative strategic concepts have been proven. It was received with enthusiasm. A glance at the responses to the event host survey will indicate to the reader that the RCCP has gained a reputation for reliable, effective, high-quality work that has made a difference.

The RCCP is unique. It provided an effective form of persuasion that seems to have created, in many, lasting attitudinal and behavioral change. The RCCP did not just do a good job of telling people what the law is. It did a great job of convincing them to take it very seriously.

The U.S. Environmental Protection Agency should recognize that its investment in creating the RCCP has created significant value, and that this value will dissipate if the RCCP does not continue in operation. The RCCP will be seeking funding elsewhere but it is not clear that this will be forthcoming from any other party.

## A Personal Note

I have referred to the RCCP in the third person throughout this report. But at the end of this fourth grant, I must speak from my heart. I am exceedingly grateful to the EPA for the funding I have received to do this work. It has given me the chance to do something to reduce the terrible and unnecessary incidence of lead poisoning in this world. I will treasure the memories I have of members of the regulated community clearly waking up to their responsibilities. It has been an invaluable privilege to have been able to serve as the agent of this vital transformation. I personally thank Region One EPA.

Rick Reibstein