



ATTORNEY GENERAL  
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**GUIDANCE FOR LOCAL CODE ENFORCEMENT**

**TO:** Lead Enforcement and Poisoning Prevention Liaisons  
**FROM:** Rhode Island Office of the Attorney General  
**DATE:** August 30, 2023  
**SUBJECT:** **Lead Hazard Violations**

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In 2022, the Attorney General launched a Lead Enforcement and Poisoning Prevention (“LEAPP”) liaison program to ensure that we, the Rhode Island Department of Health, and cities and towns are coordinated in our collective strategy to prevent lead poisoning. In response to questions from LEAPP liaisons, the Attorney General issues the following brief guidance to clarify lead violations that are enforceable by local code enforcement authorities.

Every child in every home in Rhode Island deserves to be safe from lead poisoning. The Attorney General remains grateful for your partnership in prioritizing enforcement of property maintenance requirements in pre-1978 dwellings.

**Is chipping & peeling paint a violation in a pre-1978 house subject to the State Building Code?**

**Yes.** Chipping or peeling paint is a violation in a pre-1978 house subject to the Rhode Island State Building Code (SBC-6), citable under multiple sections of SBC-6. It is a violation in and of itself, and it is within your authority and discretion to issue a citation without establishing the presence of lead. Under § 304.6 of SBC-6, “Exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent deterioration.” Moreover, under § 304.2, “Peeling, flaking and chipped paint shall be eliminated, and surfaces repainted.” Finally, “peeling, chipping, flaking or abraded [interior surface] paint shall be repaired, removed or recovered.” SBC-6 § 305.3. Disturbed paint is one of the primary causes of childhood lead poisoning and poses a distinct danger to children – in a state like Rhode Island with an old housing stock, these basic property maintenance requirements are essential to preventing the hundreds of lead poisoning cases we see each year. Owners of pre-1978 houses with chipping paint may be cited and advised to retain a properly licensed firm to remediate lead in the home.

**Are pre-1978 rental property owners required to have a lead compliance certificate, and can they be cited for failing to have a Certificate of Lead Conformance?**

**Yes.** The standard for lead hazard mitigation, which requires a Certificate of Lead Conformance (CLC) for non-exempt pre-1978 properties, is an enforceable “basic housing standard.” R.I.G.L. § 42-128.1-11. Your authority to cite for failure to have a CLC derives from Rhode Island’s amendments to the SBC-6, which call on code enforcement officials to learn whether a property has a valid lead certificate: “when there is reason to believe that lead-based substances are present” – which will always be the case when a dwelling was constructed before 1978<sup>1</sup> – the enforcing officer “shall ascertain whether the lead hazard mitigation standard has been met” (or do additional inspections). The Department of Health maintains a database of CLCs which can be checked to determine if the lead hazard mitigation standard has been met.<sup>2</sup> If a non-exempt, pre-1978 landlord has not obtained the required lead compliance certificate to demonstrate that the standard is met, per SBC-6 § 305.3.4, the “necessary lead hazard reductions that must be taken” include obtaining a CLC to demonstrate the absence of lead hazards; failure to do so is therefore a violation. Accordingly, the failure to obtain a CLC for a non-exempt pre-1978 property is a violation and no further investigation or evidence is required to issue a citation.

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<sup>1</sup> Cf. 42 U.S. Code § 4851(b)(27) (Housing constructed prior to 1978 is presumed to contain lead paint hazards.)

<sup>2</sup> R.I. Dept. of Health, [https://health.ri.gov/programs/detail.php?pgm\\_id=1071](https://health.ri.gov/programs/detail.php?pgm_id=1071).