

**GOVERNOR'S LEAD POISONING PREVENTION COMMISSION**

Maryland Department of the Environment  
1800 Washington Boulevard  
Baltimore MD 21230

MDE AERIS Conference Room  
February 4, 2016

APPROVED Minutes

**Members in Attendance**

Susan Kleinhammer, Edward Landon, Patricia McLaine, Cliff Mitchell, Paula Montgomery, Barbara Moore, Manjula Paul, Christina Peusch, John Scott, Ken Strong

**Members not in Attendance**

Nancy Egan, Del. Nathaniel Oaks, Melbourne Jenkins, Tameka Witherspoon

**Guests in Attendance**

Jay Apperson (MDE), Heather Barthel (MDE), Nick Cavey (Maryland Insurance Agency), Patrick Connor (CONNOR), David Fielder (Lead Safe Baltimore County), Monica Grinnage (Lead Safe Baltimore County), Syeeta Hampton-El (GHHI), Kirsten Held (MDE), Jason Hessler (DHCD), Dawn Joy (AMA), Myra Knowlton (BCHD), Hilary Miller (MDE), Rachel Hess Mutinda (DHMH), Ruth Ann Norton (GHHI), Carol Payne (HUD), Victor C. Powell (HUD), Nancy Reilman (MDE), Christine Schifkovitz (CONNOR), Edward Thomas (HUD), Tommy Tompsett (MMHA), Marvin Turner (HUD), Chris White (Arc Environmental), Ron Wineholt (AOBA).

**Welcome and introductions**

Pat McLaine called the meeting to order at 9:45 AM with welcome and introductions. Minutes of January 7, 2016 were reviewed. Ed Landon made a motion to accept and the motion was seconded by Barbara Moore. All present commission members in favor; minutes were approved.

**Old Business**

**Follow-up on Rental Registry Compliance and Registration Targeting Efforts in Baltimore City and Baltimore County**

Paula Montgomery reported on the current active registrations for the Registry:

92,953 properties built before 1950

53,971 properties built 50-78

1,706 properties built post-78

148,630 TOTAL active registrations

MDE is building lists to target Notice of Violation. With regards to estimates for the numbers of properties that should be registered, Paula Montgomery stated that MDE cannot identify the number of units from the Department of Assessments and Taxation (DAT) database. In addition, not all rentals are clearly identified and built dates aren't always correct. MDE's best estimate is 250,000-400,000 units; this may include lead free or limited lead free. Jurisdictions with rental registration requirements must ensure that properties are registered with MDE. Many cities have

already worked on this, including Salisbury and Hagerstown. Paula will provide the Commission with a list of such jurisdictions. MDE does not have any information on whether local jurisdictions have been successful in ensuring that these properties are compliant for lead. Information about the targeting efforts in Baltimore City and County was not available but will be provided to the Commission at a future meeting.

#### Follow up on Changes to Permitting Process in Baltimore City

Jason Hessler reported that the on-line permitting process for Baltimore City is still being developed. Beta testing is going on now but the system is still based on paper. The new permitting process will include providing the RRP number, indicating if the property is residential or commercial, providing the year the property was built, and determining if the facility is for child care or kindergarten. If it is a rental property, the submitter will be asked if the job involves windows, or disturbing 3 or more square feet. If yes, the manager has to identify the lead trainer. A button would be available to explain this. If it is not a rental property, the system would query: Are you disturbing 6 square feet? If so, EPA license number must be added.

Baltimore City would like to be able to run EPA numbers against an on-line list. They are having trouble doing that now because the EPA list changes daily.

What is the check? Same as MHIC: penalty of perjury. If any fraudulent information is provided, Baltimore City can revoke the permit, stop the job, or make it impossible for the owner to pull other permits. Jason Hessler indicated he had met with GHFI and requested signage in the permit office about the RRP Rule. He will also send out an email to owner when a permit is pulled so the owner will have information sheet on the RRP standards.

When asked about the turnaround time to verify accuracy of numbers, Jason Hessler indicated that there would be random checks. Another question: with regards to clean-up, what instructions are sent about the requirement that the contractor clean-up? This is a recurrent problem for families. Answer: we send out email in other situations. If the data is good coming in, we can notify the owner too. Barbara Moore indicated that this was a major problem with families of a lead poisoned child: the unit is not cleaned up. Victor Powell said that HUD had received a proposal from EPA incorporating a spot kit at time of actual clearance when there is a lot of construction debris. Susan Kleinhammer stated that she applauds Baltimore for taking this action and asked if a permit could be used to document when work is being done, to check on process and to ensure it is safe. Jason Hessler stated that most jobs are inspected, but usually at the end. He indicated that Baltimore City could enforce general safe construction practices. Patrick Connor asked about data collection: will EPA capture the certified firm and certified renovator accredited firm and accredited maintenance supervisor? Jason Hessler indicated that EPA is looking at the accredited firm and license number; Maryland is looking at the supervisor and accreditation number. Ken Strong noted that staff from his division had RRP training, focused on both HUD and MDE regulations. He stated that the program has dedicated \$20K for RRP training and intends to subsidize minority and woman-owned businesses that want to be

trained to do RRP, starting in Spring 2016. Jason Hessler promised to send the Commission details on the fields being proposed for the data base – they will be sent to both Pat McLaine and Pet Grant so that the Commission can provide review comments back. Jason Hessler will be back in May 2016 to provide an update.

Christine Schiffkovitz asked if a firm did not have numbers, could they still get a permit? Jason Hessler indicated that if a firm didn't complete the number on the permit process, they would not be able to complete the application. Ken Strong indicated he would do outreach to contractors. David Fielder asked if contractors would get kicked out if they typed in random numbers? Jason Hessler indicated Baltimore would be trying to make this workable. The penalty is dire: revocation of the permit, not getting future permits, or perjury.

#### Update on Governor Hogan's Plans for Baltimore

Ed Landon indicated that the Governor is still in meetings about this. HB 686/SB 59 would establish a state fund for demolition. Ed will have an update for the Commission when available. Jason Hessler indicated that Baltimore City will hold a meeting next week on February 10<sup>th</sup>, looking at how the City can change practices to make demolition more lead-safe and improve environmental practices. This work is being done in conjunction with Detroit Land Bank and EDBI where stricter demolition standards were used. The new Director of Demolition in Baltimore City has been doing research on this. Jason Hessler stated that the Department followed the rules for asbestos: if it was found, must follow protocol for removal of asbestos. Paula asked where MDE would send citizens who had concerns. Jason Hessler indicated that they could be referred to Michael Braverman in the Building Inspector's Office. On all demolition, Baltimore City wets down, posts signs, sends letters to adjoining property owners, holds a pre-meeting on the plan, provides demo inspections on-site during the life of the demo, uses hoses for wetting.

Syeetah Hampton-El indicated that GHHI is looking for the City and State to adopt the EDBI guidelines. A house bill in 2008 (HB 1256) did not pass; this was the last time these proposed practices were considered. There may be a new bill this year. Not all EDBI standards were adopted. A training block monitor would be provided to answer resident questions and observe what is going on. The standards involved use of the Picker method instead of a wrecking ball. Another standard was for the contractor to use a hepa vacuum after work was done, going to residences adjoining the demolition area. The EDBI mandated the use of rodenticide. They also removed top soil and provided proper back-fill of soil following the demolition. Standards also included providing street cleaning after the demolition. Tack mats were provided to area residents at the entry to their homes. Independent testing was done of air quality; a study of EDBI in 2011, paid for by the Casey Foundation, found a significant difference in air quality before, during and after demolition. Syetta-El will send legislation out to the Commission if it is been dropped. Pat McLaine will generate a proposed letter to the Governor.

#### Update on Legislation

Ed Landon reported that 1100 bills have been submitted to date with 3,200 more in the hopper. A hearing for the Structured Settlement Bill and for HB396/Senate Bill 308, both repeats from last year, will be heard February 25 at 1 PM. GHHI is providing written and oral testimony in opposition to both bills. Especially in light of the number of certifications invalidated by MDE, GHHI feels there is no justification to change from 2 to 5 year window. And no scientific evidence behind new suggestions. Ed Landon said that 1158 was submitted late in 2015 and the sponsors ran out of time last year. This bill might get traction because it was submitted early. Susan Kleinhammer agreed to look at whether the Commission should send a letter of support for any of these bills.

Insurance has proposed same changes to structured settlements as approved by the Court of Appeals: A prohibition prohibiting transfer of more than 25% is new.

Crisis in Flint Michigan – Additional information was made available on the lead in drinking water crisis in Flint Michigan.

#### **New Business**

##### Update on Drinking Water Safety in Maryland

Nancy Reilman, MDE Water Supply Program, stated that MDE oversees all public water systems serving more than 25 people in the State of Maryland, more than 3300 systems. The nine major water systems serve 50,000+ people, including Baltimore City, Washington Suburban Sanitary Committee, Anne Arundel County DPW (2 systems), Howard County DPW, Charles County DPW, City of Frederick, Harford DPW and the City of Hagerstown. Most of these systems use surface water as their primary source. All systems are in compliance with the Lead and Copper Rule. All systems test at least every 3 years; some test more frequently. Testing is done in the distribution system at targeted locations as required by EPA since 1992. The idea was to target highest risk residents (not plastic plumbing or recent constructions), including homes with lead service lines, homes constructed 1982-86 (where copper plumbing and lead solder was commonly used). The prohibition of the use of lead solder is part of the plumbing code regulations and is overseen through local County inspections.

Maryland has 998 other water systems, serving fewer than 50,000 people, that routinely test for lead in the drinking water. Seven (7) out of 472 community systems are above the action level, serving 2100 people total. Thirty-one (31) out of 538 systems are nontransient, non-community systems. These include schools, daycares, businesses – but not residences. Approximately 4400 people are served by these systems.

Well water. MDE does not have much contact with well water. This is administered by local County Health Departments. Approximately, 900,000 people are served by individual wells in Maryland. When wells are constructed, they are tested for bacteria, nitrates, and other contaminants as determined by the Counties. There is no ongoing requirement for testing at any other time. Testing can be part of the sales process when the property is sold. Ed Landon

asked about the action levels for lead in drinking water. Nancy Reilman replied that the federal and State regulations have two categories: the maximum contaminate level (MCL) – lead cannot exceed this level of 50 parts per billion (ppb) (1977-1992). Since 1992, there is a treatment technique requirement – not health-based, established on the treatment of water. The original health-based standard was 50 ppb adopted in 1977; the treatment technique requirement was set at 15 ppb (90<sup>th</sup> percentile) in 1992. John Scott asked about the 31 non-transient systems that exceed the action levels – what happens? Nancy Reilman answered that being above the action level triggers mandatory deadlines for compliance: 1) consumer notice must be provided; 2) the system must perform lead education program within 6 months to persons and to the local county health department; and 3) the system must test source of water to make sure lead and copper are not there [Note: Maryland has never had a single system exceed lead at the source, which is typical within larger distribution systems]; 4) the system must provide optional corrosion control treatment approved by MDE; and 5) the water system owner perform follow-up testing.

Nancy Reilman said the action level is based on the 90th percentile for sample results. Some schools have provided bottled water as an interim measure until treatment is optimized, and this may be a good choice. Public education messages include warnings that if you are going to use the water to flush first and not to use hot water from the tap.

Syeetah Hampton-El asked where the 7 systems with 472 people that were above the action level were located. Nancy Reilman stated: two were in Baltimore County, one in Carroll County, two in Cecil County, one in Kent County and one in Washington County. The nontransient systems are located in Anne Arundel, Baltimore, Calvert, Carroll, Cecil, Charles and Frederick Counties. John Krupinsky asked if the Administration tracked where lead mains are located; is there a process to identify these? Nancy Reilman said that a survey of lead service lines was done in the early 1990s but the Department does not have the original surveys, but MDE is in the process of getting an update. MDE knows which systems had lead service lines and will be following up with all community water systems.

Ed Landon stated that he understood that water systems tested at least every 3 years. But when the source is switched (for example, when water systems switched to the Susquehanna River during the drought), what is done to test the water? Nancy Reilman answered that with any new water system, additional new treatment facility or a switch of a primary source, there is a permitting process and MDE reviews the water systems drinking water quality and treatment. Regarding the Susquehanna, this water goes through the Montebello treatment facility for Baltimore City. MDE will increase testing requirements so that testing will occur during the next summer cycle following the changes to the water system. The untreated water in summer is generally warmer, and more corrosive. Nancy Reilman stated that MDE believes the existing process would identify any lead issues. Another question: why not test older homes, built before 1950 or before 1978. Nancy Reilman noted that water systems can sample homes built before 1982 if they have lead plumbing or copper plumbing with lead solder. The rule was written in 1992; homes that had the least amount of contact with drinking water were considered at higher

risk. Older homes with long-term contact with the drinking water are believed to have a protective film, a barrier, on the inside of pipes as a result of corrosion control treatment by the water system. In Flint Michigan, this protective film was eliminated by the change in the drinking water quality. Two other categories could be sampled: pre-1982 homes with copper pipe and lead solder or multi-family structures with lead service lines or copper pipe and lead solder.

Are any changes anticipated in lowering the Federal standard to provide more protection of health? Nancy Reilman stated that drinking water standards are reviewed every six years. EPA anticipates preparing a new rule in the next year but MDE has not seen it yet. MDE is the primary enforcement agency for the Safe Drinking Water Act and associated regulations in Maryland. Maryland is prohibited from adopting more stringent standards under the State Annotated Code without a 4-5 year of study, which could then result in changes by the Maryland Legislature. Improvements in test methodology would be required for a lower lead standard: for lead, the test method uses 5 ppb.

Paula Montgomery commented that Abel Wolman did a fabulous job with Maryland's water system. 85% of residents in the State are served by major systems. How is the water treated in the smaller systems? Nancy Reilman answered that corrosion control is complex; drinking water corrosion control uses a variety of chemistry to change or alter pH or alkalinity; there is not one solution for all systems.

A question was raised about notification; water systems are required to individually notify property owners they serve. An annual consumer confidence report is distributed by water systems and is available on-line, in the newspaper, and sent to customers. MDE posts 100% of consumer confidence reports each year. The protocol for testing water is available on-line. MDE does not recommend flushing the line before collecting lead and copper samples – they want to look at the worst case scenario: the first draw. Water must sit a minimum of 6 hours, but not more than 18 hours. MDE recommends that homeowners collect a flush sample if the first first-draw sample was positive. A written report was requested for the Commission.

### **Future Meeting Dates**

The next Lead Commission Meeting is scheduled for Thursday, March 3, 2016 in the AERIS Conference Room at MDE, 9:30am – 11:30am.

### **Agency Updates**

**Maryland Department of the Environment** – Paula Montgomery reported that MDE is investigating an inspection contractor for allegedly issuing invalid lead free and limited lead free certificates across the state. Copies of articles from the Baltimore Sun and Washington Sun and a Press Release from MDE were distributed. MDE is working with EPA and HUD to investigate. Paula Montgomery indicated that MDE does not have enough information now to

determine if the contractor committed fraud or was not knowledgeable. MDE also does not yet know if other inspectors within that company were similarly involved; oversight is still focusing on this inspector. Paula Montgomery stated that MDE does provide oversight of inspectors, prior to this case MDE was focusing on contractors meeting the risk reduction certificate standard. MDE decided to look at this inspector who had issued a lot of certificates on 50-78 properties. MDE is still requesting additional resources. Carol Payne stated that HUD is asking their Program Director to examine properties in Maryland, including Public/Indian, Multi-Family and Community Planning properties. Victor Powell said HUD is also working with MDE and is checking with the Housing Authority in Baltimore.

**Maryland Department of Health and Mental Hygiene** – Cliff Mitchell reported that DHMH will meet with the Office of Child Care today to discuss implementation of new rules on testing that will be published in the Register. DHMH has completed guidance materials and is meeting with local health departments to discuss case management issues, guidance to primary care providers (PCPs) and parents for BLLs of 5-9 $\mu$ g/dL. Legally, health departments will handle all kids with a 10+ $\mu$ g/dL as required, including home investigation, source investigation, etc. But for children with BLLs of 5-9 $\mu$ g/dL, emphasis will be working with the PCP and parents to (1) look for sources of lead and (2) to ensure follow-up testing. DHMH is trying to figure out how best to provide guidance since the PCP is responsible for the follow-up of the child. If the child's BLL rises, DHMH wants to intervene. DHMH expects the PCP to screen thoughtfully for potential sources of lead: (1) if peeling, chipping paint and a rental, the PCP will complete a Notice of Defect; (2) if owner-occupied property, would want to refer family to the Department of Housing and Community Development to find resources for the owners. Cliff Mitchell noted that a lot of coordination is going on: MDE, DHCD and DHMH are meeting regularly. Cliff Mitchell reported that he will be starting up monthly case management conferences with local health departments and noted that he wants to make sure that Maryland can provide primary prevention services to identified children and wants to prioritize inspection resources.

**Maryland Department of Housing and Community Development.** – Ed Landon indicated there was nothing more to report.

**Baltimore City Health Department** - nothing to report

**Baltimore City Department of Housing** – Ken Strong indicated that a Baltimore City Council hearing is scheduled today at 4 PM on lead paint poisoning issues; City and State agencies are involved. BCHD will tell the Council that the program will serve less than 100 houses per year and needs to see what else can be done, particularly for children with BLLs 5-9 $\mu$ g/dL. Ken Strong also distributed a concept paper on how to create dedicated funding source for lead poisoning prevention utilizing a tax credit program. Ken Strong reported that the Department had developed new guidelines for providers to benefit families receiving energy assistance who have children less than 6 years of age. The program would identify the age of the property using

the DAT records. This would enable the program to coordinate a mail-out talking about the need for lead testing of children and lead primary prevention.

**Office of Child Care** – Manjula Paul has been visiting licensing offices across the state to talk about lead requirements and look at violations for lead exposure and lead testing, identifying peeling, chipping paint and the presence of certificates. These visits are scheduled to be completed by the end of March and material will be posted on the Office of Childcare’s website and provided to child care facilities.

**Maryland Insurance Administration** – nothing to report

**Public Comment**

GHHI will present their assessment of Baltimore at the City Council hearing today. Barbara Moore will also be attending the City Council hearing.

**Adjournment**

A motion was made by Ed Landon to adjourn the meeting, seconded by Ken Strong. The motion was approved unanimously and the meeting was adjourned at 11:42 AM.