

**To:** CDBG Recipients and Grant Administrators

**From:** CDBG Division

**Effective date:** July 26<sup>th</sup>, 2024

**RE:** Environmental Review Process Addressing Requirements from the Toxic Substance Control Act and the Lead Safe Housing Rule.

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### **Proposed Policy**

The U.S Housing and Urban Development's *Lead Safe Housing Rule* in accordance with 24 CFR Part 35.900 Subpart J requires the establishment of procedures to appropriately manage lead- based paint hazards in residential properties that receive Community Development Block Grant funding for the State. This Policy Notice established the Office of Community and Rural Affairs requirements for the any program funding permanent or temporary residential projects to ensure compliance with 24 CFR Part 35 Subpart J. Grantee are responsibilities to ensure compliance with this Policy Notice.

These requirements apply to:

- a) Residential properties built prior to January 1<sup>st</sup>, 1978
- b) Activities that disturb painted surfaces or other surface coatings containing lead equal to or more than 1.0 milligram per square centimeter or 0.5 percent by weight in accordance with IC 16-18-2-198.5.
- c) The level of disturbed paint exceeds the minimum threshold of 20 square feet on exterior surfaces, 2 square feet in any one interior room or 10 percent of the combined interior and exterior painted surface area of components of the residential property.

### **A) Exemptions**

In accordance with 24 CFR 35.115, the requirements outlined in this Policy Notice do not apply to the following.

- a) The residential property was constructed on or after January 1<sup>st</sup>, 1978.
- b) The property is a zero-bedroom dwelling unit (studio apartments, dormitories, etc.).
- c) The residential property is housing intended for elderly or disabled individuals, where no children under the age of six (6) currently reside or are anticipated to reside.
- d) Rehabilitation activities that do not disturb painted surfaces, or minor repair and maintenance activities that do not exceed the minimum threshold of disturb paint (two square feet or less of paint per room inside, or twenty square feet or less on the exterior of a home or building).
- e) The residential property was previously inspected in accordance with the standards at §35.1320(a) and found to not contain lead.

- f) The residential property was previously inspected, and all lead-based paint was identified, removed, and clearance was achieved, and certification of clearance was issued by the Indiana Department of Health.

## **B) Lead Pamphlets**

In accordance with 24 CFR 35.910, If a residential property participating in an OCRA CDBG funded Program undergoes lead evaluation or hazard reduction, the grantee is required to provide the Environmental Protection Agency-approved lead hazard information pamphlet to the occupying homeowners in their spoken language. Grantees should obtain a written acknowledgment of receipt of the lead pamphlet from the homeowner, adult representative, or occupants through signature acknowledgment. Grantees are responsible for retaining records for a minimum of three years.

## **C) Determine Assistance Threshold Level**

The lead-based paint applicable requirements depend on the amount of federal funding from any agency, including Community Development Block Grant funding from OCRA, provided to each household for the hard costs of rehabilitation activities.

Hard costs are the expenses designated for the rehabilitation work to be performed in the house, excluding the costs for lead-based paint hazard evaluation and hazard reduction activities.

Grantees are required to determine the hard cost of the rehabilitation activities without factoring in lead-related costs in order to determine the assistance threshold for the residential property and to identify the applicable lead requirements. Three levels have been established to determine the assistance threshold and the subsequent applicable lead requirements:

- a) Federal funding assistance of up to \$5,000 per household.
- b) Federal funding assistance of more than \$5,000 per household up to and including \$25,000 per household.
- c) Federal funding assistance of more than \$25,000 per household.

Once the threshold is identified, grantees are required to follow the lead applicable requirements outlined in Section D of this Policy notice.

## **D) Compliance with HUD's Lead Safe Housing Rule in the Environmental Review Process**

Residential properties involved in the Owner-Occupied Rehabilitation Program undergo a tiered environmental review process. The grantee's designated Environmental Review Officer (ERO) must ensure that lead hazard screening is conducted for each residential property as part of the site contamination analysis process, which is a requirement as part of the tier 2 process.

Residential properties involved in the Recovery Housing Program go through a standard environmental review process. The grantee's designated Environmental Review Officer (ERO) must ensure that lead hazard screening is conducted for the residential property identified as part of the site contamination analysis process.

The designated ERO is required to determine whether a residential property is eligible for an exemption from the Lead Safe Housing Rule by satisfying one of the criteria outlined in Section A of this Policy Notice and documenting the determination in [Form Lead-001:CDBG Lead Hazard Applicability Screening](#).

If an exemption is determined, the grantee is required to provide the required documents and/or complete [Form Lead-002: CDBG LSHR Exemptions](#), if applicable. If a residential property does not meet an exemption, the designated ERO must determine the level of assistance a household receives and document the determination in [Form Lead-001:CDBG Lead Hazard Applicability Screening](#).

If a lead-safe licensed professional is not available among the staff, the grantee must contract with a licensed lead professional with an active license from the Indiana Department of Health in accordance with 410 IAC 32. Grantees are responsible for informing the lead-safe licensed professional of the determined assistance threshold for the residential property requiring lead activity to be performed to ensure compliance with applicable lead requirements outlined in subsequent section 1,2 or 3. Grantees are required to provide the EPA approved pamphlet "[Protect Your Family from Lead in Your Home](#)" to the homeowner, obtain acknowledgement signature from the occupants, and maintain records for each assisted property for a minimum of three years.

**a) Test & Repair: assistance of up to \$5,000 per household**

Grantees are required to identify the rehabilitation work to be performed and to communicate to the lead-safe licensed professional the painted surface area that will be disturbed as part of the rehabilitation of the property, in order to properly guide the lead safe licensed professional. The lead-safe licensed professional must test the painted surfaces to be disturbed and provide notification to occupants of the lead hazard evaluation within 15 days from testing.

If the lead testing is positive, the lead-safe licensed professional, in collaboration with the grantee, is responsible for creating a detailed work write-up for the lead work to be carried out in the residential property. The lead and rehabilitation work write-up will be used to solicit bids from qualified contractors, maintaining required certifications, and should clearly indicate that the property has tested positive for lead. If the lead test results are negative, there is no need to carry out the lead applicability requirements.

If lead testing is positive, a lead-safe licensed professional must implement required lead-safe work practices during the rehabilitation of the property in accordance with 24 CFR 35.1350 and compliance with the standards required by the Indiana Department of Health, and repair disturbed paint surface. If required, lead-safe licensed professional must perform a clearance examination.

The lead-safe licensed professional remains responsible for providing notification of lead hazard reduction work performed to the resident within 15 days of obtaining the pass clearance report and must make all documentation available to the grantee upon request.

Grantees are required to obtain and maintain proper documentation for each property receiving CDGB financial assistance. The grantee must complete [Form Lead-003: Verification of Completed Lead Hazard Reduction Activities](#) and submit via GMS with final test results at closeout.

b) **Identify and Control Lead Hazards: assistance of more than \$5,000 per household up to and including \$25,000 per household.**

Grantees are required to identify the rehabilitation work to be performed and to communicate to the lead-safe licensed professional the painted surface area that will be disturbed as part of the rehabilitation of the property, in order to properly guide the lead safe licensed professional. The lead-safe licensed professional must test the painted surfaces to be disturbed, perform a risk assessment in the residents before rehabilitation begins and provide notification to occupants of the lead hazard evaluation within 15 days of testing. Risk assessment can only be performed by a license person in accordance with 410 IAC 32-4-4.

If the lead testing is positive, the lead-safe licensed professional, in collaboration with the grantee, is responsible for creating a detailed work write-up for the lead work to be carried out in the residential property. The lead and rehabilitation work write-up will be used to solicit bids from qualified contractors, maintaining required certifications, and should clearly indicate that the property has tested positive for lead. If the lead test results are negative, there is no need to carry out the lead applicability requirements.

If lead testing is positive, lead-safe licensed professional must implement required lead safe work practices during the rehabilitation of the property in accordance with 24 CFR 35.1350 and in compliance with the standards required by the Indiana Department of Health and perform interim controls of all lead-based paint hazards identified in the risk assessment and repair all painted surfaces disturbed during the rehabilitation of the property. The lead-safe licensed professional must perform a clearance examination and must upload it to the I-LEAD to obtain the required certificate from the Indiana Department of Health.

The lead-safe licensed professional remains responsible for providing notification of lead hazard reduction work performed to the resident within 15 days of obtaining the pass clearance report and must make all documentation available to the grantee upon request.

Grantees are required to obtain and maintain proper documentation for each property receiving CDGB financial assistance. The grantee must complete [Form Lead-003: Verification of Completed Lead Hazard Reduction Activities](#) and submits via GMS with final test results at closeout.

**Identify and Abate Lead Hazards: assistance of more than \$25,000 per household.**

Grantees are required to identify the rehabilitation work to be performed and to communicate to the lead-safe licensed professional the painted surface area that will be disturbed as part of the rehabilitation of the property, in order to properly guide the lead safe licensed professional. The lead-safe licensed professional must test the painted surfaces to be disturbed, perform a risk assessment in the residents before rehabilitation begins, and provide notification to occupants of the lead hazard evaluation within 15 days of testing. Risk assessment can only be performed by a licensed person in accordance with 410 IAC 32-4-4.

If the lead testing is positive, the lead-safe licensed professional, in collaboration with the grantee, is responsible for creating a detailed work write-up for the lead work to be carried out in the residential property. The lead and rehabilitation work write-up will be used to solicit bids from qualified contractors, maintaining required certifications, and should clearly indicate that the

property has tested positive for lead. If the lead test results are negative, there is no need to carry out the lead applicability requirements.

If lead testing is positive, lead-safe licensed professional must implement required lead safe work practices during the rehabilitation of the property in accordance with 24 CFR 35.1350 and in compliance with the standards required by the Indiana Department of Health and perform interim controls of all lead-based paint hazards identified in the risk assessment, abate all applicable surfaces and repair all painted surfaces disturbed during the rehabilitation of the property. The lead-safe licensed professional must perform a clearance examination, obtain the abatement report and secure the certification provided by the Indiana Department of Health.

The lead-safe licensed professional remains responsible for providing notification of lead hazard reduction work performed to the resident within 15 days of obtaining the pass abatement report and must make all documentation available to the grantee upon request.

Grantees are required to obtain and maintain proper documentation for each property receiving CDGB financial assistance. The grantee must complete [Form Lead-003: Verification of Completed Lead Hazard Reduction Activities](#) and submits via GMS with final test results at closeout.

### **Effective Date**

This policy is effective as of July 26, 2024, and will remain in effect until amended, superseded, or rescinded.