

IX. ASBESTOS AND LEAD-BASED PAINT

Table of Contents

	<u>Page</u>
A. Asbestos	IX-1
B. Lead-Based Paint	IX-2
Attachment 1: Single Family Lead Presumption Notice	IX-6
Attachment 2: Lead-Based Paint Process	IX-7

A. ASBESTOS

Asbestos is a mineral fiber that was commonly added to products to strengthen them, and to provide heat insulation and fire resistance. Asbestos is commonly found in older homes where it was used for pipe and furnace insulation, in asbestos shingles, millboard and transite siding, floor tiles, and a variety of other coating materials. The only way to determine whether a material is asbestos (containing more than 1% asbestos by volume) is through Polarized Light Microscopy.

The handling of asbestos-containing materials is regulated by the Environmental Protection Agency (EPA) under the National Emissions Standards for Hazardous Air Pollutants (NESHAP), 40 CFR Part 61, and the Occupational Safety and Health Administration (OSHA) under regulations delineated in 29CFR 1926.1101.

In Wisconsin, the Department of Natural Resources (WDNR) enforces the control of asbestos emissions through chapter NR447 Wisconsin Administrative Code. The Wisconsin Department of Health Services (WDHS) requires and enforces training and certification of individuals involved in asbestos-related activities through chapter HFS159, Wisconsin Administrative Code.

General Policy on Asbestos:

ALL rehabilitation that is done in whole or part with CDBG funds must comply with state and federal asbestos removal requirements.

- Leave undamaged asbestos in place. Asbestos should only be removed when it is friable (which means that it can be crumbled to a powder by hand pressure) or when it will be disturbed by building rehab or demolition.
- Removal of asbestos-containing material can be legally performed by contractors certified by WDHS.
- Regulations regarding disposal in an approved landfill must be followed. Disposal is regulated by WDNR, Bureau of Solid Waste Management.

Important:

Any asbestos containing material (all untested materials EXCEPT glass, wood, metal, fiberglass) which will be disturbed or has the potential to be disturbed as a result of renovation activities must be removed prior to work.

WDHS regulations regarding certification and training accreditation of workers are applicable. If a contractor is removing asbestos-containing materials, s/he must be certified and WDHS must be notified 10 days prior to start of project.

Web Resources:

<http://dnr.wi.gov/air/compenf/asbestos/asbes3.htm>

<http://dhs.wisconsin.gov/asbestos/index.htm>

If presence of asbestos hazard is documented you may provide a grant for the cost of removal under the same conditions as lead. (See Section "B" of this Chapter.)

B. LEAD-BASED PAINT

1. Introduction

Any housing unit rehabilitated in whole or part with CDBG funds must comply with the lead-based paint requirements in Title X of the Housing and Community Development Act of 1992, as amended, Section 1012 of the Residential Lead-Based Paint Hazard Reduction Act of 1992 (Title X Subpart J), DHS 163, and 24 CFR 35.

Lead-based paint (LBP) hazards include:

- Deteriorated LBP: any interior or exterior LBP that is peeling, chipping, chalking, or cracking, or located on any surface or fixture that is damaged or deteriorated.
- LBP on a Friction Surface: an interior or exterior surface subject to abrasion or friction, such as painted floors and friction surfaces on windows.
- LBP on an Impact Surface: an interior or exterior surface subject to damage by repeated impacts, such as parts of door frames.
- LBP on an Accessible Surface: an interior or exterior surface accessible for a young child to mouth or chew, such as a window sill or door frame.
- Lead-Contaminated Dust: surface dust in residential dwellings that contains an area or mass concentration of lead in excess of current federal guidelines.
- Lead-Contaminated Soil: bare soil on residential property that contains lead (often from chipping and peeling exterior paint) in excess of current federal guidelines.

The introduction of lead-based paint in residential structures rehabilitated in whole or part with CDBG funds is prohibited.

All contracts for housing rehabilitation and/or housing development must prohibit the introduction of lead-based paint.

All **OCCUPANTS** of housing units built prior to 1978 must be notified of the hazards of lead-based paint, of the symptoms and treatment of lead-based paint poisoning, of the need to identify lead-based paint hazards through environmental inspection and blood lead tests, and of the importance and availability of maintenance and removal techniques to eliminate such hazards. The following website has the required pamphlet, *Protect Your Family From Lead in Your Home* as well as other good information to raise awareness about the continuing problem of lead-based paint poisoning.

<http://www.hud.gov/offices/lead/outreach/>

All occupants of units built before 1978 must be notified of the importance of monitoring and continual maintenance unless the lead-based paint has been permanently removed.

All units built prior to 1978 must be inspected for deteriorated paint. If there is deteriorated paint, this condition MUST be reflected on the HQS inspection form. All deteriorated paint must be addressed by the rehab activities.

All federal and state laws must be followed when completing rehabilitation work where lead-based paint is known or presumed to be present. All inspection forms, the Risk Assessments or, if there is none, the Presumption Notice, must be given to the occupants.

2. Process

- a. Upon receipt of the application, determine the age of the home. It is known that many surfaces in post-1960 units do not contain lead-based paint. In fact, even some pre-1960 construction may have been completed without the use of lead-based paint. However, lead-based paint is still in use so be alert for deteriorated paint no matter the age of the house.
- b. Provide occupants with the pamphlet, *Protect Your Family From Lead in Your Home*. Receipt of the pamphlet must be documented.
- c. Children under the age of six may not be required to be tested for elevated levels of lead in their blood as a requirement to receive the CDBG loan. It is STRONGLY urged that such testing take place prior to the initiation of rehab that addresses deteriorated paint or that will disturb a painted surface in a pre-1978 unit.
- d. During the Initial Inspection, the condition of painted or varnished surfaces must be noted and the existence of lead-based paint hazards must be evaluated. Either a Risk Assessment or the Presumption of the presence of lead-based paint should also be completed.
- e. ***Note: The HQS inspection report must be thorough and identify all deteriorated paint in the home, inside and out. Failure to do so may jeopardize the ability of the contractor to achieve project clearance.***
- f. Write the Bid Specifications, making sure to identify deteriorated paint that must be corrected or work items that will break a painted surface. Determine which work items represent a lead-based paint hazard and will require a lead-safe **renovator** or, perhaps, an abatement contractor.

- g. In general, the Standard Treatments Option is the preferred method since it allows the grantee to skip the risk assessment and presume the presence of lead-based paint. The homeowner must be notified that the program is presuming the presence of lead-based paint. Contractors trained in lead-safe work practices must perform the work and the house must pass clearance.
- h. Standard Treatments Option:
- Stabilize all deteriorated paint (interior and exterior)
 - Create smooth cleanable horizontal surfaces
 - Correct dust generating conditions, including friction and impact surfaces
 - Treat bare soil, make lead-based paint contaminated soil inaccessible
- i. Determine whether the household should be temporarily relocated during the rehabilitation. The trained contractor being used to do the lead-based paint related work must develop an **occupancy protection plan** for the project. Depending on the nature of the rehab, the occupants may need to be temporarily relocated from the unit. The cost of the temporary relocation is an eligible CDBG project expense, but IS NOT an expense to be included in the loan to the property owner.
- j. Make sure the CDBG contract includes language, which will ensure that the contractor is responsible for cleaning the unit so that it will pass clearance when all work is done, and before payment is made. The contract should also contain language that requires the contractor to document receipt by the property owner of the *Renovate Right* pamphlet.
- k. Make frequent site visits to ensure compliance by all contractors of the lead-safe work rules.
- l. Arrange for Clearance Testing, both visual and sampling, as needed, before final payment is issued to the contractor.

3. Other Lead-Based Paint Issues

If the property owner, in consultation with the Grantee, feels that lead-based paint is not present in a pre-1978 unit, the option to have a paint test done by a certified risk assessor may be exercised.

- If the results of the test show that lead-based paint IS present, the property owner must pay for the cost of the test (not to be included in the loan).
- If the results of the test show that lead-based paint is NOT present, the test will be paid for from project costs, and not included in the project loan amount

Risk Assessments and Clearance testing costs are eligible CDBG expenses to be taken from the Rehabilitation project funds but NOT charged to the homeowner's mortgage. The Risk Assessment and Clearance testing fees may also be included in the administrative costs.

When rehab plus lead hazard reduction activities cause the loan-to-value ratio to exceed 95%, you may provide the funds for lead hazard reduction activities as a grant under the following conditions:

- The lead presence must be documented by testing rather than assumed.
- No “cosmetic” rehab is figured into the equation.
- Only the lead-based paint hazard reduction activities may be funded as a grant.
- Lead-based paint hazard reduction costs that yield a loan-to-value ratio of less than 95% must be made as a loan.

Lead-based paint web resources:

<http://www.hud.gov/offices/lead/index.cfm>

<http://dhfs.wisconsin.gov/lead/>

<http://www.epa.gov/lead/>

ATTACHMENT 1

SINGLE FAMILY LEAD HAZARD PRESUMPTION NOTICE §35.930(a)

Notice That Lead-Based Paint or Lead-Based Paint Hazards are Presumed to be Present

Address/location of property or structure(s) to which this notice of presumption applies:

Types of Presumption (Check all that Apply)

- (a) Lead-based paint is presumed to be present.
- (b) Lead-based paint hazard(s) is (are) presumed to be present.

Summary of Presumption. List at least the bare soil locations, dust-lead locations, and/or building components (including room and substrate underneath the paint), and types of lead-based paint hazards presumed to be present:

Bare Soil Location	Hazard		
Lead Dust Location	Hazard		
Building Components	Location	Substrate	Hazard

For more information about the presumption

Signature: _____

Printed Name: _____

Date: _____

Organization: _____

Street: _____

City & State _____

Zip _____

Phone #: _____

Person Who Prepared this Notice of Presumption

Signature: _____

Printed name: _____

Date: _____

Organization: _____

Street: _____

City & State _____

Zip _____

Phone #: _____

LEAD-BASED PAINT REQUIREMENTS IN CDBG-ASSISTED HOUSING REHABILITATION

