**SECTION VIII. HOME HHR ASBESTOS AND LEAD-BASED PAINT**

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1. **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) is through Polarized Light Microscopy.

The handling of asbestos-containing materials (ACM) 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 (DNR) enforces the control of asbestos emissions through chapter NR447 Wisconsin Administrative Code. The Wisconsin Department Health Services (DHS) requires and enforces training and certification of individuals involved in asbestos-related activities through chapter DHS159, Wisconsin Administrative Code. In the event of conflict between the language specified in a grantee’s contract and this handbook or other supporting documents, the provisions in the contract shall take precedence.

**General Policy on Asbestos:**

ALL rehabilitation that is done in whole or part with HOME 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 ACM can be legally performed by contractors certified by DHS; and
* Regulations regarding disposal in an approved landfill must be followed. Disposal is regulated by DNR, Bureau of Solid Waste Management.

**NOTE:** Renovations or demolition of a single, isolated, residential dwelling unit or structure with four or less dwelling units is exempt from DNR asbestos regulations for air emissions but disposal rules and DHS regulations regarding certification and training accreditation of workers still apply. If a contractor is removing ACM, s/he must be certified and DHS must be notified 2 days prior to start of project.

Web Resources:

<http://dnr.wi.gov/topic/Demo/Asbestos.html>

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

For Grantees undertaking rehabilitation activities:

1. Determine if the proposed rehabilitation activities will disturb any ACM. If in doubt, the grantee should have the material sampled by a certified asbestos inspector and tested by a certified laboratory to determine if asbestos is present and the asbestos level content.
2. If ACM is present and the proposed rehabilitation activities will disturb the materials or they are already friable, the client and the contractor(s) bidding on the work must be notified of its presence.

In the proposal, plans must include how the abatement of ACM is to be done, property safeguards proposed, a requirement to use certified asbestos workers/supervisor and a proper dis­posal plan.

If contractors cannot pro­vide evidence that they and their employees have received proper train­ing and certification for the abatement of ACM, they can­not perform the work. Training and certification requirements are available from DHS, Division of Health.

1. The client retains ownership of all ACM including disposed at a proper landfill. Therefore, all test results, manifests, etc. and other documentation must be provided to the client, with copies retained by the grantee.
2. **LEAD-BASED PAINT**

**Introduction**

Any housing unit rehabilitated in whole or part with HOME funds must comply with the lead-based paint (LBP) 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) and 24 CFR 35.

 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; and
* 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 LBP in residential structures rehabilitated in whole or part with HOME funds is prohibited.

All contracts for housing rehabilitation and/or housing development must prohibit the introduction of lead-based paint. In addition, the contract between the Grantee and the Department contains lead-based paint requirements. In the event of conflict between the language specified in a grantee’s contract and this handbook or other supporting documents, the provisions in the contract shall take precedence.

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 websites provide information to raise awareness about the continuing problem of lead-based paint poisoning:

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

<http://www.dhs.wisconsin.gov/lead/>

All occupants of units built before 1978 must be notified of the importance of monitoring and continual maintenance unless LBP 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 painted and varnished surfaces must be treated as lead-based unless proven otherwise.

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.

**Process**

1. Upon receipt of the application, determine if lead might be present. 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 LBP. However, LBP is still in use so be alert for deteriorated paint no matter the age of the house. Refer to the Lead-Based Paint Requirements in HOME- Assisted Housing Rehabilitation process flow diagram (Attachment 2).
2. Provide occupants with the pamphlet, *Protect Your Family From Lead in Your Home found at the HUD website below:*

<http://www.hud.gov/offices/lead/library/enforcement/pyf_eng.pdf>

1. Children under the age of 6 may not be required to be tested for elevated levels of lead in their blood as a requirement to receive the HOME 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.
2. During the Initial Inspection, the condition of painted or varnished surfaces must be noted and the existence of LBP hazards must be evaluated. Either a Risk Assessment or the Presumption of the Single Family Lead Hazard Presumption Notice (Attachment 1) should be completed.
3. Write the Bid Specifications, making sure to identity deteriorated paint that must be corrected or work items that will break a painted surface. Determine which work items will require a lead-safe renovator or, perhaps, an abatement contractor.
4. 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 steps are listed below:
5. Stabilize all deteriorated paint (interior and exterior).
6. Create smooth cleanable horizontal surfaces.
7. Correct dust generating conditions, including friction and impact surfaces.
8. Treat bare soil, make lead-based paint contaminated soil inaccessible.

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. Each individual on the job site must take the eight hour lead-safe renovation course and at least one person must be a Wisconsin certified lead-safe renovator.

1. Determine whether the household should be temporarily relocated during the rehabilitation. The trained contractor being used to do the LBP related work must develop an occupancy protection plan for the project. Depending on the nature of the rehab, occupants may need to be temporarily relocated from the unit. The cost of temporary relocation is an eligible HOME project expense, but IS NOT an expense to be included in the loan to the property owner.
2. Make sure the HOME 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.
3. Make frequent site visits to ensure compliance by all contractors of the Lead-Safe Work Rules.
4. All rehab that disturbs painted/varnished surface in a pre-1978 home funded by federal funds MUST pass clearance. Arrange for Clearance Testing, both visual and sampling as needed, before final payment is issued to the contractor.

**Other 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 or inspector may be exercised.

* If the results of the test show that LBP 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 LBP is NOT present, the test will be paid for from project costs, and not included in the project loan amount.

Risk Assessments or Lead Inspections (if necessary) and Clearance testing costs are eligible HOME expenses to be taken from the Rehabilitation project funds. The Lead Risk Assessment/Inspection testing fees must be paid as an administrative cost if the activity does not go forward.

The HHR housing program is a loan program. However, a grant to the recipient must be provided if the presence of lead-based paint is documented through a risk assessment. A grant must be made for the cost of removal and replacement or repair of components.

No lead-based paint rehabilitation costs may be granted, unless a risk assessment documenting the presence of lead-based paint is completed. All risk assessments and clearance tests must be provided as a grant to the homeowner.

If presence of asbestos hazard is documented you may provide a grant for the cost of removal under the same conditions as lead.

Other Lead-based paint web resources:

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

**ATTACHMENT VIII-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:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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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 presumptionSignature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Printed Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Organization: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Street: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_City & State \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Zip \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Phone #: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | Person Who Prepared this Notice of PresumptionSignature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Printed name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Organization: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Street: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_City & State \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Zip \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Phone #: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

**ATTACHMENT VIII-2**

**LEAD-BASED PAINT REQUIREMENTS IN HOME-ASSISTED HOUSING REHABILITATION**

HOUSE BUILT PRE - 1978

yes

Lead-based Paint booklet to occupant

Assume presence of lead and use contractors trained in lead-safe work practices to do the work.

no

Use contractors trained in lead-safe work practices to do the work.

no

yes

yes

Planned rehab will break a painted surface?

Lead Present?

Test for Lead \*

no

no

Work site(s) must pass clearance when work is completed. If work site was not contained, the house must pass clearance when work is completed.

yes

Determine if testing is worthwhile

no

\*All surfaces containing lead hazards that were NOT identified in the HQS must be abated with abatement contractors. (NOT

 Lead-safe renovators)

**Identify and abate all lead-based paint hazards.**

 yes

Defective Painted Surfaces?

no

Children with elevated blood lead levels, house under DHFS orders or non-lead rehab totaling more than $25,000?

# CONDUCT REHABILITATION AS USUAL