

Lead Poisoning Prevention in Indiana



Property Managers Responsibilities for Lead-Based Paint

- Follow EPA's Lead Disclosure Rule including providing a copy of any reports dealing with lead-based paint or lead hazards to tenants.
- If more than 2 square feet of paint is disturbed by maintenance staff or contractors, provide written pre-renovation notice to owners and occupants per EPA's rule.
- If you receive HUD funding such as Section 8, follow HUD's special work practice and training requirements.

For homes and child-occupied facilities built before 1960, Indiana law:

- ⇒ Presumes that paint is lead-based paint;
 - ⇒ Prohibits the use of dangerous work practices such as dry-sanding, dry-scraping or burning paint unless special conditions apply; and
 - ⇒ Requires exterior cleanup of visible paint chips or painted debris within 48 hours after work is complete.
- Evaluate property with a visual assessment and interior lead dust sampling annual and after more than minor amounts of paint is disturbed.
 - If you hear that a child of a resident may be lead-poisoned, quickly investigate the situation while respecting that family's privacy.

Contact IDEM's Lead Hotline 888-574-8150

Lead Primer



What are the dangers of lead poisoning? Severe childhood lead poisoning is uncommon in Indiana, but thousands of Hoosier children are poisoned by lower levels of lead that permanently damage the brain. This damage includes lowered IQ levels, a greater chance of learning disabilities and attention deficit disorders, and a tendency towards violent behavior. Indiana requires intervention to protect children six years or younger when a child has more than 10 micrograms of lead in a deciliter of blood.

How can I tell if a person is lead poisoned? You can only tell by testing a person's blood. Since lead leaves the blood over time, you cannot easily tell whether a person was lead poisoned in the past.

Why focus on children six or younger? The body has difficulty telling the difference between lead and calcium. As a result, in children, lead in blood can get into the brain and permanently damage it. Pregnant woman can pass lead to a fetus. Adults and children over six can also be lead poisoned but it takes higher levels. Children under seven are the most vulnerable group.

How many children are lead poisoned in Indiana? No one knows. However, all children eligible for Medicaid must be tested. The state recommends that all children living or playing in property built before 1978 be tested. National averages suggest that 1 in 25 children are lead poisoned. Race and income-levels are also factors.

How do they get lead poisoned? Today, lead dust and lead in soil are the primary sources of lead poisoning. Children playing on the floor get lead dust or contaminated soil on their toys, blankets, clothes and on their hands that they may ingest. The lead dust may be invisible. Paint chips can still be a problem but that is less common.

Where does the lead come from? The lead primarily comes from deteriorated lead-based paint. Lead-based paint is most often found on the exterior of the home. This paint has contaminated the soil over the years. Inside, windows and doors are the most likely places to find lead-based paint because the paint was durable. Dust can be found everywhere. The only way to know for sure is to have it checked by a risk assessor or inspector licensed by the Indiana Department of Environmental Management.

Why 1978 and 1960? The use of lead-based paint on residential property was prohibited after January 1, 1978. Indiana presumes paint from a home or child-occupied facility built before 1960 is lead-based paint.

When Do You Need a Specialized Contractor?



Hiring the right person to do the job is critical. It reduces your liability and repeating work.

You only need an Indiana licensed abatement contractor when you are undertaking repairs or renovations designed to eliminate lead-based paint hazards for more than 20 years. However, projects that only incidentally result in a reduction or elimination of the hazards are exempt.

In practice, abatement are unusual. You are likely to need to do an abatement only under three circumstances:

- You are receiving more than \$25,000 of HUD funds to conduct a renovation;
- A child has been lead poisoned in the property and the risk assessor reports that an abatement must be performed; or
- A state or local agency orders the abatement.

Consider hiring an abatement contractor whenever lead hazards need to be cleaned even if it is not technically an abatement project.

While not demanding the use of a licensed abatement contractor, HUD does have special training requirements (and work practices) for any disturbance of lead-based paint in target housing built before 1978. If the project is not an abatement project, the work must be either:

- Supervised by a lead abatement supervisor licensed by IDEM; or
- Performed only by people who have successfully completed either:
 - ⇒ Lead supervisor or worker training; or
 - ⇒ HUD-Approved Lead-Safe Work Practices Training Course.



HUD and EPA have jointly approved a course for painters, renovators, and maintenance personnel. See www.hud.gov/offices/lead/training/rtp/rtp_course.cfm for the course materials.

If you manage many rental properties, it is usually worthwhile to have a licensed lead supervisor on staff or on contract to give you flexibility.

Indiana's Special Work Practice Rules For Buildings Built Before 1960

Indiana has special requirements for any person doing remodeling, renovation, and maintenance work at target housing and child occupied facilities built before 1960. These requirements do not apply to:

- Paint that a licensed risk assessor or inspector says is not lead-based paint.
- A homeowner unless:
 - ⇒ Someone other than a member of the immediate family is present while work is done; or
 - ⇒ A lead poisoned child lives in the building.
- Less than the following amounts of paint is disturbed:
 - ⇒ Twenty square feet of exterior painted surfaces;
 - ⇒ Two square feet of interior painted surfaces in any one room or space; or
 - ⇒ 10% of the painted surface area of components of the building.

What is required?

1. **Interior and Exterior Paint:** The following work practices are prohibited to remove paint:
 - a. **Open flame burning or torching.**
 - b. **Machine sanding or grinding** without high efficiency particulate air local exhaust control.
 - c. **Abrasive blasting or sandblasting** without high efficiency particulate air local exhaust control.
 - d. **A heat gun** that:
 - i. operates above 1,100°F; or
 - ii. chars the paint.
 - e. **Dry scraping**, except:
 - i. in conjunction with a heat gun; or
 - ii. within one foot of an electrical outlet.
 - f. **Dry sanding**, except within one foot of an electrical outlet.
 - g. In a space that is not ventilated by the circulation of outside air, using a **volatile stripper** that is a hazardous chemical under 29 CFR 1910.1200.
2. **Exterior Paint:** A person disturbing painted exterior surfaces may not allow visible paint chips or painted debris to remain on the soil, pavement, or other exterior horizontal surface for more than forty-eight hours after the surface activities are complete.



If a Lead-Poisoned Child is Found Living in Your Property?

State and local health agencies routinely check a child's blood for lead. If a child is found to be lead-poisoned, state regulations require that the local health department immediately conduct an environmental investigation of the child's home to find the source of the lead. A licensed lead risk assessor must conduct the investigation. In addition, if property is HUD-funded, HUD requires that a risk assessment be completed in 15 days and hazards addressed within 30 days.

If the risk assessor finds lead hazards on the property, the lead hazards may be a violation of the local housing code. The hazards also may be a violation of the lease pursuant to IC 32-31-8-5 which requires that a landlord deliver the rental premises to a tenant in a safe, clean, and habitable condition that complies with applicable health and housing codes.

If a state or local agency orders the permanent elimination of lead hazards, the work must be done as an abatement by licensed abatement contractors.

If the lead hazard disclosure was not properly made in the lease (see next page), the tenant may collect for triple damages and collect attorney and expert witness fees if successful.

If you hear that a child of a resident may be lead poisoned quickly investigate and get a risk assessment done by a licensed lead risk assessment.

Compliance Hints



- If property is built after 1960, have a lead inspection done, you may not have any lead-based paint.
- If lead may be present, conduct a visual assessment and take interior dust wipe samples annually and after paint is disturbed.
- Make sure contractors give both you and residents the pre-renovation notification.
- Arrange for a licensed supervisor to on-site quickly.
- Provide disclosure to all tenants in building of reports describing only one unit.

Don't Forget OSHA!

OSHA requires that employers conduct — and document — an exposure assessment to determine if any employee may be exposed to significant levels of lead in the air. Air monitoring is required for assessment. Until the assessment is complete and shows levels below limits, employees must wear a respirator. See 29 CFR 1926.62.

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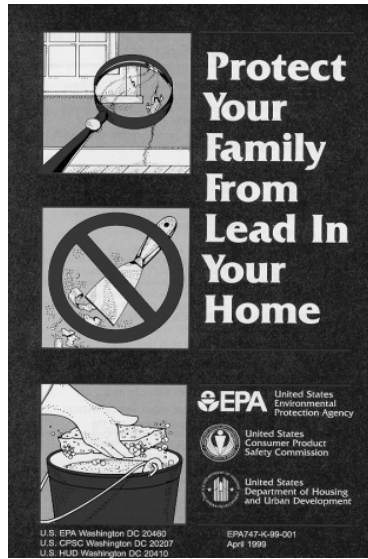
Two Federally Mandatory Lead Disclosures

Pre-Renovation Notice

Any contractor who disturbs more than two square feet of interior paint in target housing must provide the owner (and adult occupant if not owner-occupied) with the EPA "Protect Your Family From Lead in Your Home" pamphlet and either send it by certified mail or get the owner and adult occupant to sign a written acknowledgement of receipt of the pamphlet.

The pamphlet must be given before the work begins but not more than 60 days before. Certified mail must be sent 7 days before renovation begins.

If a common area is affected, tenants must be notified in writing of location and dates of the work and that the EPA pamphlet is available.



Property Sales or Leases

Owners and their agent must include in their leases and sales contracts the following:

- Lead Warning Statement
- Either disclose known lead-based paint or lead hazards in home or indicate no knowledge.
- Provide any additional information concerning known lead-based paint or lead hazards.
- List of reports or records provided to buyer or tenant. If no records available, state that fact.
- Statement by buyer or tenant affirming receipt of information. A buyer must be given 10 days to conduct a risk assessment or inspection or waive opportunity.
- Signatures by seller or lessor and their agents as well as buyer or tenant certifying accuracy of their required statements.

HUD and EPA can issue fines of \$11,000 for each violation. The buyer or tenant can sue for treble damages and collect attorney and expert witness fees if successful in showing disclosure rules not followed.



Key References and Contacts

- Indiana Regulations — 326 IAC 23 (See www.in.gov/legislative/iac/t03260/a00230.pdf and www.in.gov/idem/air/compliance/index.html#B)
 - ⇒ 23-1 Definitions
 - ⇒ 23-2 Licensing for Persons Engaging in Lead-Based Paint Activities
 - ⇒ 23-3 Approval of Training Course Providers
 - ⇒ 23-4 Work Practice Standards for Abatement Activities
 - ⇒ 23-5 Work Practice Standards for Non-Abatement Activities
- U.S. Environmental Protection Agency Regulations — 40 CFR Part 765 (See www.epa.gov/lead/)
 - ⇒ Subpart D Lead-Based Paint Hazards
 - ⇒ Subpart E Residential Property Renovation Notice
 - ⇒ Subpart F Lead Hazard Disclosure in Target Housing
 - ⇒ Subpart L Lead-Based Paint Activities
- U.S. Department of Housing and Urban Development Regulations — 24 CFR Part 35 (See www.hud.gov/offices/lead/index.cfm)
- U.S. Occupational Safety and Health Administration — 29 CFR 1926.62 (see www.osha.gov/SLTC/constructionlead/index.html)

Also see:

- IDEM — www.in.gov/idem/envirohealth or 888-574-8150.
- National Lead Information Center — (800) 424-LEAD [5323]
- National Center for Healthy Housing — www.centerforhealthyhousing.org
- Alliance for Healthy Homes — www.afhh.org
- Lead-Safe Indiana Task Force and Improving Kids' Environment — www.ikecoalition.org or 317-442-3973



What Property is Covered by Indiana's Lead-Based Paint Licensing Regulations?

Target housing means housing built before January 1, 1978. It does not include the following:

- Housing for the elderly or individuals with disabilities that is not occupied by or expected to be occupied by a child six years of age or younger; or
- A zero-bedroom dwelling such as a dorm or efficiency.



Child-occupied facility means a building or portion of a building that was built prior to January 1, 1978 and is visited by a child six years of age or younger for more than two days a week, for at least three hours a visit for an annual total of at least 60 hours. It includes day care centers, preschools, and kindergarten classrooms.