**Section 845.85 Environmental Follow-Up**

a) Environmental Investigation of Regulated Facilities

1) An EBL inspection to determine the source of lead exposure shall be conducted under any of the following circumstances:

A) If a child or pregnant person who is an occupant or frequent visitor of a regtulated facility has an EBL;

B) If a child or pregnant person has a confirmed EBL;

C) *If a regulated facility is occupied* or frequently visited *by a child* ora pregnant person*, the Department, in addition to all other requirements of the Act, must inspect the dwelling unit of the child and common area of the regulated facility.* (Section 8 of the Act)

D) At the request of a pregnant person or parent or guardian of a child, if they reside in a residential building where mitigation notices have been issued for two or more dwelling units within a five year period previous to the request.

2) An EBL inspection of a regulated facility to determine the source of lead poisoning as required by this Section shall be conducted and shall consist of at least the following:

A) An interview with the owner or occupant about regulated facility use patterns and potential lead hazards, including, but not limited to, inquiries such as:

i) Glazed pottery;

ii) Ethnic or folk medicines;

iii) Hobbies and occupation;

iv) Other regulated facilities visited by the child or pregnant person;

v) International travel;

vi) Recent renovations;

vii) Products recalled for containing lead or other products that may contain lead, such as imported jewelry, toys and candies; and

viii) the plumbing materials used in the regulated facility.

B) A visual assessment of the condition of the building, appurtenant structures and painted surfaces, and identification of premise plumbing, any drinking fountains and premise service line; and

C) Environmental sampling in accordance with subsection (a)(3).

3) Sampling shall be conducted by as many of the following methods as necessary to determine if lead hazards are present in the regulated facility:

A) XRF Testing. XRF equipment shall be operated in accordance with work practice standards incorporated in Section 845.15 and the manufacturer's operational manual. Surfaces sampled with XRF readings equal to or greater than the levels specified in Section 845.205 are considered to be lead-bearing substances.

B) Dust Wipe Sampling. Dust wipe samples shall be collected in accordance with documented methodologies incorporated in Section 845.15. Dust samples collected with laboratory analysis reported as equal to or greater than the levels referenced in Section 845.205 are considered lead hazards.

C) Paint Chip Sampling. Paint chip samples shall be collected in accordance with documented methodologies incorporated in Section 845.15. Surfaces where paint chip samples are collected with analysis reported as equal to or greater than the levels referenced in Section 845.205 are considered to be lead-bearing substances.

D) Soil Sampling. Soil samples shall be collected where bare, accessible soil is identified. If collected, soil samples shall be collected in accordance with documented methodologies incorporatedin Section 845.15. Soil samples with laboratory analysis reported as equal to or greater than the levels referenced in Section 845.205 are considered lead hazards.

E) Water Sampling. Water samples shall be collected in accordance with documented methodologies incorporated in Section 845.15. Water samples with laboratory analysis reported as equal to or greater than the levels referenced in Section 845.205 are considered lead hazards.

4) All environmental samples, excluding XRF sampling, shall be submitted to and analyzed by a laboratory accredited by the National Lead Laboratory Accreditation Program (NLLAP); water samples shall be submitted to and analyzed by a laboratory accredited by the National Environmental Laboratory Accreditation Program (NELAP).

5) *Following the EBL inspection, the Department or its delegate agency shall:*

A) *Prepare an inspection report that shall*:

i) *State the address of the dwelling unit* or regulated facility;

ii) *Describe the scope of the inspection, the inspection procedures used, and the method of ascertaining the existence of a lead-bearing substance in the dwelling unit* orregulated facility;

iii) *State whether any lead-bearing substances were found in the dwelling unit* or regulated facility;

iv) *Describe the nature, extent, and location of any lead-bearing substance that is found;*

v) *State either that a lead hazard does exist or that a lead hazard does not exist. If a lead hazard does exist*, *the report shall describe the source, nature and location of the lead hazard. The existence of intact lead paint does not alone constitute a lead hazard for the purposes of this Section;* and

vi) *Give the name of the person who conducted the inspection and the person to contact for further information regarding the inspection and the requirements of* the *Act* and this Part. (Section 8(1) of the Act)

B) *Provide a copy of the inspection report to the property owner and to the occupants of the dwelling unit* or regulated facility. *If a lead-bearing substance is found, at the time of providing a copy of the inspection report, the Department or its delegate agency shall attach* a brochure containing information on lead abatement and lead mitigation to the copy of the inspection report provided to the property owner and the occupants of the regulated facility. (Section 8(2) of the Act) The brochure should include the topic of lead in water and ways to mitigate this potential exposure path.

C) *If the inspection report identifies a lead hazard, the Department or delegate agency shall serve a mitigation notice on the property owner that the owner is required to mitigate the lead hazard and* *shall indicate the time period specified in* the Act *in which the owner must complete the mitigation. The notice shall include information* *describing mitigation activities that meet the requirements of* the Act and this Part. (Section 9(1) of the Act) The notice shall include information on mitigating the potential risks of lead in drinking water, such as replacing the lead water service line and older water fountains containing lead if found during facility lead abatement work. Partial replacement of the lead service line is prohibited.

D) If the source of the lead hazard identified in the inspection report is lead-based paint or any other lead-bearing substance, *the lead hazard shall be deemed to have been mitigated if*:

i) *The surface identified as the source of the lead hazard is no longer in a condition that produces a hazardous level of lead chips, flakes, dust*, soil *or any other form of lead-bearing substance that can be ingested or inhaled by humans;*

ii) *The surface identified as the source of the lead hazard is no longer accessible to children and could not reasonably be chewed on by children; or*

iii) *The surface coating identified as the source of the lead hazard is either removed or covered* (enclosed or encapsulated), *or child access to the lead-bearing surface is otherwise prevented as prescribed by the Department.* (Section 9(2) of the Act)

E) *When a mitigation notice is issued for a dwelling unit* or regulated facility *inspected as a result of an elevated blood lead level in a pregnant person or a child, or if the dwelling unit* or regulated facility *is occupied by a child 6 years of age or younger or a pregnant person, the owner shall mitigate the hazard within 30 days* after *receiving the notice. When no such child or pregnant person occupies the dwelling unit* or regulated facility*, the owner shall complete the mitigation within 90 days.* (Section 9(5) of the Act)

F) *An owner may apply to the Department or its delegate agency for an extension of the deadline for mitigation.* *If the Department or its delegate agency determines that the owner is making substantial progress toward mitigation, or that the failure to meet the deadline is the result of a shortage of licensed lead abatement contractors, or that the failure to meet the deadline is because the owner is awaiting the review and approval of a mitigation plan, the Department or delegate agency may grant an extension of the deadline.* (Section 9(6) of the Act)

G) *The Department or its delegate agency may, after the deadline set for completion of mitigation, conduct a follow-up inspection of any dwelling unit* or regulated facility *for which a mitigation notice was issued for the purpose of determining whether the mitigation actions required have been completed and whether the activities have sufficiently mitigated the lead hazard. The Department or its delegate agency may conduct a follow-up inspection upon the request of an owner or resident. If, upon completing the follow-up inspection, the Department or its delegate agency finds that the lead hazard for which the mitigation notice was issued is not mitigated, the Department or its delegate agency shall serve the owner with notice of the deficiency and a mitigation order. The order shall indicate the specific actions the owner must take to comply with the mitigation requirements of the Act, which may include lead abatement if lead abatement is the sole means by which the lead hazard can be mitigated. The order shall also include the date by which the mitigation shall be completed. If, upon completing the follow-up inspection, the Department or delegate agency finds that the mitigation requirements of the Act have been satisfied, the Department or delegate agency shall provide the owner with a certificate of compliance stating that the required mitigation has been accomplished.* (Section 9(7) of the Act)

b) Lead mitigation or lead abatement activities in regulated facilities shall not result in contamination of areas outside of the lead mitigation or lead abatement work area. The removal of lead-bearing substances from regulated facilities shall be conducted in a manner that will not endanger the health or well-being of occupants and will result in the safe removal of lead-bearing substances from the work area and the safe disposal of flakes, chips, debris, dust, and other lead-bearing substances. Lead mitigation or lead abatement shall be completed within the time specified after receipt of written notification. Lead mitigation or lead abatement activities required by this Section may be conducted using any or all of the procedures outlined in Subpart F.

1) A mitigation plan shall be submitted by the owner or its agent to the Department or delegate agency, specifying the method or methods by which surfaces that will be managed in place are to be maintained in an intact condition. The plan shall include an inspection schedule that includes inspection by the owner or its agent at least annually, and a maintenance schedule. Any surfaces that are not intact, as determined through an inspection, shall be repaired using the mitigation techniques specified in this Section until deemed to be intact surfaces by the lead risk assessor. Replacement of lead-containing plumbing and water fixtures containing lead components or linings shall be conducted by a licensed plumber and reviewed by a licensed plumbing inspector.

2) Alternative Procedures

A) When an occupant also owns the regulated facility subject to a mitigation notice, the Department or delegate agency may allow an alternative procedure for lead abatement, lead mitigation, containment or cleanup of a lead paint hazard, provided that the owner submits to the Department or delegate agency a written description of the alternative procedure that demonstrates to the satisfaction of the Department or delegate agency that the proposed alternative procedure provides a level of abatement and safety at least equivalent to the requirements of this Section.

B) In all cases in which the Department or delegate agency allows the use of an alternative procedure, the owner and occupant shall, for a one-year period after completion of the lead abatement or lead mitigation project, permit the Department or delegate agency to enter and inspect the area of abatement for the purpose of determining the effectiveness and durability of the allowed alternative procedure.

c) Notwithstanding any other provision of this Part, lead abatement or lead mitigation is not required when the property owner enters into a stipulation with the Department that will protect children and pregnant persons from exposure to lead-bearing substances. The stipulation shall be by written agreement, and shall provide that any violation of the agreement shall cause the immediate issuance of a mitigation order. Examples of conditions that may be included in a stipulation entered into by the property owners and the Department are as follows:

1) The property shall be demolished; or

2) The property shall be vacated.

(Source: Amended at 43 Ill. Reg. 2440, effective February 8, 2019)