



**[Docket No. FR-6486-N-02]**

**Modifying HUD's Elevated Blood Lead Level Threshold for Children Under Age 6 Who are Living in Certain HUD-Assisted Target Housing Covered by the Lead Safe Housing Rule**

**AGENCY:** Office of Lead Hazard Control and Healthy Homes, Department of Housing and Urban Development (HUD).

**ACTION:** Notice.

**SUMMARY:** This notice announces HUD's modifying its elevated blood lead level (EBLL) threshold under its Lead Safe Housing Rule from to 5 to 3.5 micrograms of lead per deciliter of blood ( $\mu\text{g}/\text{dL}$ ) for a child under the age of 6, consistent with the Centers for Disease Control and Prevention's current blood lead reference value of 3.5  $\mu\text{g}/\text{dL}$ . This notice also describes the required compliance dates for implementing this modification, which depend on whether the applicable State, State-level jurisdiction, territory, or local jurisdiction has already incorporated a blood lead level action threshold equal to or lower than the CDC's current blood lead reference value.

**DATES:** The provisions of this notice relating to HUD's revision to its EBLL take effect on **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

*Compliance Dates:* Compliance with the provisions of this notice relating to HUD's revision to its EBLL threshold is required as described in this notice at section V, "Compliance dates for change to the EBLL threshold."

**FOR FURTHER INFORMATION CONTACT:** Warren Friedman, Office of Lead Hazard Control and Healthy Homes, Department of Housing and Urban Development, 451 7th Street, SW, Room 8236, Washington, DC 20410-3000, telephone 202-402-7698 (this is not a toll-free number), and email [LeadRegulations@HUD.gov](mailto:LeadRegulations@HUD.gov). HUD invites that any further comments on this notice be sent to HUD using the contact information provided in this section. HUD welcomes

and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit

<https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>.

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### **Abbreviations**

BLRV: blood lead reference value

CDC: Centers for Disease Control and Prevention

EBLL: elevated blood lead level

EPA: U.S. Environmental Protection Agency

HHS: U.S. Department of Health and Human Services

HUD: U.S. Department of Housing and Urban Development

OLHCHH: Office of Lead Hazard Control and Healthy Homes

µg/dL: micrograms of lead per deciliter of blood

## **I. Background and HUD’s Lead Safe Housing Rule**

On September 15, 1999, HUD published a final rule entitled “Requirements for Notification, Evaluation and Reduction of Lead-Based Paint Hazards in Federally Owned Residential Property and Housing Receiving Federal Assistance.”<sup>1</sup> HUD’s September 15, 1999 final rule, including revisions made through subsequent rulemakings since the rule’s original publication, is referred to throughout this notice as the “Lead Safe Housing Rule.”<sup>2</sup> The Lead Safe Housing Rule’s purpose is to implement the Lead-Based Paint Poisoning Prevention Act, as amended,<sup>3</sup> and the Residential Lead-Based Paint Hazard Reduction Act of 1992,<sup>4</sup> and specifically “to ensure that housing receiving Federal assistance and federally owned housing that is to be sold does not pose lead-based paint hazards to young children.”<sup>5</sup>

Under the Lead Safe Housing Rule, when a child under age 6 residing in certain housing built before 1978 – i.e., “target housing”<sup>6</sup> – that is HUD-assisted is identified as having an EBLL,

<sup>1</sup> 64 FR 50140.

<sup>2</sup> See 24 CFR part 35, subparts B through R.

<sup>3</sup> 42 U.S.C. 4821 *et seq.*

<sup>4</sup> 42 U.S.C. 4851 *et seq.*; see also 24 CFR 35.100(a).

<sup>5</sup> 64 FR 50140, 50199 (Sept. 15, 1999).

<sup>6</sup> Most housing built before 1978 is considered “target housing,” which is the focus of the Lead Safe Housing Rule and other HUD and EPA rules and programs on lead safety in housing. The Lead Safe Housing Rule defines “target housing,” in part, as “any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless a child of less than 6 years of age resides or is expected to reside in such housing for the elderly or persons with disabilities) or any zero-bedroom dwelling.” 24 CFR 35.110, target housing. HUD is preparing to amend the definition of “target housing” in 24 CFR part 35 to reflect the slight expansion of the scope of the term by the Consolidated Appropriations Act, 2017 (Public Law 115-31, enacted May 5, 2017) to include the small number of pre-1978 zero-bedroom dwellings in which a child under age 6 resides or is expected to reside. See the Office of Information and Regulatory Affairs, Fall 2024 Unified Agenda of Regulatory and Deregulatory Actions, HUD Regulatory Identification Number 2501-AE03, <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202410&RIN=2501-AE03>.

the “designated party” – the property owner or other entity (e.g., Federal agency, State, local government, public housing agency, Indian Tribe, tribally designated housing entity, sponsor) responsible for complying with applicable requirements of the Lead Safe Housing Rule for that assistance<sup>7</sup> – is required to undertake certain actions. These required actions are generally the same for each of the four applicable Lead Safe Housing Rule subparts in 24 CFR part 35 regarding HUD assistance:

- Subpart H, Project-Based Assistance,
- Subpart I, HUD-Owned and Mortgagee-in-Possession Multifamily Property,
- Subpart L, Public Housing Programs, and
- Subpart M, Tenant-Based Rental Assistance.

Additionally, subpart D, which covers project-based assistance provided by a Federal agency other than HUD, has slightly narrower requirements. Under subpart D, other Federal agencies are not required to report instances of children under age 6 being identified with an EBLL to HUD.

During an environmental investigation, certified lead risk assessors or professionals from the local public health department check the child’s environment for possible causes of lead exposure and recommend ways to prevent further lead exposure. If the environmental investigation identifies any lead-based paint hazards in the HUD-assisted housing unit of the child, a designated party associated with the assistance must arrange for the hazards to be controlled in accordance with HUD and EPA requirements, as applicable, on a schedule specified in the Lead Safe Housing Rule.<sup>8</sup> If any of the building’s other HUD-assisted target housing units have a child under age 6 residing in the housing, those units and common areas servicing those units are also required to have a risk assessment conducted. Where a risk assessment is conducted, a designated party associated with the assistance must arrange for any

<sup>7</sup> See 24 CFR 35.110, designated party.

<sup>8</sup> For additional information on required actions where a child has an EBLL, see 24 CFR 35.325 (subpart D); 24 CFR 35.730; (subpart H), 24 CFR 35.830 (subpart I); 24 CFR 35.1130 (subpart L); and 24 CFR 35.1225 (subpart M).

lead-based paint hazards in those units or common areas to be controlled in accordance with HUD and EPA requirements, as applicable, on a schedule specified in the Lead Safe Housing Rule.<sup>9</sup>

## **II. EBLL Notice for Comment**

On September 11, 2024, HUD published a notice for comment in the *Federal Register* (the EBLL Notice for Comment) that provided background on HUD's requirements for responding to an EBLL in children under the age of 6 since 2017 and HUD's process in considering CDC's recommendations regarding an EBLL in children under the age of 6.<sup>10</sup> In the EBLL Notice for Comment, HUD explained its intention to revise its EBLL threshold to 3.5 µg/dL for a child under age 6 and invited public comment regarding HUD's intended revision to its EBLL threshold for a child under age 6. For additional background, see the EBLL Notice for Comment.

## **III. Public Comments**

As described in the EBLL Notice for Comment, HUD explained its intention to decrease its EBLL threshold from its current level of 5 µg/dL for a child under age 6<sup>11</sup> to 3.5 µg/dL, consistent with CDC's current BLRV of 3.5 µg/dL for a child under age 6.<sup>12</sup> In the EBLL Notice for Comment, HUD requested public input regarding HUD's intention to make the described update to its EBLL threshold for the Lead Safe Housing Rule. In addition to welcoming all public input in response to the EBLL Notice for Comment, HUD also specifically requested input on certain topics. These specific requests for input related to HUD's reasoning for the EBLL threshold revision, including the described justification and whether there were other considerations and how HUD should address other considerations relating to revising the EBLL

<sup>9</sup> *Id.*

<sup>10</sup> 89 FR 73702.

<sup>11</sup> CDC. CDC response to Advisory Committee on Childhood Lead Poisoning Prevention recommendations in "Low Level Lead Exposure Harms Children: A Renewed Call of Primary Prevention. June 7, 2012. <https://stacks.cdc.gov/view/cdc/37586>. *See, also*, Advisory Committee on Childhood Lead Poisoning Prevention. Low Level Lead Exposure Harms Children: A Renewed Call for Primary Prevention. January 4, 2012. <https://stacks.cdc.gov/view/cdc/11859>.

<sup>12</sup> <https://www.cdc.gov/lead-prevention/php/data/blood-lead-surveillance.html>.

threshold. In addition, HUD also specifically requested input regarding the compliance period for the revision of the EBLL threshold and potential impacts to ongoing program activities because of the revision.

HUD received 25 public comments in response to the EBLL Notice for Comment.<sup>13</sup> All of the commenters supported the revision of the EBLL threshold to a level lower than the current level. A summary of the public comments received in response to the EBLL Notice for Comment is provided in the text that follows.

*Reasoning and justification for the EBLL threshold change*

A majority of commenters agreed that HUD's modification of the EBLL threshold would be reasonable and justified. Many commenters noted that they work in the healthcare field, while many other commenters work in environmental health advocacy, the legal profession, education, and rental housing management fields. Reasons that commenters provided for supporting the decrease of HUD's EBLL threshold included the need to protect children, with some commenters noting that primary prevention is critical and that there are geographic, socioeconomic, and racial/ethnic disparities in lead exposure. Several commenters noted that they felt there was no safe level of lead for children. One commenter stated that HUD's change was long overdue, and that 37 States have already implemented a change to 3.5 µg/dL for EBLL response. Another commenter asserted that 23 States had adopted the lower CDC level as of June 2023, and that six of those States provide environmental investigations starting at 3.5 µg/dL.

**HUD Response:** HUD agrees with commenters that the change to an EBLL threshold level to align with CDC's 2021 recommendation is reasonable and justified and is consistent with CDC's positions that, "[n]o safe level of lead in children has been identified," and that early intervention is important to reduce harm.<sup>14</sup> HUD notes that CDC has found that, of its childhood

<sup>13</sup> The public comments submitted in response to the EBLL Notice for Comment can be viewed at Regulations.gov, docket number HUD-2024-0069.

<sup>14</sup> See <https://www.cdc.gov/lead-prevention/prevention/index.html>.

lead poisoning prevention program's<sup>15</sup> State-level grantees,<sup>16</sup> about three quarters used the CDC's current BLRV in 2023 to initiate at least one public health action described on CDC's Recommended Actions Based on Blood Lead Level webpage,<sup>17</sup> with the most common barrier reported by the other quarter of State-level grantees being lack of resources for follow-up activities and for the program.<sup>18</sup> About two-thirds of jurisdictions perform educational interventions, caregiver-lead education, and follow-up blood lead monitoring and testing at or above the BLRV. Based on the CDC's finding that using its BLRV is generally – if not universally, because of resource limitations – implementable, HUD is selecting the BLRV as the threshold to which it is changing the EBLL under the Lead Safe Housing Rule. For HUD-assisted target housing, for which designated parties are receiving HUD funds with Lead Safe Housing Rule compliance being a condition of the assistance, HUD has determined that selecting the BLRV as its EBLL threshold is feasible and appropriate.

#### *Compliance period for the EBLL threshold change*

Comments regarding the compliance period for the change to the EBLL threshold and potential impacts to ongoing program activities were diverse. Numerous commenters stated that a compliance period of six months or longer to meet the revised EBLL threshold was appropriate to allow housing providers time to change their operations and receive technical assistance and training. One commenter suggested that a compliance period of nine months to meet the revised EBLL threshold would be more highly favored by rental housing owners and may help ensure that recertifications in HUD's Housing Choice Voucher program occur without disruption, so that families can continue to live in their current residences if they wish. Another commenter

<sup>15</sup> Through the childhood lead poisoning prevention program's cooperative agreements, "CDC supports state and local health departments, or their bona fide agents, through cooperative agreements to support childhood lead poisoning prevention. Prevention efforts include strengthening: blood lead testing and reporting, surveillance, linking children to recommended follow-up services, and targeted population-based interventions." See <https://www.cdc.gov/lead-prevention/success-stories-by-state/index.html>.

<sup>16</sup> The State-level grantees are made up of nearly all States, the District of Columbia, and the Commonwealth of Puerto Rico.

<sup>17</sup> <https://www.cdc.gov/lead-prevention/hcp/clinical-guidance/index.html>.

<sup>18</sup> Personal communication. P. Ruckart, CDC Division of Environmental Health and Science Practice.

advocating for a six-month compliance period to meet the revised EBLL threshold noted that the time would help ensure availability of certified professionals to meet the increased demand for environmental investigations and lead hazard control. Commenters noted that a longer compliance period would provide HUD and other agencies working in lead poisoning prevention more time to communicate and train on the EBLL threshold related changes before compliance is required.

Several commenters recommended a compliance period shorter than six months to meet the revised EBLL threshold, suggesting a range of time from immediate implementation to three months. For the commenters recommending a three month compliance period, one commenter noted that the shorter compliance period would be adequate because responding to findings of EBLL cases in children under age 6 who reside in HUD-assisted target housing is not a new activity for providers of such target housing. Another commenter noted the significant risk of not intervening where young children are exposed to lead and having blood lead levels between the current and intended EBLL thresholds (i.e., below 5.0 µg/dL but at or above 3.5 µg/dL).

Commenters recommending a compliance period shorter than three months also emphasized the importance of preventing harm to young children, asserting that HUD had taken a long time in implementing a change from CDC's BLRV recommendations made in 2021. These commenters also suggested that future EBLL threshold revisions be automatic if and when CDC revises its BLRV, and that HUD consider changing the EBLL definition in the Lead Safe Housing Rule to remove the requirement for notice and comment before implementing an EBLL threshold change. These commenters also stated that, given that so many States and State-level jurisdictions have already revised their blood lead action level to the CDC's current BLRV, HUD did not need to allow additional time for designated parties with HUD-assisted target housing in those States to adapt to a change already covering their properties. Lastly, a commenter noted that HUD-assisted housing providers have had almost four years to learn about the CDC's guidance on responses to its lowered BLRV, meaning that HUD's revision to its EBLL threshold should not be a surprise to them.

**HUD Response:** Based on the comments received, HUD agrees that a compliance period of more than six months is not necessary because of how long it has been since the release of CDC's 2021 BLRV guidance. This is especially true given that there is existing infrastructure and training already available to HUD-assisted housing providers to respond to children with an EBLL. In addition to the regulatory revisions in 2017, HUD has published guidance and technical assistance resources regarding the Lead Safe Housing Rule on HUD Exchange.<sup>19</sup> Responding to children with EBLs is not a new activity for HUD-assisted housing providers, and many have already responded to EBLL cases among families they serve. HUD also appreciates that a significant proportion of States and territories have already adopted a lower blood lead level action threshold for response in advance of Federal action for HUD-assisted target housing. HUD agrees that a shorter compliance implementation period is appropriate in these States. HUD is designating, in section V, Compliance, two compliance implementation periods based on whether the blood lead level action threshold for the jurisdiction in which a property is located is greater than the CDC's current BLRV or is less than or equal to that BLRV.

HUD does not agree with recommendations for immediate implementation of the EBLL threshold change. For HUD's programs, issuing a change with a required programmatic effect differs from CDC issuing guidance on clinical and public health practices, such as CDC revising its BLRV. In particular, the designated parties affected by HUD changing its EBLL threshold for children under age 6 need to be notified of the change and given time to prepare to comply with the change. Comments suggesting that HUD should fully eliminate the Lead Safe Housing Rule's requirements for notice and comment for future EBLL threshold changes are outside of the scope of this notice; however, for reasons similar to those already stated, HUD disagrees that the notice and comment process should be eliminated from the Lead Safe Housing Rule. As noted above,

<sup>19</sup> HUD Exchange is a website that provides resources and assistance to support HUD's community partners and their partners (<https://www.hudexchange.info/about/>). HUD Exchange includes a Lead-Based Paint sub-site with information on lead-based paint safety in HUD-assisted target housing (<https://www.hudexchange.info/programs/lead-based-paint/>), which includes a toolkit on responding to cases of a child residing in such housing who has an EBLL (<https://www.hudexchange.info/programs/lead-based-paint/lshr-toolkit/respond-to-a-child-with-an-ebll/>).

HUD is designating, in section V, Compliance, two compliance implementation periods.

#### *Training, technical assistance, and support*

Some commenters recommended additional training, technical assistance, and support for HUD-assisted housing providers and jurisdictions implementing the EBLL threshold change.

**HUD Response:** To the extent feasible within HUD’s budgetary and staffing resource limitations, HUD will provide such consultations, including within the Community Compass Technical Assistance<sup>20</sup> funds that have been allocated to the OLHCHH’s lead safety program. Further, where appropriate, HUD will continue to update the guidance and instructional materials on the HUD Exchange’s Lead-Based Paint website and will provide staff time for online and in-person trainings.

#### *Monitoring and enforcement*

A few commenters recommended additional “accountability” for landlords, and several commenters noted the need for compliance monitoring and enforcement of HUD’s regulations regarding lead-based paint.

**HUD Response:** HUD notes that the Lead Safe Housing Rule requires that landlords whose target housing is covered by the Lead Safe Housing Rule’s EBLL provisions must comply with those provisions as well as with State, Tribal or local laws, ordinances, codes or regulations governing evaluation and hazard reduction pertaining to blood lead levels of children residing in such housing.<sup>21</sup>

HUD’s OLHCHH will coordinate with the HUD program offices that provide the housing assistance covered by this notice to update their monitoring and enforcement policies and programs to reflect the modified EBLL threshold.

#### *Funding*

<sup>20</sup> See, e.g., [https://www.hud.gov/program\\_offices/spm/gmomgmt/grantsinfo/fundingopps/fy22\\_23\\_ccta](https://www.hud.gov/program_offices/spm/gmomgmt/grantsinfo/fundingopps/fy22_23_ccta); and [https://www.hud.gov/program\\_offices/cfo/gmomgmt/grantsinfo/fundingopps/24-25\\_cctacb](https://www.hud.gov/program_offices/cfo/gmomgmt/grantsinfo/fundingopps/24-25_cctacb).

<sup>21</sup> 24 CFR 35.1350(b).

Some commenters asserted that this change to the EBLL threshold will prompt a need for adequate additional funding and resources for its implementation.

**HUD Response:** HUD will continue to request sufficient funding to support designated parties in implementing the revised EBLL threshold. HUD notes, however, that this change restores the percentage of target housing expected to include children under age 6 with EBLs to the percentage anticipated under the 2017 amendment to the Lead Safe Housing Rule. Therefore, apart from inflation since 2017, the associated costs for designated parties are expected to remain comparable.

#### *Environmental investigations and lead hazard control workforce*

One commenter noted that it will be stressful for parents if they cannot access lead remediation services once their child is identified as having an EBL.

**HUD Response:** HUD agrees that the availability of certified lead-based paint professionals and firms to perform environmental investigations and lead hazard control is important, and HUD will continue to make development of this workforce a priority under OLHCHH's lead hazard reduction grant programs.<sup>22</sup>

#### **IV. Change to the EBLL threshold**

Based on the history, comments, and reasoning above, HUD is changing the EBLL threshold under the Lead Safe Housing Rule from its current value of 5 µg/dL for a child under age 6 to 3.5 µg/dL for a child under age 6. HUD's revision to its EBLL threshold will encourage healthcare providers and public health professionals to use the CDC-recommended follow-up actions that include arranging for an environmental investigation of the home to identify potential sources of lead.<sup>23</sup> The revisions will require an environmental investigation by the designated party, unless the public health department has already evaluated the home in

<sup>22</sup> See, e.g., <https://apply07.grants.gov/apply/opportunities/instructions/PKG00287135-instructions.zip> and [https://www.hud.gov/program\\_offices/healthy\\_homes/grant\\_opportunities](https://www.hud.gov/program_offices/healthy_homes/grant_opportunities).

<sup>23</sup> For additional information, see CDC, Childhood Lead Poisoning Prevention, Recommended Actions Based on Blood Lead Level, <https://www.cdc.gov/lead-prevention/hcp/clinical-guidance/index.html>.

connection with the child's EBLL case, when the child resides in HUD-assisted target housing covered by the Lead Safe Housing Rule's EBLL provisions.

#### **V. Compliance dates for change to the EBLL threshold**

*HUD-assisted target housing in States, State-level jurisdictions, territories, and local jurisdictions with a blood lead level action threshold equal to or lower than the CDC's current BLRV*

For HUD-assisted target housing in States, State-level jurisdictions, territories, and local jurisdictions that have a blood lead level action threshold equal to or lower than the CDC's current BLRV (i.e., equal to or lower than 3.5 µg/dL for a child under age 6), HUD is requiring compliance with this change of the Lead Safe Housing Rule's EBLL threshold to 3.5 µg/dL for a child under age 6 by **[INSERT DATE 90 DAYS FROM THE DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. This compliance date provides HUD program offices the necessary time to advise the designated parties under their respective programs and for those designated parties to formalize their property management plans to reflect the change to HUD's EBLL threshold.

*HUD-assisted target housing in States, State-level jurisdictions, territories, and local jurisdictions with a blood lead level action threshold greater than the CDC's current BLRV or that do not have such a threshold*

HUD believes that there may be less demand for and capacity of certified lead-based paint professionals to perform the work associated with HUD's revision to its EBLL threshold where there is no blood lead level action threshold for a child under age 6 or a threshold that is above the CDC's current BLRV. For HUD-assisted target housing in such States, State-level jurisdictions, territories, and local jurisdictions, HUD is requiring compliance with this change of the Lead Safe Housing Rule's EBLL threshold to 3.5 µg/dL for a child under age 6 by **[INSERT DATE 180 DAYS FROM THE DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. HUD agrees with commenters that this longer compliance period may have a

negative impact on the health of lead-exposed children; however, HUD believes this longer period is necessary and reasonable given the challenges relating to local capacity of lead-based paint professionals and firms.

**Matthew Ammon,**  
Director, Office of Lead Hazard Control and Healthy Homes

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