



GOVERNOR'S OFFICE OF STORM RECOVERY

Andrew M. Cuomo
Governor

Seth Diamond
Director

James Rubin
Director



MEMORANDUM

To: CDBG-DR NY Rising 1-4 Unit Housing Rehab Program - ERR File

From: Thomas J. King, Certifying Officer
Governor's Office of Storm Recovery 

Date: July 2, 2014

Subject: Re-evaluation of Environmental Assessment under 24 CFR 58.47-
NY Rising 1-4 Unit Housing Rehab Program

The NY Rising 1-4 Unit Housing Rehab Program (“the Program”) provides financial assistance (for repair, rehabilitation, reconstruction and mitigation) to homeowners whose residences were damaged by Hurricane Irene, Superstorm Sandy, and Tropical Storm Lee. The Program is administered by the Governor’s Office of Storm Recovery (GOSR), operating under the auspices of New York State’s Office of Homes and Community Renewal’s Housing Trust Fund Corporation which serves as the responsible entity for direct administration of the U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant – Disaster Recovery (CDBG-DR) program.

Tier 1 Programmatic Environmental Assessments (PEAs) were conducted for the Program in accordance with HUD regulations 24 CFR Part 58, and combined *Findings of No Significant Impact* (FONSIs) and *Notices of Intent to Request Release of Funds* (NOIRROFs) were issued for each county¹ in which the Program provides assistance.

After the publication of the FONSIs/NOIRROFs, GOSR identified the need to clarify and amend Program procedures with respect to mold, hazardous materials, asbestos and lead-based paint and hereby sets forth the following amendments and clarifications:

MOLD

The Tier 1 PEAs for the Program stated that all homes would be inspected for mold contamination, and mold remediation would be conducted in accordance with New York

¹ The counties include: Albany, Broome, Chemung, Chenango, Clinton, Columbia, Delaware, Dutchess, Essex, Fulton, Greene, Herkimer, Montgomery, Nassau, Oneida, Orange, Otsego, Putnam, Rensselaer, Rockland, Saratoga, Schenectady, Schoharie, Suffolk, Sullivan, Tioga, Ulster, Warren, Washington, and Westchester.



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City's *Guidelines on Assessment and Remediation of Fungi in Indoor Environments*, regardless of location. There are no specific HUD guidelines or standards for mold remediation, and GOSR has determined that strict adherence to the New York City *Guidelines on Assessment and Remediation of Fungi in Indoor Environments* is not practicable. This memorandum hereby sets forth that in lieu of following the standards set forth in the New York City *Guidelines on Assessment and Remediation of Fungi in Indoor Environments*, HCR will require, as necessary, a qualified environmental professional perform an inspection for mold hazards, and, with regard to areas of homes which were submerged in floodwater, HCR will include the spraying of a sanitizing agent in the applicant's scope of work.

HOUSEHOLD HAZARDOUS MATERIALS

The Tier 1 PEAs for the Program stated that HCR was charged with the overall inspection for hazardous materials for the Program. This language was intended to refer to hazardous materials that are not common to households. As such this memorandum hereby clarifies that HCR is not responsible for common household hazardous materials, such as automotive batteries, used motor oil and other automotive fluids, paint or paint products, or pesticides, and cleaning products. These common materials do not typically pose a substantial risk to the environment or residents of the homes. The National Environmental Policy Act (NEPA) Environmental Assessment Checklist accounts for the less-common issues of chemical or petroleum contamination of the property in the Hazardous Materials section of the Tier I PEAs.

ASBESTOS AND LEAD-BASED PAINT

The Tier 1 PEAs for the Program stated that applicants seeking reimbursement must document compliance with lead-based paint and asbestos regulations, or must conduct a preliminary asbestos survey and/or lead-based paint inspection, as appropriate. However, many applicants initiated rehabilitation activities prior to the formation of the program and as such did not conduct a preliminary asbestos or lead-based paint survey. In order to protect the health of the home's inhabitants, the Program will require lead-based paint and asbestos clearances for all Program applicants to ensure that even when a preliminary survey or inspection was not provided, the home is cleared for lead-based paint and asbestos hazards.

This memorandum hereby clarifies HCR's policy that the Program will require that a qualified environmental professional perform a clearance inspection for the existence of asbestos hazards, an assessment for damaged paint/coatings, and wipe testing for settled lead dust for lead-based paint (per HUD clearance testing requirements).² If the clearance testing reveals potential hazards, such hazards would be addressed by the Program. This approach, which would be protective of residents and the environment, would apply both to applicants who

² Lead-based paint requirements will not apply to housing constructed on or after January 1, 1978.



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are seeking to conduct work and to those seeking reimbursement following the completion of work.

As discussed above, the revised Program requirements would be equally protective of human health and the environment as the standards set forth in the original PEAs. In response to the abovementioned text revisions and pursuant to 24 CFR 58.47 “Re-evaluation of environmental assessments and other environmental findings,” the CDBG-DR Certifying Officer has conducted a re-evaluation of the findings associated with the original NY Rising 1-4 Unit Housing Rehab Program Tier 1 PEAs. The original findings remain valid, and, accordingly, new FONSI and RROFs are not necessary.³

³ 24 CFR § 58.47(b)(1) “If the original findings are still valid but the data or conditions upon which they were based have changed, the responsible entity must affirm the original findings and update its ERR by including this re-evaluation and its determination based on its findings. Under these circumstances, if a FONSI notice has already been published, no further publication of a FONSI notice is required.”