

TITLE 13 – HEALTH DEPARTMENT

SUBTITLE 02 CHILDHOOD LEAD POISONING PREVENTION PROGRAM

CHAPTER 01 LEAD HAZARD ABATEMENT

[13.02.01.01 Scope.](#)

[13.02.01.02 Definitions.](#)

[13.02.01.03 Environmental Investigations.](#)

[13.02.01.04 Determination that a Lead Hazard Exists.](#)

[13.02.01.05 Issuance of Violation Notice.](#)

[13.02.01.06 Standards, Methods, and Requirements for Abatement.](#)

[13.02.01.07 Alternative Abatement Procedure.](#)

[13.02.01.08 Soil Abatement Procedure.](#)

[13.02.01.09 Presence of a Person or Animal During Abatement.](#)

[13.02.01.10 Disposal of Abatement Waste.](#)

[13.02.01.11 Inspection during Abatement.](#)

[13.02.01.12 Stop Work Order.](#)

[13.02.01.13 Clearance Inspection.](#)

[13.02.01.14 Statement of Completion.](#)

[13.02.01.15 Request for Extension.](#)

[13.02.01.16 Appeals.](#)

TITLE 13 HEALTH DEPARTMENT

Subtitle 02 CHILDHOOD LEAD POISONING PREVENTION PROGRAM

CHAPTER 01 LEAD HAZARD ABATEMENT

Authority: Baltimore City Charter Article VII, §56 and Baltimore City Health Code, §§ 2-105 and 2-106

13.02.01.01 Scope.

This chapter establishes:

- A. Rules regarding when an environmental investigation will be conducted after a finding of an elevated blood lead level in a child or pregnant woman;
- B. Methods and standards for determining a lead hazard exists;
- C. When a violation notice will be issued;
- D. The standards, methods, and requirements for abatement of a lead hazard and the process for requesting the use of an alternative abatement method;
- E. Methods for abatement of a lead hazard existing in soil;
- F. Rules regarding the presence of persons and animals during the abatement process;
- G. Rules regarding inspection by the Baltimore City Health Department during abatement, disposal of abatement waste, and when a stop-work order will be issued;
- H. Rules regarding a clearance inspection and the issuance of a statement of completion of the lead hazard abatement; and
- I. Rules regarding a request for an extension of the time to complete a lead hazard abatement, and the entity designated to hear appeals arising from the lead hazard abatement process.

13.02.01.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

- (1) “Accessible surface” means any surface that a child can mouth or chew.
- (2) “Commissioner” means the Commissioner of the Baltimore City Health Department or the Commissioner’s designee.
- (3) “Department” means the Baltimore City Health Department.
- (4) “Deteriorated surface” means an interior or exterior surface with the presence of chipping, peeling, or flaking paint.
- (5) “Elevated Blood Lead Level” or (“EBL”) has the meaning stated in MD Environment Art. §6-801(f).
- (6) “Encapsulant coating” means a liquid that forms a covering over lead-based paint.
- (7) “Enclose” means the installation of solid, durable material that is approved by the Department.
- (8) “Environmental investigation” has the meaning stated in COMAR 26.16.8.03.B(12).
- (9) “Friction surface” has the meaning stated in COMAR 26.16.08.03.B(15).
- (10) “Ground cover” means any substance used to cover bare soil, including:
 - (a) Grass;
 - (b) Mulch;
 - (c) Plants; or
 - (d) Cement
- (11) “Impact surface” has the meaning stated in COMAR 26.16.08.03.B(17).
- (12) “Lead dust clearance test” means a test intended to confirm that concentration of lead dust is within the limit prescribed by applicable law which is conducted
 - (a) By the Department, or

- (b) By a third party who is accredited and in good standing with the State of Maryland as defined in MD Environment Art., Title 6, Subtitle 10.
- (13) “Lead free” has the meaning stated in MD Environment Art. §6-801(l).
- (14) “Lead hazard” has the meaning stated in COMAR 26.16.08.03.B(19).
- (15) “Lead-safe housing” has the meaning stated in MD Environment Art. §6-801(m).
- (16) “Occupant” means any individual living or sleeping in a building, or having possession of a space within a building.
- (17) “Operator” means any person who has charge, care, or control of all or any part of a structure or premises.
- (18) “Owner” has the meaning stated in MD Environment Art. §6-801(o).
- (19) “Person” means a:
 - (a) Individual;
 - (b) Sole proprietorship;
 - (c) Corporation;
 - (d) Limited liability company;
 - (e) Firm;
 - (f) Partnership;
 - (g) Association;
 - (h) Organization;
 - (i) Joint venture, or other entity or group acting as a unit; or
 - (j) Executor, administrator, trustee, receiver, guardian, or other representative appointed by law.
- (20) “Reference level” has the meaning stated in MD Environment Art., § 6-801(q).
- (21) “Relocation expenses” means the cost of moving a tenant to lead-safe housing, including:
 - (a) Transportation expenses;
 - (b) Rent or per diem cost of temporary lead-safe housing;

- (c) Meal expenses, if the temporary lead-safe housing does not contain meal preparation facilities; and
 - (d) Cost of moving, hauling, or storing furniture and other personal belongings.
- (22) “Secondary property” means any structure frequented for 10 or more hours a week, for the 12 months preceding an EBL report to the Department, by a child or pregnant woman that is the subject of the EBL report.
- (23) “Secondary source” means a lead exposure risk that is not derived from a painted surface or structural component of a property, including:
- (a) Water;
 - (b) Toys, jewelry, or ceramic food ware;
 - (c) Cosmetics;
 - (d) Traditional medicine or herbal remedies;
 - (e) Food;
 - (f) Art supplies;
 - (g) Antique furniture or furnishings;
 - (h) Candles or incense;
 - (i) Burned material; or
 - (j) A source of lead identified by the XRF analyzer or lab analysis.
- (24) “Tenant” means a person who has the lawful right of possession of all or part of a structure or premises.
- (25) “Violation notice” means a document issued by the Commissioner that contains the following information:
- (a) The presence of a lead hazard,
 - (b) A reference to applicable law,
 - (c) Notice of the right to request an administrative review of the violation notice within 10 days of receipt, and
 - (d) A statement of the requirements for abatement of the violation notice.
- (26) “XRF analyzer” means a portable instrument that determines lead concentration using the principles of x-ray fluorescence.

13.02.01.03 Environmental Investigations.

- A. When a child or pregnant woman is identified with an elevated blood lead level (EBL), the Commissioner shall request the Department to conduct an environmental investigation of
 - (1) The child or pregnant woman's current residence and
 - (2) May include a secondary property.
- B. If the current residence or secondary property is part of a multi-family dwelling, the inspection for lead hazards may include
 - (1) All units and
 - (2) Common areas.

13.02.01.04 Determination that a Lead Hazard Exists.

- A. A determination that a lead hazard exists shall be based on one or more of the following:
- (1) Readings of the XRF analyzer which indicate a lead content greater than 0.7 mg/cm² on a
 - (a) Friction surface,
 - (b) Impact surface,
 - (c) Accessible surface, or
 - (d) Deteriorated surface;
 - (2) Analysis of paint samples which indicate more than 0.5% lead by weight on a
 - (a) Friction surface,
 - (b) Impact surface,
 - (c) Accessible surface, or
 - (d) Deteriorated surface;
 - (3) Analysis of dust which indicates lead levels that exceed those provided by applicable law; or
 - (4) Analysis of a secondary source which indicates lead levels that exceed those provided by applicable law.
- B. The most restrictive applicable law shall govern the threshold in Regulation .04.A(3) and .04.A(4) as prescribed by the
- (1) Maryland Department of the Environment,
 - (2) U.S. Environmental Protection Agency, or
 - (3) U.S. Department of Housing and Urban Development.

13.02.01.05 Issuance of Violation Notice.

- A. If a lead hazard is found, the Commissioner shall issue a violation notice to the owner or operator of the property.
- B. The violation notice shall
 - (1) Identify the lead hazard and
 - (2) Order the recipient to abate the violation within 30 days of the issuance of the violation notice, unless otherwise ordered by the Commissioner.

13.02.01.06 Standards, Methods, and Requirements for Abatement.

- A. Except as otherwise provided in this regulation or ordered by the Commissioner, abatement shall be performed in accordance with COMAR 26.16.02.
- B. As provided in COMAR 26.16.01 abatement shall be performed by a person who is accredited and in good standing with the State of Maryland.
- C. A condition of the property which may cause deterioration shall be corrected prior to abatement including
 - (1) Water damage or
 - (2) A structural defect such as a hole in a wall or ceiling.
- D. Interior work shall begin in the area farthest from the entrance to the building.
- E. The lead hazard shall be enclosed or removed.
- F. Encapsulant coating may not be used.

13.02.01.07 Alternative Abatement Procedure.

- A. The Commissioner may approve an alternative procedure to abate a lead hazard.
- B. To obtain consideration of an alternative abatement procedure, the owner shall:
 - (1) Submit a written description of the alternative procedure to the Commissioner that conforms to requirements of applicable law;
 - (2) Demonstrate that compliance with this regulation is impracticable; and
 - (3) Document that the alternative procedure provides equivalent or better control and removal of a lead hazard.

13.02.01.08 Soil Abatement Procedure.

- A. Soil containing a lead hazard shall be abated by enclosing the soil with cement, grass, or sod.
- B. A person performing abatement of soil using an alternative method shall
 - (1) Remove 6 inches of topsoil from the contaminated area,
 - (2) Place water-permeable textile fabric over the exposed subsurface, and
 - (3) Cover with 8 inches of lead-free soil and ground cover.

13.02.01.09 Presence of a Person or Animal During Abatement.

- A. The owner or operator shall inform occupants or tenants of health hazards to a person or animal associated with lead abatement.
- B. If the property is a rental dwelling, an owner or operator shall
 - (1) Immediately secure a temporary lead-safe or lead-free residence for the tenants, and
 - (2) Pay the tenants' reasonable relocation expenses until the Commissioner verifies that abatement is completed.
- C. A tenant shall not return to the property until abatement is completed in accordance with federal and state requirements and this regulation.
- D. A person may not retaliate against a tenant in response to a notice or order issued by the Commissioner.

13.02.01.10 Disposal of Abatement Waste.

- A. Abatement waste shall be removed from the site within 24 hours after abatement is complete.
- B. Abatement waste shall be stored, transported, and disposed of in accordance with applicable law.
- C. A person may not dispose of abatement waste through regular residential or commercial trash collection.

13.02.01.11 Inspection during Abatement.

The Department may inspect the exterior of a property where abatement is occurring at any time, and may inspect the interior of a property where abatement is occurring during regular business hours.

13.02.01.12 Stop Work Order.

- A. If the Department finds work being performed in a dangerous or unsafe manner, or by an unaccredited contractor, the Commissioner may issue a stop work order.
- B. Upon issuance of the stop work order, all work at the property shall cease until the Commissioner finds there is compliance with the order.

13.02.01.13 Clearance Inspection.

- A. Upon request from the owner or operator, the Department shall perform a clearance inspection to determine if abatement is complete.
- B. The determination shall be based on:
 - (1) Visual inspection,
 - (2) Lead dust clearance test,
 - (3) Documented compliance with applicable law, and
 - (4) Additional analysis by the Commissioner if required.
- C. If a visual inspection determines that abatement was done improperly, the clearance inspection may be halted pending further abatement.
- D. If the Department approves the abatement work by visual inspection, a lead dust clearance test shall be performed in each room where abatement occurred.
- E. The minimum requirement for a lead dust clearance test is that a sample shall be taken from the following locations in each room:
 - (1) Floor,
 - (2) Windowsill, and
 - (3) Window well.
- F. The Commissioner may require that additional samples be taken if a room has
 - (1) No windows, or
 - (2) More than one window.
- G. The results of the lead dust clearance shall comply with the most restrictive standard set by:
 - (1) The Maryland Department of the Environment,
 - (2) U.S. Environmental Protection Agency, or
 - (3) U.S. Department of Housing and Urban Development.

13.02.01.14 Statement of Completion.

- A. If the property passes clearance inspection, the Department shall issue a written statement to the owner or operator that the Violation Notice is abated.
- B. An abatement ordered by the Commissioner is not complete until the written statement is issued.
- C. Issuance of the statement shall not preclude the Commissioner from issuing future notices of violation against the same property.

13.02.01.15 Request for Extension.

- A. Abatement shall be completed within the time prescribed by the Commissioner.
- B. A request for an extension of the time for abatement shall be submitted to the Commissioner in writing prior to expiration of the deadline for abatement completion.
- C. The request shall demonstrate that
 - (1) Compliance with the deadline is impracticable, and
 - (2) Delay will not cause undue harm.
- D. The Commissioner may grant an extension.
- E. An extension approved by the Commissioner does not satisfy or modify an obligation to comply with applicable law.

13.02.01.16 Appeals.

The Department's Lead Program Director may act as the Commissioner's designee pursuant to City Health Code, § 2-303.

Administrative History

Effective Date: