

Title 26 DEPARTMENT OF THE ENVIRONMENT

Subtitle 16 LEAD

Chapter 02 Reduction of Lead Risk in Housing

Authority: Environment Article, §§1-404, 6-801—6-852, and 6-1001—6-1005, Annotated Code of Maryland

.02 Definitions.

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

B. Terms Defined.

(1) “Accredited” means accredited by the Department of the Environment under provisions of COMAR 26.16.01.

(2) Component.

(a) “Component” means an architectural element of a dwelling unit, common area, or exterior surface, identified by type and location.

(b) “Component” includes, but is not limited to:

(i) A bedroom wall;

(ii) An exterior window sill;

(iii) A baseboard in a living room;

(iv) A kitchen floor;

(v) An interior window sill in a bathroom;

(vi) A porch floor;

(vii) Stair treads in a common stairwell; or

(viii) An exterior wall.

(3) “Component type” means a group of like components that:

(a) Are repeated in more than one room equivalent in a dwelling unit; and

(b) Have a common substrate.

(4) “Encapsulant coating” means coating lead-based paint with a material which is applied as a liquid, which forms a durable, long-lasting coating for lead-based paint, and which is approved for use, on a case-by-case basis, by the Department.

(5) “Lead-based paint” means paint or other surface coating that contains lead in excess of the levels set forth in COMAR 26.16.01.02B(7).

(6) “Lead-contaminated dust” means dust with a lead content equal to or greater than:

(a) 10 micrograms per square foot in dust collected from a floor;

(b) 100 micrograms per square foot in dust collected from a window sill; or

(c) 100 micrograms per square foot in dust collected from a window well.

(7) “Lead-free” means, except for factory-applied coatings on metal components, containing no lead-based paint on interior or exterior surfaces.

(8) “Lead-free replacement window” means a window that:

(a) Was installed after 1978; or

(b) Has been determined by an accredited lead paint inspector technician or lead paint risk assessor to contain no lead-based paint.

(9) “Lead-safe” means:

- (a) Constructed after 1978;
 - (b) Certified as lead-safe under Regulation .04 of this chapter; or
 - (c) Certified as lead-free under Regulation .05 of this chapter.
- (10) “Limited lead-free” means, except for factory-applied coatings on metal components, meeting the following conditions:
- (a) All interior surfaces of the affected property contain no lead-based paint;
 - (b) All exterior painted surfaces of the affected property that were chipping, peeling, or flaking, have been restored with non-lead-based paint;
 - (c) No exterior painted surfaces of the affected property are chipping, peeling, or flaking; and
 - (d) The owner of an affected property submits to the Department, every 2 years, a certification by an accredited lead paint inspection contractor stating that no exterior painted surface of the affected property is chipping, peeling, or flaking.
- (11) “Room” means an enclosed or semi-enclosed living space, including a defined hallway, within a dwelling unit.
- (12) Room Equivalent.
- (a) “Room equivalent” means an identifiable part of a dwelling unit, common area, or exterior surface.
 - (b) “Room equivalent” includes, but is not limited to:
 - (i) A room;
 - (ii) A foyer;
 - (iii) A staircase;
 - (iv) A hallway; or
 - (v) Exterior sides of a building with the same paint history.
- (13) “Substrate” means the material immediately beneath the painted surface.
- (14) Testing Combination.
- (a) “Testing combination” means a unique combination of room equivalent, component type, and substrate.
 - (b) “Testing combination” may include a group of components, having the same painting histories, that are structurally related and adjacent to each other.

.02-1 Incorporation by Reference.

The U.S. Department of Housing and Urban Development Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing (Second Edition, July, 2012), Chapter 7: Lead-Based Paint Inspection is incorporated by reference.

.05 Certification of Housing as Lead-Free.

A. An accredited lead paint inspection contractor may issue a certificate of lead-free housing after an inspection that verifies that all painted interior and exterior surfaces of an affected property meet Regulation .02B(7) of this chapter.

B. An accredited lead paint inspection contractor may issue a certificate of limited lead-free housing after an inspection that verifies that all painted interior and exterior surfaces of an affected property meet the provisions of Regulation .02B(10) of this chapter.

C. Term Defined. In §D of this regulation, "common area" means stairways, hallways, entrance areas, recreation areas, laundry areas, and garages or other similar areas within a multifamily rental dwelling that are common to individual dwelling units and are accessible to tenants.

D. An affected property that is a multiunit building or multibuilding complex having ten or more dwelling units may be certified to be lead-free based on testing of less than all dwelling units, common areas, and exterior surfaces if:

(1) The building or complex is demonstrated to be of uniform construction or painting history;

(2) Selection of dwelling units, common areas, and exterior surfaces to be tested is based on an accepted technique for generating and assigning random numbers to produce an unbiased sample;

(3) The determination of the minimum number of dwelling units, common areas, and exterior surfaces to be tested is in accordance with Table 7.3: Number of Units to be Tested in Multi-family Building or Developments, found in the U.S. Department of Housing and Urban Development Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing (Second Edition, July, 2012), Chapter 7: Lead-Based Paint Inspection;

(4) The following procedures are performed for the selected dwelling units, common areas, and exterior surfaces in the building or complex:

(a) Identify all testing combinations in each room equivalent;

(b) Obtain at least one XRF reading or paint sample analysis for each testing combination in each room equivalent;

(c) Obtain at least one XRF reading or paint sample analysis for each wall in each room equivalent;

(d) Record each XRF reading or paint sample analysis for each testing combination in a format approved by the Department;

(e) Classify each testing combination as positive or negative for the presence of lead-based paint;

(f) Aggregate data according to component type in a format approved by the Department; and

(g) Do one of the following:

(i) Test at least 40 testing combinations of a given component type;

(ii) For multiunit buildings or multibuilding complexes with less than 40 components of a given component type, test all of that component type; or

(iii) Treat a component type as positive for the presence of lead based paint in the entire multiunit building or multibuilding complex;

(5) The following conditions are met for each component type:

(a) If 5 percent or greater of a component type test positive for lead-based paint:

(i) Remove lead-based paint from all components of that component type; or

(ii) Test all of that component type and remove lead-based paint from each component that tests positive for lead-based paint;

and

(b) If less than 5 percent of a component type test positive for lead-based paint:

(i) Remove lead-based paint from all components of that component type; or

(ii) Conduct a second random sample of that component type in previously untested dwelling units, common areas, or exterior surfaces, and if less than 2.5 percent of the combined test results are negative for lead-based paint, remove lead-based paint from every component type that tests positive for lead-based paint.

E. A property owner may confirm any positive XRF reading by laboratory analysis of a paint sample, reporting the result in milligrams per square centimeter.

F. An affected property that is a multiunit building or multibuilding complex having ten or more dwelling units may be certified to be limited lead-free based on testing of less than all dwelling units if the:

- (1) Interior surfaces comply with §D of this regulation; and
- (2) Exterior surfaces comply with Regulation .02B(10)(b)—(d) of this chapter.

G. Factory-Applied Coatings.

(1) An affected property in which lead-based paint is detected only in factory-applied coatings of metal components may be certified to be lead-free.

(2) The inspector technician or risk assessor shall indicate the presence of factory-applied lead-based paint on metal components in the inspection report.

H. An accredited lead paint inspector technician or an accredited lead paint risk assessor shall conduct the inspection for lead content in paint.

I. Determination of lead content in paint for each tested interior and exterior surface of an affected property shall be based on either laboratory analysis of paint for lead or analysis by a portable XRF in accordance with COMAR 26.16.01.02B(7).

J. The conduct of the inspection for lead content in paint shall follow procedures included in the lead paint inspection contractor's approved protocol, as required by COMAR 26.16.01.09.

K. Surfaces of an affected property are lead-free when:

- (1) Each painted surface is determined to be lead-free based upon either laboratory analysis or XRF analysis of paint for lead; or
- (2) Lead paint has been fully removed and lead paint removal is verified by a visual inspection by an accredited inspector or risk assessor before the surface is repainted or covered, and applicable requirements of COMAR 26.02.07 are met.

L. Within 10 days of issuing a certificate, the inspection contractor shall submit to the Department a copy of the certificate with a summary report of inspection results to include:

- (1) The number of XRF testing locations recorded, and a summary of XRF testing results;
- (2) The number of paint samples submitted for laboratory analysis and a summary of laboratory results, including confirmation of inconclusive XRF results;
- (3) A list of exterior components from which paint has been removed under §K of this regulation;
- (4) For a multiunit building or complex in which the units were randomly sampled under this regulation, the following information in a format approved by the Department:
 - (a) A list of all tested dwelling units and other interior surfaces; and
 - (b) An itemized list of all rental dwelling units that are subject to either the lead-free or limited lead-free certificate; and
- (5) A statement that reads "This certification of housing as lead-free is based on testing for lead paint to satisfy the requirements of Environment Article, §6-804, Annotated Code of Maryland. This is not a warranty that the building is free of lead hazards."

M. The inspection contractor shall maintain a full report recording all inspection results for an affected property certified to be lead-free under this regulation for a period of 5 years following issuance of the certificate, and shall provide a copy of this report to the Department upon request by the Department.