

MANAGEMENT OF LEAD-BASED PAINT IN VHA HOUSING AND CHILD- OCCUPIED FACILITIES

1. REASON FOR ISSUE: This Veterans Health Administration (VHA) directive maintains policy for the Lead-Based Paint (LBP) program to reduce exposure to lead in VHA-owned housing and child-occupied facilities; this includes all VHA housing constructed prior to 1978, in addition to regulated VHA target housing, with emphasis on the protection of children.

2. SUMMARY OF MAJOR CHANGES: This directive provides updated policy for management of LBP in VHA housing, VHA target housing and child-occupied facilities. Updates include:

- a. Added definitions (see paragraph 3.g.-i.).
- b. New Environmental Protection Agency and Department of Housing and Urban Development revisions to dust-lead health standards (see paragraph 2.b.).
- c. Additional office responsibilities (see paragraph 5).
- d. Additional location of abatement activities (see paragraph 5 and Appendix A).
- e. Updated website addresses (see paragraph 8).
- f. New training section (see paragraph 6).

3. RELATED ISSUES: VA Directive 7700, Occupational Safety and Health, dated February 11, 2009 and VHA Directive 7701, Comprehensive Occupational Safety and Health Program, dated May 5, 2017.

4. RESPONSIBLE OFFICE: The Operations and Management Office is responsible for the content of this directive. Questions may be referred to Director, Occupational Safety and Health (10NA5B) at vha10na8admin@va.gov.

5. RESCISSIONS: VHA Directive 7710, Management of Lead-Based Paint in VHA Housing & Child Occupied Facilities, dated November 4, 2015, is rescinded.

6. RECERTIFICATION: This VHA directive is scheduled for recertification on or before the last working day of July, 2025. This VHA directive will continue to serve as national VHA policy until it is recertified or rescinded.

July 2, 2020

VHA DIRECTIVE 7710

**BY DIRECTION OF THE OFFICE OF THE
UNDER SECRETARY FOR HEALTH:**

/s/ Renee Oshinski
Assistant Under Secretary for Health
for Operations

NOTE: All references herein to Department of Veterans Affairs (VA) and VHA documents incorporate by reference subsequent VA and VHA documents on the same or similar subject matter.

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LEAD-BASED PAINT HAZARD PROTECTION REGULATORY PROCEDURESA-1

MANAGEMENT OF LEAD-BASED PAINT IN VHA HOUSING AND CHILD-OCCUPIED FACILITIES

1. PURPOSE

This Veterans Health Administration (VHA) directive maintains policy for the Lead-Based Paint (LBP) Program to reduce exposure to lead in VHA-owned housing and child-occupied facilities; this includes all VHA housing constructed prior to 1978, in addition to regulated VHA target housing, with emphasis on the protection of children.

AUTHORITY: Title 38 United States Code (U.S.C.) § 7301(b), title 24 Code of Federal Regulations (C.F.R.) Part 35 and 40 C.F.R. Part 745.

2. BACKGROUND

a. The LBP Program ensures VHA compliance with Environmental Protection Agency (EPA), Department of Housing and Urban Development (HUD) and Occupational Safety and Health Administration (OSHA) regulations related to lead exposure. The LBP Program places emphasis on children under the age of 6 and pregnant women who have been shown to be the most susceptible to the effects of lead exposure.

b. Under the Residential Lead-Based Paint Hazard Reduction Act of 1992 (Public Law 102-550), EPA and HUD promulgated joint regulations for identification and disclosure of any known LBP or known LBP hazards in target housing offered for sale or lease. EPA and HUD target housing is defined by regulation as non-exempt housing constructed prior to 1978. Title IV Section 408 of the Act waives any immunity otherwise applicable to the United States, including Federal agencies, regarding substantive or procedural requirements, including the assessment of a penalty or fine. Section 1018 of Title X provides information on the Lead Residential Lead-Based Paint Disclosure program.

c. Requirements to implement the Act are described in HUD regulation (24 C.F.R. Part 35) and EPA regulation (40 C.F.R. Part 745), which was also implemented under the Toxic Substances Control Act (15 U.S.C. § 2601-2692). On January 6, 2020, EPA and HUD revisions to their dust-lead hazard standards (DLHS) went from 40 µg/ft² and 250 µg/ft² to 10 µg/ft² and 100 µg/ft² on floors and windowsills, respectively.

d. OSHA regulates lead management and worker exposure prevention (29 C.F.R. Parts 1910.1025 and 1926.62).

3. DEFINITIONS

a. **0-Bedroom Dwelling.** A 0-bedroom dwelling is any residential dwelling in which the living area is not separated from the sleeping area. The term includes efficiencies, studio apartments, dormitory housing (such as educational housing), military-style barracks and rentals of individual rooms in residential dwellings.

b. **Abatement.** Abatement is any set of measures designed to permanently eliminate LBP hazards, including all preparation, cleanup, disposal and post abatement clearance testing activities. ***NOTE: Please reference 40 C.F.R. Part 745 for all measures included in abatement.***

c. **Child-Occupied Facility.** A child-occupied facility is any VHA building or portion of a building, constructed prior to 1978, visited regularly by the same child, 6 years of age or under, on at least 2 different days within any week (Sunday through Saturday period), provided that each day's visit lasts at least 3 hours and the combined weekly visit lasts at least 6 hours and the combined annual visits last at least 60 hours. Child-occupied facilities may include but are not limited to, day care centers, preschools and kindergarten classrooms. It may also include VHA Housing, Department of Veterans Affairs (VA) Fisher Houses, temporary lodging and Target Housing. VHA facility space where informal care is provided by relatives, neighbors and staff, regardless of compensation would also be included.

d. **Environmental Investigation Blood Lead Level.** HUD defined environmental investigation blood lead level as a confirmed concentration of lead in whole blood equal to or greater than, 5 micrograms of lead per deciliter ($\mu\text{g}/\text{dl}$) for a single test. ***NOTE: The Centers for Disease Control and Prevention (CDC) recommends that a reference value based on the 97.5th percentile of the National Health and Nutrition Examination Survey (NHANES)-generated blood lead level (BLL) distribution in children 1-5 years old (currently 5 $\mu\text{g}/\text{dl}$) be used to identify children with elevated BLL. HUD has adopted this reference value.***

e. **Lead-Based Paint.** LBP is any paint or other surface coating that contains lead equal to or in excess of 1.0 mg/cm² (milligram per square centimeter) or more than 0.5 percent by weight.

f. **Lead-Based Paint Hazard.** LBP hazard is any condition that causes exposure to lead from lead-contaminated dust, lead-contaminated soil or lead-contaminated paint that is deteriorated or present in accessible surfaces, friction surfaces or impact surfaces that would result in adverse human health effects as established by the appropriate Federal agency.

g. **Lead-Based Paint Inspection.** LBP inspection is:

(1) A surface-by-surface investigation, performed by at determine the presence of lead-based paint as provided in section 302(c) of the Lead-Based Paint Poisoning and Prevention Act (42 U.S.C. § 4822); and

(2) The provision of a report explaining the results of the investigation.

h. **Lead-Hazard Screen.** Lead-Hazard Screen is a limited risk assessment activity that involves limited paint and dust sampling as described in 40 C.F.R. 745.227(c).

i. **Risk Assessment.** A risk assessment is an on-site investigation to determine and report the existence, nature, severity and location of lead-based paint hazards in residential dwellings, including:

- (1) Information gathering regarding the age and history of the housing and occupancy by children under age 6;
- (2) Visual inspection;
- (3) Limited wipe sampling or other environmental sampling techniques;
- (4) Other activity as may be appropriate; and
- (5) Provision of a report explaining the results of the investigation.

j. **VHA Housing.** For the purpose of this directive, VHA housing is all VHA owned residential property, constructed prior to 1978, with confirmed LBP that does not meet the definition of VHA target housing.

k. **VHA Target Housing.** VHA target housing is any VHA housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any child who is less than 6 years of age resides or is expected to reside in such housing) or any 0-bedroom dwelling.

4. POLICY

It is VHA policy to protect Veterans and occupants of child-occupied facilities, VHA housing and VHA target housing constructed prior to 1978 from the health hazards associated with LBP. VHA will apply standards in accordance with the latest HUD, EPA and OSHA regulations in implementing the evaluation and control of hazards posed by LBP.

5. RESPONSIBILITIES

a. **Under Secretary for Health.** The Under Secretary for Health is responsible for ensuring overall VHA compliance with this directive.

b. **Assistant Under Secretary for Health for Operations.** The Assistant Under Secretary for Health for Operations is responsible for:

- (1) Communicating the contents of this directive to each of the Veterans Integrated Service Networks (VISNs).
- (2) Providing assistance to VISN directors to resolve implementation and compliance challenges in all VA medical facilities within that VISN.
- (3) Providing oversight of VISNs to assure compliance with this directive, relevant standards and applicable regulations.

c. **Assistant Under Secretary for Health for Support Services.** The Assistant Under Secretary for Health for Support Services is responsible for:

(1) Overseeing the Healthcare Environment and Facilities Programs Office including the Office of Occupational Safety and Health (OSH).

(2) Ensuring resources are adequate to implement VHA LBP Program.

d. **Deputy to the Assistant Under Secretary for Health for Support Services.** The Deputy to the Assistant Under Secretary for Health for Support Services is responsible for managing the Office of Healthcare Environment and Facilities Programs.

e. **Director, Construction and Facilities Management Office.** The Director of the Office of Construction and Facilities Management (CFM) is responsible for adopting industry-based specifications, including to develop and update, as necessary, construction specifications related to the management of LBP in VA housing, VA target housing and child-occupied facilities. ***NOTE:** Specifications address LBP inspection, risk assessment, hazard abatement and LBP removal that may be necessary during construction projects.*

f. **Director, Occupational Safety and Health Office.** The OSH Director is responsible for:

(1) Providing administrative management and technical support to VISNs and VA medical facilities to comply with Federal, State and local regulations regarding LBP.

(2) Determining whether there are national LBP trends, as identified through reports received from surveys and triennial audits, which require intervention.

(3) Recommending appropriate actions to improve the LBP Program to the Assistant Under Secretary for Health for Support Services.

(4) Communicating and coordinating with VHA program offices to ensure LBP requirements and procedures for VHA housing, VHA target housing and child-occupied facilities are integrated into appropriate programs.

(5) Collaborating with the Office of Healthcare Engineering and Office of Capital Asset Management in the development and implementation of LBP program guidelines.

g. **Director, Healthcare Engineering Office.** The Healthcare Engineering Director is responsible for collaborating with the OSH Director in the development and distribution of VHA directives and implementation of LBP program guidelines.

h. **Veterans Integrated Service Network Director.** Each VISN Director is responsible for:

(1) Providing resources to implement the requirements of this directive. Resources are to cover implementation of strategies and oversight for the occupant disclosure

process. LBP inspections and risk assessments and, where appropriate, LBP renovation and abatement.

(2) Ensuring the following with regards to LBP in VHA target housing, VHA housing and VHA child-occupied facilities:

(a) Construction projects have designs and specifications which comply with applicable Federal, State and local health regulations related to LBP.

(b) Contracts for leasing or transfer are reviewed by VISN industrial hygiene, environmental or safety staff or by contract with a qualified industrial hygiene or engineering firm. **NOTE:** *This review is to make certain that contracts for leasing or transfer comply with applicable Federal, State and local environmental LBP regulations, including ensuring disclosure of the presence of LBP is made to occupants of VHA quarters and child-occupied facilities. This requirement does not eliminate the need for the review, approval and other actions by VISN and VA medical facility Directors that are required by Federal, State and local environmental requirements and other VA and VHA policy.*

i. **VA Medical Facility Director.** Each VA medical facility Director is responsible for:

(1) Ensuring that resources and authority to manage the LBP Program are appropriately assigned to VA medical facility staff members, including an LBP Program Manager.

(2) Ensuring that VA medical facility staff, who are responsible for conducting LBP regulated duties, are trained and licensed or certified as required by OSHA, EPA or EPA-authorized State program for the work they perform.

(3) Developing written procedures for compliance with LBP environmental and OSHA standards, this directive and as may be required by Federal, State or local regulations.

(4) Ensuring that staff members and occupants of VHA housing, VHA target housing and VHA child-occupied facilities are protected from LBP hazards including notification when high levels are found in accordance with the most current regulations issued by HUD (24 C.F.R. Part 35), EPA (40 C.F.R. Part 745) and OSHA (29 C.F.R. Parts 1910.1025 and 1926.62). See Appendix A for specific requirements.

(5) Ensuring that LBP inspections, assessments, hazard screens and action plans for the purpose of abatement or risk mitigation, are performed. LBP inspections, lead hazard screens and risk assessments must be conducted in accordance with EPA (40 C.F.R. 745.227), State and local regulations, See Appendix A for specific guidelines.

(6) Receiving initial request from the VHA target housing or VHA housing occupant residing with children under the age of 6 years old or report of pregnancy to determine LBP hazard screen.

(7) Managing LBP renovations (repair), abatement and interim control activities to prevent the release of LBP dust and debris to the interior of facilities, exterior soil, vegetable and herb garden and child playgrounds, in accordance with 40 C.F.R. part 745, subpart E and subpart L, respectively. Please see Appendix A for additional requirements.

(8) Developing a written occupant protection plan for LBP abatement in accordance with EPA requirements by the EPA-certified supervisor or EPA-certified project designer (40 C.F.R. 745.227). This plan must be reviewed and approved by the VA medical facility industrial hygienist, safety manager or LBP Program Manager. LBP abatement projects must comply with VHA Master Specifications, Lead-Based Paint Removal and Disposal, including Federal and State site clearance and sampling requirements.

(9) Ensuring LBP renovation and repair is conducted in accordance with 40 C.F.R. 745.85; minor repair and maintenance activities are excluded from these work practices as defined by 40 C.F.R. 745.83:

(a) Notifying occupants of VHA target housing units at least 60 days in advance of an LBP renovation and provide them with the EPA or State-equivalent pamphlet, "Renovate Right: Important Lead Hazard Information for Families, Child Care Providers and Schools" (40 C.F.R. 745.84).

(b) Obtaining a statement of receipt or certification of delivery of this document and providing a notice of hazard reduction activity to occupants within 15 days of completion (24 C.F.R. 35.125).

(c) Distributing a pamphlet prior to LBP renovations of VHA target housing common areas (multi-family dwellings) and child-occupied or alternatively, post copies or availability of EPA or state-equivalent pamphlets and project information with completion date in a common area or main entry. Re-evaluation of hazard reduction activities are to be conducted in accordance with 24 C.F.R. 35.1355(b).

(10) Requesting the Contracting Officer delegate stop-work authority to VA medical facility industrial hygiene, safety, environmental and LBP Program manager staff.

(11) Ensuring an environmental child blood lead level investigation in VHA housing, VHA target housing or child occupied facility includes:

(a) Conducting an LBP risk assessment;

(b) VHA-owned housing that is occupied by children may be inspected by State and local authorities when high blood lead levels are identified.

j. **VA Medical Facility Lead-Based Paint Program Manager.** The VA medical facility LBP Program Manager is responsible for:

(1) Maintaining knowledge of Federal, State and local regulations requiring blood lead intervention for children.

(2) Assisting appropriate VISN staff in the review of construction project designs and specifications to ensure compliance with applicable Federal, State and local environmental and health regulations.

(3) Assisting certified (by EPA or EPA authorized State or Tribal program) inspectors and risk assessors with LBP assessment, abatement and management activities to ensure that the information developed meets the needs of the VA medical facility program.

(4) Assisting in the review of contracts for the lease or transfer of VHA property to ensure compliance with applicable Federal, State and local LBP regulations.

(5) Conducting LBP inspections, risk assessments, abatement operations, maintenance, generating reports according to Federal authority and housekeeping activities to ensure compliance with this policy, EPA, HUD and OSHA regulations.

(6) Exercising stop-work authority when activities threaten to release hazardous levels of lead or when prohibited activities are encountered, in accordance with the contracting officer requirements.

(7) Providing VHA maintenance, housekeeping staff and employees with the information and awareness training, as appropriate, to assist them in recognizing and reporting deteriorated LBP.

(8) Ensuring that VHA employees and contractors who conduct LBP activities in VHA housing, VHA target housing and VHA child-occupied facilities are certified (by EPA or EPA authorized State or Tribal program) and comply with OSHA regulations. Such activities include: LBP inspections, risk assessments, hazard screens, project design and lead abatement supervision and worker activities.

(9) Ensuring that at least 3 years and the latest record of LBP inspections, risk assessments, hazard screens, renovations, action plans and LBP mitigation are maintained, as referenced in paragraph 7, Records Management, to include:

(a) Ensuring that LBP inspection and sample data are accessible to VHA maintenance staff, safety managers, industrial hygienists, environmental program managers and project engineers.

(b) Notification records of current and previous occupants for 3 years.

(c) Ensuring that blood-lead and zinc protoporphyrin testing for each regulated LBP VHA employee is conducted at assignment and periodically, as required by OSHA (29 C.F.R. 1926.62).

(d) Consulting with VHA facility's occupational health physician regarding employee LBP medical examination and blood testing.

k. **VHA Employees.** VHA employees who reside in VHA housing, VHA target housing or work in child-occupied facilities, built prior to 1978, are responsible for reporting deteriorated paint conditions to the VA medical facility LBP Program Manager or VHA Facility Management.

6. TRAINING

The following training is required if the VA medical facility uses their staff or a vendor to be a certified individual:

a. Risk assessors, lead-based paint inspectors, dust sampling technicians, abatement supervisors, abatement workers and renovation supervisors (“certified renovators”), who receive compensation for their work in target housing or pre-1978 child-occupied facilities that is not exempt from the applicable regulations, must meet minimum training requirements and be certified by EPA or by an EPA-authorized State or Tribal program (40 C.F.R. 745.225, 40 C.F.R. 745.227 or 40 C.F.R. 745.324).

b. Workers on federally assisted abatement, interim control, maintenance or rehabilitation projects in target housing must meet HUD-approved training requirements (24 C.F.R. 35.1325, 24 C.F.R. 35.1330 and 24 C.F.R. 35.1340).

c. Technicians who collect dust samples in connection with clearance examinations (sampling technicians) after renovation and rehabilitation (but not abatement) must meet EPA and, if applicable, HUD training requirements (40 C.F.R. 745.90 and 24 C.F.R. 35.1340). Training is generally not provided by EPA or HUD but is provided by the private sector and some State, local and Tribal governments.

d. Training materials, outlines, training topic requirements and Certified Trainers can be found at: <https://www.epa.gov/lead/training-courses-renovation-repair-and-painting-program>.

7. RECORDS MANAGEMENT

All records regardless of format (e.g., paper, electronic, electronic systems) created pursuant to this directive shall be managed per the National Archives and Records Administration (NARA) approved records schedules found in VHA Records Control Schedule (RCS) 10-1. Questions regarding any aspect of records management should be addressed to the appropriate Records Manager or Records Liaison.

8. REFERENCES

a. P.L. § 102-550.

b. 42 U.S.C. § 4822.

c. 24 C.F.R. Part 35.

d. 29 C.F.R. Part 1025.

- e. 29 C.F.R. Part 1910.
- f. 29 C.F.R. Part 1926.62.
- g. 40 C.F.R. Part 745.
- h. 40 C.F.R. Part 745.227.
- i. 40 C.F.R. Part 745.83.
- j. 40 C.F.R. Part 745.84.
- k. 40 C.F.R. Part 745.85.
- l. VA Directive 7700, Occupational Safety and Health, dated February 11, 2009.
- m. VHA Directive 7701, Comprehensive Occupational Safety and Health Program, dated May 5, 2017.
- n. EPA website on Lead hazards in Paint, Dust and Soil, at:
<https://www.epa.gov/lead/additional-rules-relating-lead#paint>.
- o. HUD Office of Lead Hazard Control and Healthy Homes, at:
https://www.hud.gov/program_offices/healthy_homes.
- p. OSHA Safety and Health Topics – Lead, at: <https://www.osha.gov/SLTC/lead/>.
- q. Center for Disease Control, Lead Poisoning Prevention Program, at:
<http://www.cdc.gov/nceh/lead/>.

APPENDIX A

LEAD-BASED PAINT HAZARD PROTECTION REGULATORY PROCEDURES

Staff members and occupants of Veterans Health Administration (VHA) housing, VHA target housing and VHA child-occupied facilities are protected from lead-based paint (LBP) hazards in accordance with the most current regulations issued by Housing and Urban Development (HUD, 24 C.F.R. Part 35), Environmental Protection Agency (EPA, 40 C.F.R. Part 745) and Occupational Safety and Health Administration (OSHA, 29 C.F.R. Parts 1910.1025 and 1926.62). These include guidelines for the following requirements:

a. Disclosure of LBP information.

b. LBP disclosure, inspection, assessment and abatement requirements are met when transferring VHA target housing.

c. To ensure a safe housing environment, VHA requires that initial (baseline) LBP inspection and action plans for all VHA housing, VHA target housing and VHA child-occupied facilities are performed. LBP inspections, lead hazard screens and risk assessments must be conducted in accordance with EPA (40 C.F.R. 745.227), State and local regulations, including:

(1) Initial LBP inspections to consist of comprehensive-visual inspections of known and suspected LBP, sampling of suspect LBP and documentation of the paint condition.

(2) VHA LBP inspection staff and LBP consultant staff are trained and certified (by EPA or by EPA-authorized State or Tribal program) to perform lead hazard inspections in accordance with EPA and State regulations.

(3) Annual visual assessments are conducted to identify destabilized LBP surfaces.

(4) LBP hazard screen and a limited risk assessment is used to determine whether LBP presents a health risk or hazard. VHA requires LBP hazard screens to be conducted:

(a) Upon the initial request of occupant residing with children under the age of 6 years old or the associated parent or guardian of children, in VHA target housing, VHA housing or child-occupied facility; or initial request of an occupant who is pregnant.

(b) Annually for VHA-managed child-occupied facilities (managed by VHA staff, contractors, volunteers, parents or guardians). **NOTE:** *Any additional LBP hazard screens (frequency and scope) are at the discretion of the LBP Program Manager or staff member assigned the responsibility for the LBP Program.*

(5) Corrective action plans are developed, monitored and updated for VHA housing, VHA target housing and child-occupied facilities when LBP inspections, visual assessments and hazard screens indicate destabilized LBP or potential lead exposure

risk to occupants. Action plans must identify the location and abatement encapsulation or repair activities, including any replacement of facility components necessary to protect VHA staff members, housing residents and children.

(6) LBP renovations (repair), abatement and interim control activities must be managed to prevent the release of LBP dust and debris to the interior of facilities, exterior soil, vegetable and herb garden and child playgrounds. General construction contractors and VHA maintenance staff must be notified of the presence of LBP prior to work. VHA notification, renovations, abatement and interim control activities must be performed in accordance with 40 C.F.R. part 745, subpart E and subpart L, respectively and notification may include local procedures such as letters, emails, group meeting, one-to-one contact and posting.

(7) General construction and renovation projects in VHA housing, VHA target housing and VHA child-occupied facilities must include an assessment to identify potential impact to LBP surfaces to ensure residents and occupants are not exposed to airborne lead or residual LBP debris. Residents and occupants must not be present in the renovation work area and work area access routes during maintenance and repair activities which have the potential for release of LBP dust and debris. The potential for transfer of LBP airborne dust and debris must be determined and controlled during work activities.