

902 KAR 4:090. Lead poisoning prevention.

RELATES TO: KRS 211.900, 211.905, 211.994

STATUTORY AUTHORITY: KRS 194.050, 211.090, 211.901(5)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 211.901(6) provides that local boards of health may by the adoption of local administrative regulations establish programs for the prevention, screening, diagnosis and treatment of lead poisoning; if administrative regulations are the same as the provisions of KRS 211.900 to 211.905 and 211.994 and the administrative regulations promulgated by the Secretary for Human Resources pursuant to subsection (5) of KRS 211.901. The function of this administrative regulation is to set forth the criteria that shall be included in local board of health regulations relating to the prevention, screening, diagnosis and treatment of lead poisoning.

Section 1. Definitions. As used in this administrative regulation:

- (1) "Board" means the board of health of any county, city-county or district including the Louisville and Jefferson County Board of Health and the Lexington-Fayette Urban-County Board of Health.
- (2) "Department" means the department of health of any county, city-county or district health department including the Louisville and Jefferson County Health Department and the Lexington-Fayette Urban-County Health Department.
- (3) "Director" means the chief administrative officer of any county, city-county or district health department including the Louisville and Jefferson County Health Department and the Lexington-Fayette Urban-County Health Department.
- (4) "Cabinet" means the Cabinet for Human Resources.
- (5) "Secretary" means the Secretary for Human Resources or his authorized representative.
- (6) "Chewable surface" means surfaces such as windowsills, window frames, door frames, handrails, toys, furniture, food utensils and other appurtenances offering a biting surface to a child or other person.
- (7) "Dwelling" means any structure, all or a part of which is designed for human habitation.
- (8) "Dwelling unit" means any room or group of rooms or other interior areas of a dwelling designed or used for human habitation.
- (9) "Elevated blood lead level" means a confirmed concentration of lead in whole blood of twenty-five (25) micrograms (ug) per deciliter (dl) or greater.
- (10) "Exposed surface" means all interior surfaces of a dwelling or dwelling unit and those exterior surfaces of a dwelling or dwelling unit which are readily accessible to children under six (6) years of age, such as stairs, decks, porches, railings, windows, doors and siding. All areas in the vicinity of a dwelling or dwelling unit subject to contamination from flaking or peeling lead based materials shall also be considered an exposed surface.
- (11) "Lead based substance" is defined by KRS 211.900(3).
- (12) "Owner" means any person who, alone, jointly, or severally with others, has legal title to, charge, care, or control of any dwelling or dwelling unit as owner, agent of the owner, or as executor, administrator, trustee, conservator or guardian of the estate of the owner.
- (13) "Occupant" means any person living, sleeping, cooking, eating in or having actual possession of a dwelling unit or rooming unit.
- (14) "Surface" means the outermost layer or superficial area of the materials of which a dwelling unit is constructed, excluding paint, plaster or putty of the interior or exterior of a dwelling unit, such as the outermost layer of superficial area of walls, ceilings, floors,

stairs, windows, windowsills, window frames, window sashes, doors, door frames, baseboard and woodwork of a dwelling or dwelling unit.

Section 2. Lead Based Paint Health Hazard.

(1) Any lead based substance shall be considered a health hazard to children under six (6) years of age if it:

- (a) Exists in or about a dwelling, dwelling unit, household, school or day care facility in which children commonly reside or visit; and
- (b) Is determined to be on any surface, exposed surface or chewable surface and contains more than 0.06 percent lead by weight of nonvolatile content or in excess of seven-tenths (0.7) milligrams per square centimeter of surface if tested by radioisotope x-ray fluorescent analyzer.

(2) Any lead based substance found to be a health hazard under subsection (1) of this section shall be corrected within the time period specified by the director in a written order. Failure to correct the health hazard within the specified time period shall result in the appropriate court action against the owner, operator or occupant for noncompliance unless an extension is granted by the director due to undue hardship.

(3) Correction procedures shall be approved by the director and shall include one (1) or more of the following:

- (a) Stripping of the surface to the bare underlying materials which do not contain lead at the unsafe levels.
- (b) Covering of surfaces that contain lead at unacceptable levels with permanently affixed covering that are:
 - 1. Lead free; and
 - 2. Incapable of being readily chewed through, torn from the surface; pierced or otherwise removed in such a manner as to expose the hazardous surface.

Section 3. Inspections.

(1) If flaking, peeling, chipping, or loose paint, plaster, or structural material is found in or around any building used for housing, specimens of the flaking, chipped or loose paint, plaster or structural material shall be collected to determine whether or not the materials contain lead. In lieu of taking samples, the surface may be tested with an "in situ" analyzer approved by the director.

(2) The chemical determination of the lead content in surface materials may be made by the quantitative measurements of samples of those materials.

(3) The physical determination of the lead content of surface material may be made by nondestructive measurements using radioisotope x-ray fluorescent analyzers (XRF) or other instruments approved by the director.

(4) (a) If a dangerous level of lead is found in a dwelling, the director may require the examination of:

- 1. All children under six (6) years of age; and
- 2. Other children who reside, or recently resided, in the dwelling.

(b) The results of examinations conducted under this subsection shall be reported to the:

- 1. Director;
- 2. Affected individual; and
- 3. His parents or legal guardian.

Section 4. Hazard Abatement.

(1) If the director determines that the presence of lead based substances in any dwelling or dwelling unit or premises creates a health hazard to children under six (6) years of age, he shall issue a written order to the owner, operator or occupant to eliminate the hazard

within a time period not to exceed thirty (30) days. Methods for compliance shall be in accordance with Section 2 of this administrative regulation.

(2) Upon completion of the correction procedure, an inspection shall be made by the department to determine if the hazard has been satisfactorily eliminated.

(3) If the dwelling, dwelling unit or premises in which lead based hazardous substances are located is vacated by the occupant who occupied it when the corrective order was issued, the dwelling, dwelling unit or premises shall not be let or occupied by any other person until the corrective order is complied with.

(11 Ky.R. 105; 395; eff. 8-7-1984; 18 Ky.R. 1430; 2263; eff. 1-10-1992; Crt eff. 10-15-2019.)