

Addendum A

Chapter 803

Housing: Lead Hazard Control

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CROSS REFERENCES

Childhood lead poisoning – see OAC 3701-30

Control methods – see US EPA “Residential Lead-Based Paint Hazard Reduction Act of 1992, Title X”

Fugitive dust regulations – see ORC 3745-17-08

Lead concentrations for risks – see OAC 3701-32-19

Lead abatement procedures – see ORC 3742.01

Lead based paint poisoning prevention – see CFR 40 part 745

EHC Environmental Health Code **ORC** Ohio Revised Code **OAC** Ohio Administrative Code

803.01 DEFINITIONS

- (a) “Board” or “Board of Health” means Summit County Combined General Health District dba Summit County Public Health or its authorized representative including the Health Commissioner, Environmental Health Director, Assistant Director of Environmental Health, Environmental Health Supervisor, Sanitarian, Public Health Nurse, and any authorized employee or agent.
- (b) “Blood testing” means the collection of a blood sample from the patient to be tested for the presence and quantity of lead in the blood.
- (1) “Capillary testing,” means the method of drawing a blood sample from a skin puncture on the heel, finger or an earlobe. This method of testing is only used for screening purposes, not confirmatory, to determine if the patient may have an elevated blood lead level.
- (2) “Venous testing,” means the method of drawing a blood sample from a vein using a protocol for collection. This method of testing may be considered confirmatory for an elevated blood lead level.

- (c) "Child" means a person under the age of six years.
- (d) "Child with lead poisoning" means a child with a confirmed venous blood lead level greater than or equal to the established standard as listed in OAC 3701-30-01.
- (e) "Child at risk of lead poisoning" means any child who meets one or more of the following:
 - (1) Is Medicaid eligible in accordance with Chapter 5111 of the Revised Code;
 - (2) Lives in a high risk zip code as designated by the director;
 - (3) Lives in or regularly visits a dwelling , child care facility, or school built before 1950;
 - (4) Lives in or regularly visits a dwelling built before 1978 that has deteriorated paint; this may include a day care center, preschool, the home of a child care provider or a relative.
 - (5) Lives in or regularly visits a dwelling built before 1978 with recent ongoing or planned renovation/remodeling;
 - (6) Has a sibling or playmate that has or did have lead poisoning; or
 - (7) Is frequently exposed to an adult who has a lead-related hobby, or occupation.
 - (8) Lives near an active lead smelter, battery recycling plant, or other industry known to generate airborne lead dust.
- (f) "Dust-lead hazard" means conditions when one or more of the following are met:
 - (1) Lead contaminated dust on interior floors that contain more than ten micrograms per square foot (10 ug/ft²) or more of lead, or such lead content that may be adopted by the Ohio Department of Health (ODH);
 - (2) Lead contaminated dust on porch floors that contain more than forty micrograms per square foot (40 ug/ft²) or more of lead, or such lead content that may be adopted by the ODH;
 - (3) Lead contaminated dust on interior window sills or on any other interior accessible surface containing 100 ug/ft², or more lead or such lead content that may be adopted by the ODH;
 - (4) Lead contaminated dust in window troughs (window wells) that contain 100 ug/ft² or more lead, or such lead content that may be adopted by ODH.
- (g) "Dwelling" means any space used for residential purposes, for all of the following: living, sleeping, cooking, and eating. The term 'dwelling' shall also include industrialized housing and modular construction, or any other residential structure, which conforms to nationally accepted industry standards. Whenever the word "dwelling" is used, it shall be construed as though followed by the words "or any part thereof".
- (h) "Exposed surfaces" means any surface, in or on a dwelling unit or dwelling that is readily accessible to children or any surface where the chipping, peeling or falling paint chips could be accessible to children.
- (i) "Interim control" means a set of measures designed to reduce temporarily human exposure or likely exposure to lead-based paint hazards, including specialized cleaning, repairs, maintenance, painting, temporary containment, ongoing monitoring of lead-based paint hazards or potential hazards, and the establishment and operation of management and resident education programs."
- (j) "Lead abatement" means a measure or set of measures, as listed in Ohio Revised Code Section 3742, designed for the single purpose of permanently eliminating lead hazards. Lead abatement includes all of the following:
 - (1) Removal of lead-based coatings and lead-contaminated dust;
 - (2) Permanent enclosure or encapsulation of lead-based coatings;

- (3) Replacement of surfaces or fixtures painted with lead-based coatings;
 - (4) Removal or permanent covering of lead-contaminated soil;
 - (5) Preparation, cleanup and disposal activities associated with lead abatement.
- (k) “Lead based coatings” means any paint, lacquer or other applied liquid surface coating or putty, which contains lead equal to or exceeding one milligram per square centimeter (1.0 mg/cm^2) or 0.5% by weight as measured by an analytical device or other procedure approved by the Board, or such standard as may be hereafter be established by federal law or regulation.
- (l) “Lead-containing substance” means any material which contains lead equal to or exceeding one milligram per square centimeter (1.0 mg/cm^2) or 0.5% by weight as measured by an analytical device or other procedure approved by the Board, or such standard as may be hereafter be established by federal law or regulation.
- (m) “Lead safe” means that a dwelling has either:
- (1) Undergone a Lead Risk Assessment performed by a Public Health Lead Investigator certified by the ODH and found to have no lead hazards on the property,
 - (2) Undergone the recommended non-abatement or abatement options in response to lead hazards, including interim and permanent controls, and received a passing clearance, or;
 - (3) Been built after 1978.
- (n) “Occupant” means any person living, sleeping, cooking or eating in, or having actual possession of a dwelling unit or rooming unit.
- (o) “Permanent control” means any method utilized to remove or encapsulate lead from access by the occupants of the dwelling. This shall be completed by one of the following methods: covering with an ODH approved lead-free encapsulant, permanent removal of the lead-based coating in an approved method, permanent removal of the structure with lead-based coatings applied, or other methods as allowed by the Board.
- (p) “Soil lead hazard” means conditions when one of the following is met:
- (1) Lead contaminated bare soil within the building perimeter and yard contains one thousand two hundred parts per million (1200 ppm) or more of lead; or such lead content that may be recommended by the Board or may hereafter be established by state or federal law or regulation.
 - (2) Lead contaminated bare soil within play areas and high-contact areas contains four hundred parts per million (400 ppm) or more of lead; or such lead content that may be recommended by the Board or may hereafter be established by state or federal law or regulation.

803.02 PROHIBITED CONDUCT

- (a) No owner shall act in a manner that causes or contributes to the lead poisoning of any child or causes an elevated blood lead level in a child.
- (b) No owner or occupant shall use or apply any lead-based coating:
- (1) In or on any exposed surface of any dwelling, dwelling unit, or any appurtenances thereof,

- (2) In or on any fixtures or other objects used, installed, or located in or on any exposed surface of any dwelling.
- (c) No owner or occupant shall use, or permit the use of, any lead-containing substance in or on any dwelling or allow lead-containing substances to remain in or on any dwelling without the use of interim or permanent controls.
- (d) No owner or occupant shall allow or create a dust-lead hazard or soil-lead hazard at a property of any dwelling, dwelling unit or any appurtenances thereof.
- (e) All properties where lead based paint is present shall be maintained by the owners in a way that does not contribute to a child lead poisoning either by the use of interim or permanent controls.
- (f) No owner shall fail to complete a lead risk assessment within 90 days of receiving orders from the Board.

803.03 INSPECTIONS

- (a) The Board may, at any reasonable time with appropriate notice given to the owner and/or occupant, enter a rental dwelling for purposes of inspection.
- (b) The Board may remove samples for analysis to determine whether lead-based coatings or lead-containing substances are present.

803.04 REMOVAL OF LEAD-BASED COATINGS

- (a) Where the Board determines that the presence of lead-based coatings or lead-containing materials upon any property creates a health hazard to children, the Board shall issue an order to the owner or occupant to eliminate the hazard following accepted lead abatement procedures as described in ORC 3742.
 - (1) Lead-based coatings shall be completely removed from any surface that can be chewed or eaten by children. Cracked, chipped, blistered, or peeling lead-based coatings shall be completely removed to the bare surface.
 - (2) In lieu of removal of the lead-based coatings, the accessible surface shall be covered with an ODH approved durable material as a permanent control method.
 - (3) Repainting a surface with a non-ODH approved durable material without complete removal of the existing lead-based coating shall not be deemed in satisfactory compliance with this section.
 - (4) The methods used for the removal of lead-based coatings shall not present a hazard to health from fumes, dust, or vapors by inhalation or absorption through the skin and mucous membranes or by the contamination of soil surrounding the abatement area.
 - (5) All lead abatement work must be conducted under the supervision of an ODH licensed Lead Abatement Contractor. Any work found to have been done without appropriate notifications or by unlicensed workers will be referred to ODH for enforcement action.
 - (6) When all lead abatement work is complete, the owner or their representative shall contact SCPH to schedule a lead clearance test. A private company holding an active ODH

certification may perform this clearance and the testing results must be reported to SCPH within two weeks of the testing.

- (7) The Board shall have the authority to conduct soil sampling or any other environmental lead sampling it may deem necessary.
- (8) The Board shall have the authority to issue an immediate cease-work order to any person or company found in violation of any of the provisions of this section.

803.05 DISPOSAL OF LEAD CONTAINING SUBSTANCES

- (a) Disposal of lead-containing substances, the ashes thereof, and other refuse shall comply with procedures and transport the debris to an OEPA, or other similar entity, licensed landfill in accordance with Chapter 600 of this Code.
- (b) Contaminated soil shall be removed to a six inch depth and replaced with clean fill dirt or topsoil.

803.06 NOTICE OF VIOLATION

- (a) Whenever the Board has determined that there is a violation of any of the provisions of this chapter, the Board shall give a Notice of Violation (NOV) to the responsible party and order compliance, as herein provided. The notice and order shall:
 - (1) Be put in writing;
 - (2) Include a list of violations, refer to the section violated, and order remedial action which will affect compliance with the provisions of this chapter;
 - (3) Specify a reasonable time frame within which to comply, giving due consideration to the immediacy of the threat to the health of the child with elevated blood lead levels;
 - (4) Be served on the owner, occupant or agent personally and/or, posted in a conspicuous location on the property affected, or by certified and regular mail to the owner's residence, regular place of business or last known address.

803.07 PLACARD

- (a) If an owner does not comply with an order issued pursuant to this Chapter, the Board shall post notice on the dwelling which identifies the existence of lead-based coatings or materials and that the dwelling is unfit for human habitation for persons under six years of age. The notice shall not be removed without prior written approval from the Board and any person removing the notice shall be subject to the penalties and remedies provided for in R.C. Chapter 3709.
- (b) If the rental dwelling has been placarded due to the presence of lead-based coatings or materials, the dwelling shall not be occupied by persons under six years of age until such time as the lead-based hazard has been abated fully or appropriate control measures installed by a licensed contractor.

803.08 RETALIATION PROHIBITED

- (a) No owner or agent of an owner of any rental property shall take retaliatory action against a tenant because of enforcement of any of the provisions of this chapter, nor evict or attempt to evict a tenant as retaliation or to avoid compliance with the provisions of this chapter.

803.09 EMERGENCY ORDERS

- (a) Whenever the Board finds that an emergency exists which requires immediate action to protect the public health, the Board may, without notice or hearing, issue an order stating the existence of such an emergency and requiring that such action be taken as the Board deems necessary to meet the emergency. Such order shall be effective immediately. Any person to whom such order is directed shall comply therewith immediately. Any person who fails to comply with an emergency order shall be subject to immediate referral to the Prosecutor.

803.99 PENALTIES

- (a) Whenever an occupant or owner violates or fails to comply with any of the provisions of this chapter, the Board shall have the authority to impose an administrative penalty and/or seek any available remedy pursuant to law. The Board shall consider the following criteria in assessing an administrative penalty:
 - (1) The extent to which the person has benefitted by violation of this article;
 - (2) The degree of harm to the public health, safety and welfare as a result of the violation of this article;
 - (3) The recidivism of the person, including previous notices and orders to comply and previous enforcement actions;
 - (4) Good faith efforts of the person to remedy the violation of this article; and
 - (5) The duration of the violation after a notice and order to comply was served pursuant to this section.
- (b) The imposition of an administrative fine shall be accomplished only after a notice and order provided to the occupant and owner. Notice of a decision imposing an administrative fine shall:
 - (1) Be put in writing on an appropriate form as the Board shall determine;
 - (2) State the basis for the administrative penalty, including the section of this article that has been violated;
 - (3) Specify the date and manner by which penalty must be paid; and
 - (4) Be served on the owner personally or by certified and regular mail to the owner's residence, regular place of business or last known address. If the certified or regular mail is returned as undeliverable, a copy shall be posted in a conspicuous place in or on the property affected.
- (c) Whoever violates any provision of this chapter shall be fined not more than \$100 per day for each day during which the violation continues.