

Title 26 DEPARTMENT OF THE ENVIRONMENT

Subtitle 02 OCCUPATIONAL, INDUSTRIAL, AND RESIDENTIAL HAZARDS

Chapter 01 Blood Lead Reporting

Authority: Environment Article, §6-303, Annotated Code of Maryland

.01 Definitions.

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

B. Terms Defined.

(1) "Blood lead analysis" has the meaning stated in COMAR 10.11.04.02B.

(2) "Blood lead level test" means to:

(a) Draw a blood specimen, by either venous or capillary methodology, and:

(i) Send the blood specimen to a medical laboratory for blood lead analysis; or

(ii) Conduct a blood lead analysis at a health care provider's office subject to licensing, certification, and approval by the Laboratories Administration of the Maryland Department of Health; or

(b) Order a blood specimen to be drawn by a third-party health care provider, by either venous or capillary methodology, and sent to a medical laboratory for blood lead analysis.

(3) "Department" means the Department of the Environment.

(4) "Health care provider" has the meaning stated in COMAR 10.11.04.02B.

(5) "Laboratory" means a medical laboratory as defined in COMAR 10.10.01.

(6) "Local health department" means the health department of the Maryland subdivision where the patient resides.

(7) "Parent or guardian" means an individual acting in a primary custodial capacity.

(8) "Reference level" means:

(a) 5 micrograms per deciliter; or

(b) Beginning 1 year after the date that the Centers for Disease Control and Prevention revises the blood lead reference level until 1 year after a subsequent revision, the revised blood lead reference level as determined by the Centers for Disease Control and Prevention.

.02 Information to be Reported.

A. Who Shall Report. The laboratory, health care provider's office, or other facility that draws a blood specimen from a child 18 years old or younger for a blood lead level test shall obtain the information required by §D(1)—(5) and (8) of this regulation at the time of drawing the blood specimen.

B. Time and Method for Reporting by a Facility that Initially Draws a Blood Specimen.

(1) A laboratory that performs blood lead analysis shall provide a referral form of paper or electronic requisition that specifies the required information for use by a laboratory, health care provider's office, or other facility that draws a blood specimen.

(2) The facility that draws a blood specimen shall:

(a) Record the information required under §D(1)—(5) and (8) of this regulation on the laboratory's referral form or similar form; and

(b) Forward the required information concurrently with the blood specimen to the laboratory that performs blood lead analysis.

C. Time and Method for Reporting by a Laboratory. A laboratory required to report a blood lead level test under this regulation shall report the blood lead level test in the format approved by the Department and include all of the information required under §D of this regulation.

D. The blood lead level test to be reported shall include the following information:

(1) The child's demographic information including:

(a) First name, last name, and middle initial;

(b) Date of birth, country of birth, sex, race, and ethnicity;

(c) Medical assistance number if the child is enrolled in Medicaid or the Maryland Children's Health Program;

(d) Complete home address at the time the blood specimen was drawn including house or apartment number, street, city or town, county or Baltimore City, zip code, and state;

(e) Telephone number; and

(f) Parent or guardian's name; and

(2) If the child being tested is female, whether the child was pregnant at the time of the blood lead level test;

(3) Type of blood specimen, venous or capillary, and the blood draw date;

(4) The health care provider's office name, address, telephone number, and national provider identifier (NPI);

(5) *If the draw site is different from the health care provider's office, the laboratory or other facility name, address, telephone number, and NPI;*

(6) *All of the following information about the laboratory performing the blood lead analysis:*

(a) *Laboratory name, address, telephone number, and clinical laboratory improvement amendment number (CLIA);*

(b) *Laboratory method used to analyze the blood specimen;*

(c) *The limit of detection for the method used to analyze the blood specimen; and*

(d) *If reporting a "no result" test result, the limit of detection for the laboratory; and*

(7) *Blood lead level in micrograms per deciliter expressed with a numeric results comparator of:*

(a) *Equal, if the blood lead level is an exact measurement; or*

(b) *Less than or greater than, if a blood lead level reading is below or above a certain level that a device used to analyze a blood specimen can accurately record; and*

(8) *Additional information as may be required by the Department.*

.03 Missing Information.

A. *A laboratory that receives a blood specimen from a laboratory, health care provider's office, or other facility without all of the required information listed in Regulation .02D(1)—(5) and (8) of this chapter included on the referral form required under Regulation .02B of this chapter shall:*

(1) *Within 3 business days of receipt of the blood specimen, send to the facility that provided the blood specimen a written or electronic message citing the regulations and requirements of this chapter, requesting that all the required missing information be forwarded to the laboratory; and*

(2) *Upon receipt of the required information, collate and transmit the information to the Department within the time frames set forth in Regulation .04C of this chapter.*

B. *When the laboratory reports a blood lead level test result to the Department with one or more of the requirements listed in Regulation .02D(1)—(5) and (8) of this chapter omitted, the laboratory shall concurrently provide the name and address of the facility that:*

(1) *Drew the blood specimen; and*

(2) *Failed upon request to forward the required information to the laboratory.*

C. The facility that drew the blood specimen shall respond to a written or electronic message from a laboratory that did not receive all of the required information listed in Regulation .02D(1)—(5) and (8) of this chapter by providing the information to the laboratory within:

- (1) 1 business day of receiving the message regarding a blood lead level test result of greater than or equal to the reference level; and*
- (2) 5 business days of receiving the message for a blood lead level test result of less than the reference level.*

D. A laboratory not permitted in accordance with COMAR Title 10 to perform a blood lead analysis that accepts a blood specimen from a health care provider for referral to another laboratory for blood lead analysis shall ensure that:

- (1) The requisition record includes all of the information that is required under Regulation .02D(1)—(5) and (8) of this chapter; and*
- (2) The required information is transmitted to the laboratory performing the blood lead analysis along with the blood specimen.*

E. Reporting a Blood Lead Level Test Result with Missing Information.

(1) A laboratory shall collate information required under Regulation .02D of this chapter that is collected to complete a previously incomplete requisition record for a blood lead level test before submitting the information to the Department in accordance with §A of this regulation.

(2) A laboratory shall report to the Department the missing information collated pursuant to §E(1) of this regulation:

(a) Concurrently with the blood lead level test result, if the reporting time frame for a blood lead level established in Regulation .04C of this chapter has not concluded; or

(b) In a manner indicating that there has been a change in the blood lead level test record, if reporting the missing information after the initial blood lead level test result was reported to the Department.

.04 A Laboratory that Performs the Tests.

A. Reporting to the Department. The director of a laboratory shall report to the Department the result of a blood lead level test performed on a child 18 years old and younger, who resides in Maryland.

B. Additional Reporting Requirements.

(1) In addition to the requirements of §A of this regulation, the director of a laboratory shall report to the Commissioner of the Baltimore City Health Department the result of a blood lead level test performed on a child 18 years old or younger, who resides in Baltimore City.

(2) *In addition to the requirements under §§A and B(1) of this regulation, a laboratory shall report the result of a blood lead level test to:*

- (a) The health care provider that ordered the blood lead level test; and*
- (b) Another entity as required by State, federal, or local statutes or regulations, or in accordance with accepted standards of practice.*

C. A laboratory shall report the result of a blood lead level test to the Department by facsimile or other manner required by the Department within the following time frames:

(1) By the close of business of the next business day following a final blood lead level test result of greater than or equal to the reference level; and

(2) Within 2 weeks of a final blood lead level test result of less than the reference level.

D. A laboratory that uses an electronic system for tracking blood lead level test results shall report a result to the Department electronically in a manner consistent with the technical specifications established by the Department.

.05 Reporting by the Department.

A. Upon receipt the Department shall report the information required under Regulation .02D of this chapter and the result of a blood lead level test indicating a blood lead level greater than or equal to the reference level to the:

(1) Local health department in the jurisdiction in which the child resides; and

(2) Maryland Department of Health.

B. Time and Manner of Reporting by the Department.

(1) The Department shall report a blood lead level test result of:

(a) Greater than or equal to 10 micrograms per deciliter by the close of business of the next business day following the receipt of the final test result; and

(b) 5 micrograms per deciliter through 9 micrograms per deciliter within 2 weeks of the receipt of the final test result.

(2) The Department may report the information required under Regulation .02D of this chapter and the result of a blood lead level test of less than 5 micrograms per deciliter to the local health department or the Maryland Department of Health, or both.

Chapter 07 Procedures for Abating Lead Containing Substances from Buildings

Authority: Environment Article, §§1-404 and 7-206—7-208, Annotated Code of Maryland

.02 Definitions.

A. (text unchanged).

B. Terms Defined.

(1)—(11) (text unchanged)

(11-1) “*Quantitation limit*” means the minimal quantity or level of lead that can reliably be measured or quantified to a specified degree of accuracy and precision.

(12)—(13) (text unchanged)

.12 Procedures for Determining Compliance.

A.—H. (text unchanged)

[I. All dust samples collected under §H shall be analyzed for extractable lead by:

(1) The Maryland Department of Health, State Laboratories Administration; or

(2) A laboratory approved by the Maryland Department of the Environment to perform the analysis.]

I. The Department shall submit a dust sample collected under §H of this regulation for extractable lead analysis to a laboratory:

(1) *Recognized by the U.S. Environmental Protection Agency under 15 U.S.C. §2685(b) as accredited under the National Lead Laboratory Accreditation Program; and*

(2) *That demonstrates it can achieve a quantitation limit equal to or less than 50 percent of the lowest dust level specified in §K(1) of this regulation.*

J. (text unchanged)

K. [A lead abatement project shall be deemed to be in compliance with these regulations if] *The Department shall consider a lead abatement project to be in compliance with this chapter if:*

(1) Floor lead dust levels are [below 40] *less than 10* micrograms per square foot;

(2) [Windowsill] *Window sill* lead dust levels are [below 250] *less than 100* micrograms per square foot;

(3) Window well lead dust levels are [below 400] *less than 100* micrograms per square foot; and

(4) (text unchanged)

L. (text unchanged)

Subtitle 16 LEAD

Chapter 01 Accreditation and Training for Lead Paint Abatement Services

Authority: Environment Article, §§1-404, 6-818, 6-851, 6-852, 6-1001—6-1005, and 7-206—7-208, Annotated Code of Maryland

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1)—(2) (text unchanged)

(3) "Child care center" [means a child care center as defined under COMAR 07.04.02] *has the meaning stated in COMAR 13A.16.01.02B.*

(4)—(27) (text unchanged)

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. (text unchanged)

B. Terms Defined.

(1)—(5) (text unchanged)

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

(a) [40] 10 micrograms per square foot in dust collected from a floor;

(b) [250] 100 micrograms per square foot in dust collected from a window sill; or

(c) [400] 100 micrograms per square foot in dust collected from a window well.

(7)—(14) (text unchanged)

.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 (June 1995 edition), Chapter 7: Lead-Based Paint Inspection (1997 Revision) is incorporated 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.—C. (text unchanged)

D. An affected property that is a multiunit building or multibuilding complex having [ten] 10 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)—(2) (text unchanged)

(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 Multifamily 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, Chapter 7; Lead-Based Paint Inspection (1997 Revision)] *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, Chapter 7: Lead-Based Paint Inspection (Second Edition, July, 2012)*;

(4)—(5) (text unchanged)

E.—M. (text unchanged)

Chapter 05 Procedures for Performing Lead Abatement Services

Authority: Environment Article, §§1-404, 6-801—6-852, 6-1001—6-1005, and 7-206—7-208, Annotated Code of Maryland

.01 Scope and Applicability.

A. This chapter governs the performance of lead paint abatement services in Maryland.

B. A person performing [any] a lead inspection, lead risk assessment, or clearance inspection shall:

(1) [be] *Be* accredited by the Department; and

(2) [shall comply] *Comply* with the applicable procedures in this chapter.

C. [Inspections performed as part of a poisoned-child investigation shall be performed according to protocols approved by the Department before the performance of the inspection] *A lead paint risk assessor shall perform an inspection for a poisoned-child investigation in accordance with the environmental investigation protocols specified in COMAR 26.16.08.*

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) (text unchanged)

(2) “*Quantitation limit*” has the meaning stated in COMAR

26.02.07.02B.

[(2)] (3) (text unchanged)

.03 Incorporation by Reference.

In this chapter, the following documents are incorporated by reference:

A. 40 CFR §745.227, as amended; [and]

B. Standard Practice for Collection of Settled Dust Samples Using Wipe Sampling Methods for Subsequent Lead Determination (ASTM Standard E1728, 2016 Edition)[.]; and

C. *Standard Specification for Wipe Sampling Materials for Lead in Surface Dust (ASTM Standard E1792-03, 2016 Reapproved).*

.10 Clearance Inspections for Abatement Projects.

A. Following a lead abatement project, performed in accordance with COMAR 26.02.07, a [clearance inspection for lead-contaminated dust shall be performed by a] visual inspector, inspector technician, or risk assessor accredited by the Department *shall perform a clearance inspection for lead-contaminated dust to determine if the lead content in dust is less than the levels stated in COMAR 26.16.02.02B.*

B. [Dust samples shall be collected] *A Department accredited lead paint visual inspector, inspector technician, or risk assessor shall collect dust samples from each interior room where lead abatement was performed, using all of the dust sample collection procedures specified in Regulation [.08B] .09 of this chapter.*

C.—D. (text unchanged)

.12 Collection and Laboratory Analysis of Samples.

A.—B. (text unchanged)

[C. All samples collected shall be analyzed by a laboratory recognized by EPA under §405 (B) of TSCA as being capable of performing analyses for lead compounds in paint chip, dust, or soil samples] *An inspector technician, visual inspector, or risk assessor shall submit collected samples for analysis to a laboratory:*

(1) *Recognized by the U.S. Environmental Protection Agency under 15 U.S.C. §2685(b) as accredited under the National Lead Laboratory Accreditation Program; and*

(2) *That demonstrates it can achieve a quantitation limit equal to or less than:*

- (a) 20 percent of the lowest level of lead content in paint that constitutes a lead-containing substance, as stated in COMAR 26.16.01.02B;*
- (b) 20 percent of the lowest action level or regulatory limit for lead content in soil established under 40 CFR §745.65 or a more stringent standard published by the Department; or*
- (c) 50 percent of the lowest level of lead content in dust that constitutes lead-contaminated dust, as stated in COMAR 26.16.02.02B.*

Chapter 08 Environmental Investigations

Authority: Environment Article, §§6-304, 6-305, 6-801, 6-819, 6-846 and 6-1001—6-1005, Annotated Code of Maryland

.01 Purpose.

The purpose of this chapter is to establish the:

- A. Procedures and technical standards for conducting an environmental investigation; and*
- B. Job performance standards for a Department accredited lead paint risk assessor conducting an environmental investigation.*

.02 Scope.

- A. This chapter applies to an environmental investigation performed pursuant to Environment Article, §6-305, Annotated Code of Maryland.*
- B. This chapter does not apply to the performance of a lead paint abatement service other than an environmental investigation required under Environment Article, §6-305, Annotated Code of Maryland.*

.03 Definitions.

- A. In this chapter, the following terms have the meanings as indicated.*
- B. Terms Defined.*
 - (1) “Accredited” has the meaning stated in COMAR 26.16.02.02B.*
 - (2) “Affected property” has the meaning stated in Environment Article, §6-801(b), Annotated Code of Maryland.*
 - (3) “ASTM” means the American Society for Testing and Materials.*
 - (4) “Blood lead level (BLL)” means a measurement of the amount of lead in blood, usually measured in micrograms per deciliter.*
 - (5) “Caregiver” means a parent, guardian, or other person that is legally responsible for the wellbeing of a child or a pregnant woman younger than 18 years old.*
 - (6) “Child” means an individual younger than 6 years old.*
 - (7) “Child care center” has the meaning stated in COMAR 13A.16.01.02B.*

(8) *“Defect” means the presence of:*

(a) Chipping, peeling, or flaking paint on an interior or exterior surface of an affected property; or

(b) A structural defect causing chipping, peeling, or flaking paint in an affected property.

(9) *“Deteriorated paint” means chipping, peeling, or flaking paint on:*

(a) A painted interior or exterior surface of a property; or

(b) Any other accessible painted surface.

(10) *“Drip line” means the area of land directly beneath the edge of a roof.*

(11) *“Elevated blood lead level (EBL)” has the meaning stated in Environment Article, §6-801(f), Annotated Code of Maryland.*

(12) *Environmental Investigation.*

(a) “Environmental investigation” means an investigation performed by a Department accredited lead paint risk assessor to identify one or more lead hazards for a child or pregnant woman diagnosed with an EBL.

(b) “Environmental investigation” includes the:

(i) Administration of an environmental questionnaire, a visual inspection, and the collection of environmental samples during an on-site assessment of a property;

(ii) Analysis of the results from an on-site assessment and environmental sampling; and

(iii) Performance of case management by the Department pursuant to Environment Article, §6-304, Annotated Code of Maryland.

(13) *“Environmental questionnaire” means a questionnaire administered by a Department accredited lead paint risk assessor during an environmental investigation to identify one or more lead exposure risk factors that may have contributed to a child or pregnant woman’s EBL.*

(14) *“Environmental sampling” means the collection and analysis of paint chip, dust or soil samples, or samples from other media as appropriate, to identify the presence of a lead hazard, performed in accordance with the applicable sampling requirements and technical standards described under Regulations .06 and .07 of this chapter.*

(15) *“HUD Guidelines” means the U.S. Department of Housing and Urban Development (HUD) Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing, Second Edition, July, 2012.*

(16) *“International Organization for Standardization/International Electrotechnical Commission (ISO/IEC)” means a technical standard governed by both the ISO and IEC.*

(17) *Lead Hazard.*

(a) *“Lead hazard” means a source of lead on an accessible surface or media in which exposure of a child or pregnant woman to the source would result in adverse human health effects.*

(b) *“Lead hazard” includes, but is not limited to:*

(i) *Lead-based paint as defined under COMAR 26.16.02.02B, if the lead-based paint is present on a surface with deteriorated paint or a defect, an impact or friction surface, or a chewable surface with evidence of teeth marks;*

(ii) *A lead-containing substance as defined under COMAR 26.16.01.02B, if the lead-containing substance is present on an impact or friction surface, or chewable surface with evidence of teeth marks;*

(iii) *Lead-contaminated dust as defined under COMAR 26.16.02.02B; or*

(iv) *Other sources of lead as identified in the HUD Guidelines, Chapter 16 or by the Department.*

(18) *“Notice of Defect” means a written notice provided by a tenant, or other source, to the owner of an affected property notifying the owner of a defect in the affected property, as authorized under the Environment Article, §6-819, Annotated Code of Maryland.*

(19) *“Primary residence” means a residential property where a child or pregnant woman with an EBL resides.*

(20) *“Quantitation limit” has the meaning stated in COMAR 26.02.07.02B.*

(21) *“Reference level” means:*

(a) *5 micrograms per deciliter; or*

(b) *Beginning 1 year after the date that the Centers for Disease Control and Prevention revises the blood lead reference level until 1 year after a subsequent revision, the revised blood lead reference level as determined by the Centers for Disease Control and Prevention.*

(22) *Secondary Property.*

(a) *“Secondary property” means a property, other than a child’s or pregnant woman’s primary residence, where the child or pregnant woman with an EBL spends at least 24 hours per week.*

(b) *“Secondary property” includes a child care center or a family member’s residence.*

(23) *“Secondary source” means a lead exposure risk that is not derived from a painted surface or structural component of a property, including, but not limited to:*

(a) *Tap water;*

- (b) A toy, jewelry, and ceramic foodware;*
- (c) An imported cosmetic, such as, but not limited to, a product identified in Table 16.4 of the HUD Guidelines, Chapter 16;*
- (d) A traditional medicine or remedy; or*
- (e) A food item.*

.04 Incorporation by Reference.

A. In this chapter, the following documents are incorporated by reference:

- (1) General requirements for the competence of testing and calibration laboratories (ISO/IEC 17025:2017(E));*
- (2) 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 16: Investigation and Treatment of Dwellings that House Children with Elevated Blood Lead Levels;*
- (3) Standard Practice for Collection of Settled Dust Samples Using Wipe Sampling Methods for Subsequent Lead Determination (ASTM Standard E1728-16, 2016 Edition);*
- (4) Standard Practice for Field Collection of Dried Paint Samples for Subsequent Lead Determination (ASTM E1729-16, 2016 Edition); and*
- (5) Standard Practice for Field Collection of Soil Samples for Subsequent Lead Determination (ASTM E1727-16, 2016 Edition).*

B. The document incorporated by reference in §A(2) of this regulation will be referred to in this chapter as HUD Guidelines, Chapter 16.

.05 Scheduling an Environmental Investigation.

A. Pursuant to Environment Article, §6-304, Annotated Code of Maryland, after the receipt by the Department of a blood lead level test result that diagnoses a child or pregnant woman with an EBL, the Department or local health department shall:

(1) Not more than 10 business days after of the receipt of the blood lead level test result, provide notification of the EBL to:

- (a) The caregiver of the child or the pregnant woman; and*
- (b) If the child or pregnant woman resides at a property not owned by the caregiver or the pregnant woman, the owner of the property where the child or pregnant woman resides; and*

(2) Except as otherwise provided in §D of this regulation, contact the caregiver or pregnant woman to schedule the on-site assessment portion of the environmental investigation.

B. The lead paint risk assessor or local health department representative shall schedule an on-site assessment in accordance with the procedures under §C of this regulation for:

(1) The primary residence of the child or pregnant woman diagnosed with an EBL; and

(2) If determined necessary by the lead paint risk assessor while conducting the environmental investigation, the secondary property associated with the child or pregnant woman.

C. Procedures for Scheduling an On-Site Assessment.

(1) The on-site assessment of a primary residence may be scheduled by the lead paint risk assessor or local health department representative in coordination with a local health department representative's home visit.

(2) The lead paint risk assessor or local health department representative shall make at least 2 attempts to contact the caregiver or pregnant woman and, if investigating a secondary property, the property owner by telephone to schedule an on-site assessment.

(3) If the lead paint risk assessor or local health department representative is unable to establish contact with the person in accordance with §C(2) of this regulation, the lead paint risk assessor shall mail a letter through first class mail to the person.

(4) The lead paint risk assessor or local health department representative shall include, at a minimum, all of the following information in the letter required under §C(3) of this regulation:

(a) The lead paint risk assessor's or local health department representative's intention to schedule an on-site assessment at the primary residence of the child or pregnant woman with an EBL, or if applicable, at a secondary property frequented by a child or pregnant woman with an EBL;

(b) Notice that the letter constitutes the final attempt by the lead paint risk assessor or local health department representative to schedule the on-site assessment of the property;

(c) The latest calendar date that the person may contact the lead paint risk assessor or local health department representative to schedule an on-site assessment of the property; and

(d) If the letter is addressed to a caregiver or pregnant woman:

(i) That failure to contact the lead paint risk assessor or local health department representative to schedule an on-site assessment of the primary residence may result in the child's or pregnant woman's case being closed by the Department or local health department without an environmental investigation; and

(ii) If the child or pregnant woman is known or believed by the Department or local health department to reside at an affected property, information regarding the tenant's rights under Environment Article, §§6-815 and 6-819, Annotated Code of Maryland.

D. Failure to Schedule an On-Site Assessment.

(1) If the caregiver or the pregnant woman does not respond to the attempts to schedule the on-site assessment of a primary residence made in accordance with §C of this regulation, the Department or local health department may:

(a) Attempt to make contact with the caregiver or the pregnant woman by coordinating with the medical provider or through other means; or

(b) At its discretion, close the case without conducting an environmental investigation.

(2) If a case is closed by the Department or local health department pursuant to §D(1) of this regulation, the Department or local health department:

(a) If the primary residence is not owned by the caregiver or pregnant woman, shall mail a letter to the property owner advising that the:

(i) Lead paint risk assessor or local health department representative was unable to contact the caregiver or pregnant woman to schedule an on-site assessment of the property; and

(ii) Case has been closed by the Department or local health department without conducting an environmental investigation; and

(b) May reopen the case and conduct an environmental investigation upon request of the caregiver or pregnant woman.

(3) If the owner of a secondary property does not respond to the attempts to schedule the on-site assessment of a secondary property made in accordance with §C of this regulation, the lead paint risk assessor shall:

(a) Complete the environmental investigation including only the primary residence; and

(b) Note in the environmental investigation report that the secondary property was not assessed.

.06 Environmental Investigation Protocol.

A. Except as otherwise provided in Regulation .05D of this chapter, a lead paint risk assessor shall perform an environmental investigation in response to a child's or pregnant woman's diagnosis of an EBL, as required under Environment Article, §6-305, Annotated Code of Maryland.

B. The lead paint risk assessor shall determine the year of construction for the property being investigated, which may be accomplished by viewing the property tax records available through the State Department of Assessment and Taxation.

C. Environmental Questionnaire.

(1) The lead paint risk assessor shall complete an environmental questionnaire with the caregiver or pregnant woman during an on-site assessment of a primary residence.

(2) The lead paint risk assessor shall complete the environmental questionnaire on a form provided by the Department that is consistent with or more detailed than Form 16.1 of the HUD Guidelines, Chapter 16.

(3) The lead paint risk assessor shall use the environmental questionnaire to:

(a) Identify a potential lead hazard for a child or pregnant woman, including:

(i) Housing, behavioral, cultural, or occupational lead exposure risk factors; and

(ii) Less common sources of lead exposure as identified in Table 16.4 of the HUD Guidelines, Chapter 16;

(b) Determine the type of environmental sampling to be conducted during the on-site assessment; and

(c) Identify whether there is a secondary property that requires an on-site assessment.

D. A lead paint risk assessor shall perform a visual inspection to identify the potential presence of a lead hazard.

E. Paint Survey Analysis.

(1) A lead paint risk assessor shall perform a paint survey analysis to determine if the lead content on a painted surface meets the definition of lead-based paint under COMAR 26.16.02.02B through paint chip or XRF sampling in accordance with the requirements under Regulation .07D or E of this chapter.

(2) A lead paint risk assessor shall perform a paint survey analysis:

(a) On a painted chewable surface or suspected lead-containing substance with evidence of teeth marks;

(b) At a property constructed before 1978 if an interior or exterior painted surface has:

(i) A defect or deteriorated paint;

(ii) Intact paint and the surface is subject to friction or impact; or

(iii) Been disturbed during a recent renovation or in preparation to be repainted; or

(c) At a property constructed after 1977 on an interior or exterior painted surface that has:

(i) Deteriorated paint;

(ii) Intact paint and the surface is subject to friction or impact; or

(iii) Been identified as a potential lead hazard through the environmental questionnaire, painting history of the property, or by the lead paint risk assessor.

F. A lead paint risk assessor shall perform dust wipe sampling:

- (1) To determine if the lead content in dust is below the lead-contaminated dust level in COMAR 26.16.02.02B;*
- (2) Pursuant to the HUD Guidelines, Chapter 16;*
- (3) Based on information obtained by the lead paint risk assessor while conducting the environmental questionnaire and visual inspection; and*
- (4) In accordance with the requirements under Regulation .07C of this chapter.*

G. A lead paint risk assessor shall perform composite soil sampling:

- (1) On an area of bare soil at a primary residence or secondary property where a child or pregnant woman frequents, including a drip line, play area, or other area at a property;*
- (2) To identify if the bare soil present at a primary residence or secondary property meets the definition of a soil-lead hazard, as defined under 40 CFR §745.65 or a more stringent standard published by the Department; and*
- (3) In accordance with the requirements under Regulation .07F of this chapter.*

H. Tap water sampling:

- (1) May be performed:*
 - (a) By a lead paint risk assessor collecting a tap water sample or through coordination with a local health department;*
 - (b) If tap water is identified as being commonly used as drinking water, or in the preparation of infant formula or food; and*
 - (c) To determine if the lead content in tap water exceeds the action level described on page 16-14 in the HUD Guidelines, Chapter 16; and*
- (2) If a tap water sample is collected pursuant to §H(1) of this regulation, the lead paint risk assessor shall perform the tap water sampling in accordance with the requirements under Regulation .07G of this chapter.*

I. A lead paint risk assessor may perform additional environmental sampling of a secondary source:

- (1) With the permission of the caregiver or pregnant woman;*
- (2) If identified as a potential source of lead exposure by the lead paint risk assessor;*
- (3) To determine if the lead content in the secondary source meets the definition of a lead hazard under Regulation .02B of this chapter; and*

(4) *In accordance with the requirements under Regulation .07H of this chapter.*

J. A lead paint risk assessor shall interpret the results of environmental sampling performed during an environmental investigation.

.07 Technical Standards for Environmental Sampling.

A. A lead paint risk assessor shall perform environmental sampling in accordance with the technical standards and environmental sampling requirements set forth in this regulation.

B. A lead paint risk assessor shall submit a paint chip, soil, or dust wipe sample for analysis to a laboratory:

(1) Recognized by the U.S. Environmental Protection Agency under 15 U.S.C. §2685(b) as accredited under the National Lead Laboratory Accreditation Program; and

(2) That demonstrates it can achieve a quantitation limit equal to or less than:

(a) 20 percent of the lowest level of lead content in paint that constitutes a lead-containing substance, as stated in COMAR 26.16.01.02B;

(b) 20 percent of the lowest action level or regulatory limit for lead content in soil established under 40 CFR §745.65 or a more stringent standard published by the Department; or

(c) 50 percent of the lowest level of lead content in dust that constitutes lead-contaminated dust, as stated in COMAR 26.16.02.02B.

C. A lead paint risk assessor shall perform dust wipe sampling in accordance with the ASTM E1728-2016 standard.

D. A lead paint risk assessor shall perform XRF sampling on a painted surface using a calibrated instrument in accordance with COMAR 26.16.05.06B and the ISO/IEC 17025:2017(E) standard.

E. A lead paint risk assessor shall perform paint chip sampling:

(1) Only on a surface with deteriorated paint or a defect, or other painted surface as determined necessary by the lead paint risk assessor;

(2) After a dust wipe sample is collected to prevent cross-contamination of dust present on a surface near the area where the paint chip was sampled; and

(3) In accordance with the ASTM E1729-16 standard and COMAR 26.16.05.06C.

F. A lead paint risk assessor shall perform composite soil sampling in accordance with the ASTM E1727-16 standard.

G. If a tap water sample is collected by the lead paint risk assessor, the lead paint risk assessor shall submit the tap water sample for analysis to a

water quality laboratory certified by the Department under COMAR 26.08.05.

H. A lead paint risk assessor shall perform the sampling of a secondary source using:

- (1) A environmental sampling method appropriate to detect lead content in the secondary source; or*
- (2) XRF sampling, using a calibrated instrument in accordance with COMAR 26.16.05.06B and the ISO/IEC 17025:2017(E) standard.*

.08 Environmental Investigation Report.

A. Pursuant to the provisions of Environment Article, §6-819, Annotated Code of Maryland, if the property being investigated is an affected property with a defect observed during an on-site assessment:

- (1) The lead paint risk assessor shall issue a Notice of Defect to the owner of the affected property; and*
- (2) The property owner shall satisfy the modified risk reduction standard within 30 days of receiving the Notice of Defect from the lead paint risk assessor.*

B. A lead paint risk assessor shall prepare an environmental investigation report that includes the following information:

- (1) Identification of lead hazards in the property subject to the environmental investigation.*
- (2) Recommendations of immediate actions the caregiver, pregnant woman, or property owner can take to reduce the child's or pregnant woman's further exposure to lead; and*
- (3) Recommendations designed to eliminate a child's or pregnant woman's exposure to lead through:*
 - (a) One or more lead hazard reduction treatments or an abatement performed by a lead paint abatement services provider accredited by the Department under COMAR 26.16.01, and in accordance with the abatement of lead-containing substances protocols under COMAR 26.02.07; or*
 - (b) Discontinued use of a secondary source that poses a lead hazard to the child or pregnant woman.*

C. The lead paint risk assessor shall provide a copy of the environmental investigation report to:

- (1) The caregiver or pregnant woman;*
- (2) If different than the caregiver or pregnant woman, the owner of the property subject to the environmental investigation; and*

(3) At the discretion of the Department or local health department, the health officer in the county where the environmental investigation was performed.