



THE ROLE OF THE USBC IN LEAD-BASED PAINT HAZARD ABATEMENT

Overview

Lead based paint is paint or surface coating that contains lead equal to or greater than 0.5% by weight or 1.0 mg/cm². Lead based paints were banned, for residential use in the United States, in 1978. Dwelling units and childcare facilities built prior to 1978 likely contain lead based paint; the older the structure the more likely it contains lead based paint. Lead based paint that is in good condition and/or sealed under several layers of newer paint that is in good condition is typically not a hazard and is not a violation of the Virginia Maintenance Code (VMC). All paint that is peeling, chipping, flaking, or abraded is a violation of VMC Section(s) 304.2 and/or 305.3, depending on whether the deteriorating paint is on the interior or exterior of the structure or fences. Deteriorating paint that is tested and found to be lead based is also a violation of VMC Section 310.1; thus, creating a structure unfit for human occupancy as defined in VMC Section 202, which requires the local building code official to perform an inspection of the property in accordance with VMC Section 106.2. [Code of Virginia §36-106](#) further clarifies that landlords shall maintain the painted surfaces of a dwelling unit in accordance with the VMC. All deteriorating paint must be repaired or removed, in accordance with the VMC.

Type of Inspection

Routine Property Maintenance Inspection

In localities where the VMC has been adopted the property maintenance code official shall enforce the provisions of the VMC. While performing a routine property maintenance inspection of a structure, if the property maintenance code official finds paint that is peeling, chipping, flaking, or abraded, the property maintenance code official shall acknowledge the lack of maintenance by citing VMC Sections 304.2 and/or 305.3 in the inspection report, corrective work order, and/or Notice of Violation (NOV).

Note: In structures built prior to 1978, the deteriorating paint could be lead based; thus, a potential lead hazard and should be evaluated immediately by a properly licensed and certified lead abatement contractor. The property maintenance code official cannot require the paint be tested for lead; however, should alert the owner and/or tenant of the potential lead hazard, particularly if either the owner or tenant are pregnant women or households with children under the age of six. If the paint is properly tested and found to be lead based, proper abatement shall be performed in accordance with the VMC.

Inspection initiated by a Virginia Department of Health (VDH) Risk Assessment Report

The VDH has its own lead hazard policy with specific procedures independent of the building codes. VDH policy states that when a VDH certified inspector's risk assessment indicates the structure contains a lead hazard, the VDH inspector is to disclose the hazard to the local building code official by sending the local building code official a copy of the risk assessment report. When the local building code official receives the VDH risk assessment report, the local building code official becomes the enforcement partner for VDH to ensure the identified lead hazard is properly abated in accordance with the VMC.

In accordance with VMC Section 106.2, the local building code official shall inspect any structure reported or discovered as unsafe or unfit for human habitation. A structure with a lead hazard fits the definition of *structure unfit for human occupancy* found in VMC Section 202; therefore, the local building code official shall inspect the structure. In accordance with VMC Section 106.4, the local building code official shall issue a notice of unfit for human occupancy (Notice). The Notice shall cite the violation of the VMC Section 310.1 and include the corrections necessary to comply with the code. While performing the inspection of the structure, related to the VDH risk assessment report, if the local building code official finds paint that is peeling, chipping, flaking, or abraded, the local building code official shall also cite VMC Sections 304.2 and/or 305.3 in the Notice.

Enforcement in Localities that have not chosen to enforce (adopt) the Virginia Maintenance Code

If a building department in a locality that does not otherwise enforce the VMC receives a complaint from a tenant that a potential lead hazard exists in their dwelling unit, the building department will enforce the VMC in accordance with VCC Section 104.1. VCC Section 104.1 requires all local building departments, upon a finding, following a complaint by a tenant of a residential dwelling unit, that there may be a violation of the unsafe (or unfit) structures provisions of the VMC, to enforce the unsafe provisions of the VMC.

Responsible Party for Abatement of Lead Hazard

Once the local building code official has issued the Notice for the lead hazard in the structure, the owner of the property must retain, at their expense, a properly licensed and certified lead abatement contractor.

Building Permit Requirements

Routine Property Maintenance Inspection

Typically, building permits are not required to abate deteriorating paint violations; however, if the work needed in those structures meets the requirements of the Virginia Construction Code (VCC) Section 108.1, then building permits are required.

Inspection initiated by a Virginia Department of Health (VDH) Risk Assessment Report

Typically, building permits are not required to abate lead hazards; however, if the work needed to abate the lead hazard in those structures meets the requirements of the Virginia Construction Code (VCC) Section 108.1, then building permits are required. Regardless of whether building permits are required, all work performed to abate lead hazards must be performed by DPOR licensed contractors in accordance with VCC Section 108.4 and [Code of Virginia §54.1 Chapter 5](#) and the contractor must adhere to all local, state, and federal laws and regulations related to lead hazard abatement. Owners and contractors should research the DPOR licensure and EPA certification requirements to ensure the contractors are properly certified and licensed to perform lead hazard abatement. Owners and contractors should also research Virginia Department of Labor and Industry permitting and notification requirements, per [18VAC15-30-510. General Requirements](#), prior to starting work.

Completion of Abatement

Routine Property Maintenance Inspection

The local property maintenance code official shall perform a final inspection to verify the work needed to abate the cited violations was performed. Upon finding the work completed the property maintenance code official shall provide a satisfaction letter to the owner and/or rescind the Notice.

Inspection initiated by a Virginia Department of Health (VDH) Risk Assessment Report

Upon completion of the project, the owner must provide the local building code official a copy of the abatement final report from the contractor confirming the lead hazard has been properly abated. The local building code official shall perform a final inspection to verify the work indicated in the abatement final report was performed. Upon finding the work completed the code official shall provide a satisfaction letter to the owner and/or rescind the Notice.

Note: It is not required; however, is good policy for the local building code official to follow up with the VDH representative that provided the risk assessment report after the lead hazard and code violations have been abated.

ADDITIONAL RESOURCES

[DHCD Lead Hazard Reduction \(LHR\)](#)

[VDH Leadsafe](#)

[DPOR Board of Asbestos, Lead, & Home Inspectors](#)

[DPOR List of Virginia Licensed Lead Workers/Firms](#)

[Virginia Department of Labor and Industry \(DOLI\) Asbestos and Lead Program](#)

[United States Environmental Protection Agency \(EPA\); Sources of Lead at Home](#)

[EPA Guide: "Protect Your Family from Lead in Your Home"](#)

[EPA's Renovation, Repair and Painting Program \(For contractors\)](#)

[United States Department of Housing and Community Development \(US HUD\)](#)

[US HUD; Lead-safe Maintenance \(information for contractors and property owners\)](#)

[Centers for Disease Control and Prevention \(CDC\)](#)

ABATEMENT OF LEAD-BASED PAINT HAZARDS IDENTIFIED AS A RESULT OF BLOOD TESTING

Abbreviations:

QAPP – Quality Assurance Project Plan
 VMC – Virginia Maintenance Code
 VDH – Virginia Department of Health
 DPOR – Virginia Dept. of Professional Occupational Regulation
 EPA – U.S. Environmental Protection Agency
 HUD – U.S. Dept. of Housing and Urban Development
 DOLI – Virginia Department of Labor and Industry
 NOV – Notice of Violation
 RRP – EPA Lead-Based Paint Renovation, Repair and Painting Rule

[Code of Virginia § 32.1-46](#). Virginia Regulations for testing children for elevated blood lead levels.

Authorizes VDH to establish guidance for testing and follow up of elevated blood lead levels. QAPP describes VDH environmental investigation process to include risk assessment.



[Code of Virginia §54.1](#) authorizes the DPOR to adopt regulations for certification of lead-based paint abatement contractors and accreditation of training providers. 18 VAC 15-30-510 Standards for Conducting Lead-Based Paint Activities. *Provides protocol for a risk assessment performed for an environmental elevated blood lead level. Source of exposure, if identified, will result in recommendations for control or abatement. Landlord must follow VMC*



[Virginia Code §36-106](#) Lead Hazard Control Violations

*Provides for the disclosure of any lead hazards identified through a risk assessment performed on dwelling where a pregnant woman or child under 6 years of age resides to the **local building code official** for enforcement.*

[Title 55.1 Code of Virginia](#), Chapter 12

Provides for rights and obligations of landlords and tenants



Virginia Maintenance Code, Part III of the Virginia Uniform Statewide Building Code; 2015, effective 09/04/2018

 Provides
 §304.2 – Exterior Structure (paint)
 §305.3 – Interior Structure (paint)
 §310.1 – General Requirements
 §202 – Definition for unfit for human occupancy
 §106.2 – Inspection

 Virginia Construction Code, Part I of the Uniform Statewide Building Code; 2015, effective 09/04/2018

 Provides
 §104.1 – Scope of enforcement

[40 CFR Part 745 EPA RRP](#) Regulations require the use of trained and licensed lead workers for dwelling units built before 1978.



[16 VAC 25-35-10](#) et seq. Regulations Concerning Certified Lead Contractors Notification, Lead Project Permits and Permit Fees

If contract between owner and contractor for lead-related activities which require the contractor to be licensed or certified by DPOR, must provide written notification to DOLI.

Required Clearance Testing (QAPP) or [HUD Guidelines](#)



THE ROLE OF THE USBC IN LEAD-BASED PAINT HAZARD ABATEMENT FREQUENTLY ASKED QUESTIONS

When was lead based paint banned in the United States for use in residential structures?

1978

Where can the definition for lead based paint be found in the Virginia Maintenance Code?

Virginia Maintenance Code Section 310.1

Is lead based paint that is in good condition and/or sealed under several layers of newer paint that is in good condition a violation of the Virginia Maintenance Code?

No

Is paint that is peeling, chipping, flaking, and/or abraded a violation of the Virginia Maintenance Code?

Yes. Virginia Maintenance Code Sections 304.2 and 305.3. If the paint that is peeling, chipping, flaking, and/or abraded is lead based creating paint chips and/or dust which are lead hazards, then the deteriorating paint is also a violation of Virginia Maintenance Code Section 310.1.

Are landlords required to maintain all painted surfaces in all dwelling units?

Yes. [Code of Virginia §36-106](#) and Virginia Maintenance Code Sections 304.2, 305.3, and 310.1

Does the local building official have the authority to require paint that is peeling, chipping, flaking, and/or abraded, on or in structures built prior to 1978, to be tested for lead?

No; however, the local building code official should alert the owner and/or tenant of the potential lead hazard, particularly if either the owner and/or tenant are pregnant women or households with children under the age of six.

Is a lead hazard in a structure a violation of the Virginia Maintenance Code?

Yes. A structure with a lead hazard fits the definition of structure unfit for human occupancy found in Virginia Maintenance Code Section 202.

Is a local building official required to inspect a structure after receiving a Virginia Department of Health risk assessment report indicating a structure contains a lead hazard?

The question has two answers based on whether the locality has adopted the Virginia Maintenance Code.

- Yes, if the locality has adopted the Virginia Maintenance Code, the local building code official shall inspect the structure. In accordance with the Virginia Maintenance Code Section 106.4, the local building code official shall issue a notice of unfit for human occupancy.

- No, if the locality has not adopted the Virginia Maintenance Code. In localities that have not adopted the Virginia Maintenance Code, only a complaint from a tenant of a residential dwelling unit, in accordance with Virginia Construction Code Section 104.1, requires the local building department to enforce the unsafe structure provisions of the Virginia Maintenance Code.

Who is responsible for the lead hazard abatement?

The owner of the property is responsible and must retain, at their expense, a properly licensed and certified lead abatement contractor.

Who performs the lead hazard abatement work?

All work performed to abate lead hazards must be performed by DPOR licensed contractors in accordance with Virginia Construction Code Section 108.4 and Code of Virginia §54.1 Chapter 5. Owners and contractors should research the Virginia Department of Professional and Occupational Regulation licensure requirements per [Code of Virginia Title 54.1 Chapter 5](#) and Environmental Protection Agency certification requirements per [Title 40, Chapter 1, Subchapter R, Part 745](#) to ensure the contractors are properly certified and licensed to perform lead hazard abatement. Owners and contractors should also research Virginia Department of Labor and Industry permitting and notification requirements, per [18VAC15-30-510](#). General Requirements, prior to starting work

Are building permits required for lead hazard abatement work?

Typically, building permits are not required to abate lead hazards; however, if the work needed to abate the lead hazard in those structures meets the requirements of the Virginia Construction Code Section 108.1, then building permits are required.

What does the local building official need to do once the lead hazard abatement work has been completed?

Upon completion of the project, the owner must provide the local building code official a copy of the abatement final report from the contractor confirming the lead hazard has been properly abated. The local building code official shall perform a final inspection to verify the work indicated in the abatement final report was performed. Upon finding the work completed the code official shall provide a satisfaction letter to the owner and/or rescind the Notice.

Is the local building official required to follow up with the Virginia Department of Health to let them know when a lead-based paint hazard has been abated?

No; however, this would be a good policy since the violation originated with the Virginia Department of Health.