

before becoming obligated under the contract to purchase the housing. This will be a 10-day period or a mutually agreed different period of time.

e. Sales and leasing contracts must include certain disclosure and acknowledgment language.

f. Implement these requirements on or before **6 Sep 96**.

Exclusions to the Final Disclosure Rule applicable to the Air Force:

a. Housing built after 1977.

b. 0-bedroom dwellings (dormitory housing and military barracks).

c. Commercial lodging, e.g. Visiting Officer Quarters, Visiting Airmen Quarters, Transient Lodging Facilities. (Note that some of these types of facilities may be sold or leased as residential housing.)

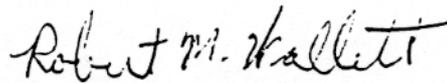
d. Leasing or assignment of target housing built before 1978 that has been certified lead-based paint free by an inspector certified under an accredited certification program.

Disclosure information must be updated as new data on LBP/LBP hazards becomes available. Within one month after finishing any new record or report on LBP/LBP hazards, the information will become part of the disclosure during assignment to MFH. Within three months after completing any new record or report on LBP/LBP hazards, provide the information to existing MFH occupants. Once initial disclosure certification and acknowledgment paperwork has been signed, the later disclosure of new information does not require a new certification and acknowledgment form for existing housing occupants.

Roles, responsibilities, and procedures for implementing disclosure requirements must be incorporated into the Lead-Based Paint Management Plan at each installation. Disclosure is an essential part of lead-based paint in-place management.

The guidance provided at Atch 1-5 will assist your installations and organizations in implementing the Final Disclosure Rule. The following publications currently under development will further clarify this policy and guidance: AFI 32-1002, *Facility Lead-Based Paint Management*, and AFMAN 32-1003, *Lead-Based Paint Processes and Procedures*. The AFI and AFMAN, when final, will supersede this policy and guidance package and the Air Force Base Conversion Agency's Interim LBP Management Procedures.

This is a coordinated HQ USAF/CEO/CEH/CEI, HQ AFLSA/JACE, HQ AFMOA/SGOE, SAF/PACE, and AFBCA/LD/EV memorandum. For any questions the points of contact are Maj John Coho, HQ USAF/CEVC, DSN 227-2550 and Mr Norman L. Fowler, HQ AFCESA/CESE, DSN 523-6215.



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Director of Environment
Office of The Civil Engineer

Attachments:

1. LBP Disclosure Guidance
2. Definitions
3. Federally Approved Pamphlet
4. Example Lease Acknowledgment Form
5. Example Sales Acknowledgment Form

cc:

HQ USAF/CEH/CEI/CEO
HQ AFCEE/EP
HQ AFMOA/SGOE
SAF/MII/MIQ
AFBCA/EV/LD
AFIT/CEV
AL/OEMI
USAFSAM/BE

Lead-Based Paint Final Disclosure Rule Guidance

1. Disclose known lead-based paint and/or lead-based paint hazards in pre-1978 housing.

a. HQ USAF/CC memorandum, *Air Force Policy and Guidance on Lead-Based Paint in Facilities*, 24 May 93, required installations to identify existing LBP hazards and past LBP hazards where potential LBP debris may have accumulated in the area surrounding facilities. The policy attachment required Medical Services to ensure performance of investigations to determine the source of elevated blood lead levels. In the guidance attachment to this 24 May 93 memorandum, the Base Civil Engineer and/or Base Bioenvironmental Engineering will document facility inspections and evaluations, both qualitative (paint condition) and quantitative (lead content present in paint). Thus, each installation should have some known information available from qualitative and quantitative inspections and evaluations.

b. For assignment of military family housing (MFH), the disclosure would best take place at the acceptance signing of the housing unit when other similar actions take place. As a minimum, the housing office should provide all information available on a given unit. However, a specific MFH unit may have limited or no LBP/LBP hazards information and, thus, would benefit from disclosing the summary information on like units of the same homogeneous housing. If readily available, the specific and the homogeneous summary would well support the intent of occupant awareness of LBP in their quarters and support the in-place management program. Thus, the recommended approach is to have the Civil Engineer Environmental Flight or Environmental Management at HQ AFMC installations package the information for ease of use by housing office personnel.

* c. For property transfers, the information accumulated to date and provided to the transferee should suffice under the Final Disclosure Rule. If potential LBP hazards are identified during the visual inspection of the property prior to transfer, the inspection report done by a qualified person (a certified LBP inspector/risk assessor) becomes part of the disclosure. Note that the proposed rule regarding the sale of Federally-owned target housing requires the ABATEMENT of LBP hazards in all pre-1960 constructed target housing prior to the completion of the sale by the Federal agency. Presently, Air Force policy requires abatement of LBP/LBP hazards in currently utilized MFH only during renovations, or when in-place management has proven ineffective in controlling the hazard, or when required by State or local jurisdiction under the waiver of sovereign immunity. For closure bases, Air Force Base Conversion Agency (AFBCA) Interim LBP Management Procedures do not specifically address *when* the abatement of the LBP hazards must take place. Thus, abatement by a certified contractor during renovation and prior to use may be made a condition of sale.

d. The sales and/or lease LBP information should disclose the basis for the determination that LBP/LBP hazards exist in the housing, their location by surface and position in the room,

and the condition of painted surfaces. We recommend providing the measured lead content of the paint (milligrams/square centimeter or parts per million), guideline action quantities of 1 milligram per square centimeter and 5,000 parts per million for comparison, and other information to assist housing occupants and purchasers in interpreting the information.

e. The above information disclosing the LBP/LBP hazards to purchasers and lessees should be in writing with the purchasers and lessees receiving copies. Also, recommend keeping one copy in the housing folder for leasing of the MFH quarters and one copy in the sales contract records for property transfer. Keep this information in records for three years minimum from time of sale or lease. The future AFI will clarify this requirement. For closure bases, AFBCA Title X Disclosure Forms are exhibits to lease and transfer documents and include attached LBP surveys and reports.

f. Note that the Defense Environmental Security Corporate Information Management (DESCIM) Program Management Office (PMO) has recommended the Galson pcV3 (Personal Computer View--Asbestos, Lead-Based Paint, Polychlorinated Biphenyls, and Radon) software as the Toxic Substance Migration System to the Assistant Secretary of Defense (Command, Control, Communications, & Intelligence). This software can readily provide tabular and graphical representation of specific housing unit LBP data and summary data for homogeneous housing to meet this requirement of the Final Disclosure Rule. It is in the process of being added to the Navy CAD2 contract as a technology upgrade for easier and cheaper access by installations for their use and those contractors performing LBP activities for the installation. If you are not currently using this software do not initiate development or upgrade of other legacy systems for LBP per ODUSD (ES) memorandum, *Elimination of Defense Environmental Security Legacy Systems*, 17 May 96.

g. The 24 May 93 Policy and Guidance Memorandum called out the visual inspection and initial evaluation of housing built before 1980. While the Final Disclosure Rule specifically calls out pre-1978 housing, the emphasis should be on disclosing KNOWN LBP/LBP hazards in the spirit of in-place management, protection of Air Force dependent children, and protection of the in-house and contracted work force that can become exposed to lead dust. Thus, if the installation has information on LBP/LBP hazards in residential housing built in 1978 or later, especially in common areas, this information should be provided to the new and existing housing occupants.

h. The Final Disclosure Rule does not impose a requirement to conduct any inspection/evaluation or abatement activities in housing currently being used by the Air Force. Other sections of Title X cover these activities. Most importantly, Section 1013 of Title X entitled "Disposition of Federally Owned Housing," imposes, as of 1 Jan 95, a requirement for the inspection and abatement of LBP hazards in connection with the SALE of all Federally-owned target housing constructed prior to 1960. Also beginning 1 Jan 95, any sale of target housing constructed between 1960 and 1978 requires an inspection of LBP/LBP hazards or a risk assessment by a certified LBP inspector. The law does not mention an obligation to complete abatement of LBP/LBP hazards in connection with the sale/disposal of 1960-1978 target housing. As a result, the purchaser will take the property in an "as is" condition if he/she decides

to complete the purchase of AF housing. Abatement of LBP/LBP hazards should be part of any renovation project in Air Force MFH; however, LBP/LBP hazard abatement should not be conducted if its primary purpose is to prepare the MFH for sale or transfer. The other instances when non-BRAC installations must perform abatement apart from a renovation project are when interim/in-place management controls do not provide adequate protection or when State or local jurisdictions require the abatement.

2. Provide any available records or reports pertaining to the presence of lead-based paint and/or lead-based paint hazards.

a. For a military occupant, providing available records and reports pertaining to the MFH unit in question would be administratively difficult and of little value due to the need to interpret the information. It may also be medically or privacy act controlled, such as a Lead Toxicity Investigation (LTI) Report. Recommend providing a listing of the pertinent records and reports. Also recommend providing the holder of the records (Environmental Flight, Environmental Management, or Bioenvironmental Engineering) as the points of contact with telephone numbers. When the specific and summary information provided to a housing occupant under paragraph 1 is not sufficient, the occupant knows where the records and reports are available and can gain assistance in their interpretation.

b. For property transfers, all records and reports should be passed to the purchaser, except the complete LTI reports. However, the LBP/LBP hazards information, if any, may be provided separately from the LTI report. Recommend keeping a copy of the records and reports for the archived transfer contract records.

3. Provide a federally approved lead hazard information pamphlet.

a. The standard pamphlet covered in the Final Disclosure Rule is EPA747-K-001, *Protect Your Family from Lead in Your Home*, May 95. A full color pamphlet is available from the National Lead Information Center by calling 1-800-424-LEAD. Bulk copies of the full color pamphlet are available from the Government Printing Office, (202) 512-1800, at \$26.00/50 copies using Stock No. 055-000-00507-9. This is a public domain document and may be reproduced locally without permission.

b. For INTERNET users the pamphlet is available in text and pdf format at the following addresses: http://www.epa.gov/docs/lead_pm and <http://www.nsc.org/nsc/ehc/ehc.html>. For those not familiar with pdf format you require Adobe Acrobat Reader to access, read, and print this format. The Air Force Electronic Publications Library CD-ROM includes Adobe Acrobat Reader and is available at any Publications Distribution Office. With a color printer you can duplicate the EPA pamphlet.

c. For eye catching appeal using general capability, recommend using the grayscale version of the printed pdf format from the EPA Web Site, found at attachment 3 of this package. Base reprographics should be able to produce this as a foldover pamphlet in grayscale, and maybe even color if you provide the electronic pdf format file.

d. Due to the waiver of sovereign immunity under Title X, if a State or local jurisdiction develops an information pamphlet and receives EPA approval for its use under this rule, the installation may be required to use the alternate approved pamphlet. Check with your local and State regulators.

4. Opportunity for purchaser to conduct a risk assessment or inspection for the presence of LBP/LBP hazards before becoming obligated under the contract to purchase the housing.

The Air Force must provide an opportunity for the purchaser to conduct a risk assessment or inspection for the presence of LBP/LBP hazards before becoming obligated under a contract of sale for target housing. Likewise, the contract of sale would not be binding on the purchaser unless the Air Force, as seller, provided the purchaser with the EPA lead hazard information pamphlet; and, disclosed to the purchaser the presence of any known LBP, or any known LBP hazards and furnished the purchaser any lead hazard evaluation reports available to the Air Force; and, permitted the purchaser a 10-day period (unless the parties agree to a different period) to conduct an inspection or risk assessment for the presence of LBP-hazards and allow the purchaser to get out of the contract for the sale of the Air Force target housing if LBP hazards are discovered. The Air Force contract for purchase and sale shall contain a Lead Warning Statement and an acknowledgment signed by the purchaser that the purchaser has read the Lead Warning Statement and understands its contents, received the lead hazard information pamphlet, and was provided a 10-day opportunity to conduct a risk assessment or inspection of the housing before becoming obligated under the contract to purchase the housing.

5. Sales and leasing contracts must include certain disclosure and acknowledgment language.

a. See attachment 4 for the sample lease disclosure form and attachment 5 for the sample sales disclosure form. Note that "agent" as used in the context of the Final Disclosure Rule is not applicable to any Air Force situation and has been removed from the sample forms as found in the Final Disclosure Rule. AFBCA currently uses the EPA sample form and refers to it as the "Title X Disclosure Form" both in its procedures and its documents.

b. As with the pamphlet, State and local jurisdictions can make changes to the format as necessary. In this case they may do this to retain consistency with State and local laws and customs. However, the revised final version must contain all mandated elements. Check with your local and State regulators as to their requirements to use their forms under sovereign immunity waiver.

c. Keep this information in records for three years minimum from time of sale or lease. The future AFI will clarify this requirement.

6. Additional recommendation to promote LBP and lead poisoning awareness. This is not a requirement of the Final Disclosure Rule.

★ a. The elevated blood lead data across the Air Force indicates off-base as a statistically significant source of lead hazards to Air Force dependent children. To reduce the potential for lead hazard exposure to children living off-base, request that Civil Engineer, Environmental Management, and Bioenvironmental Engineering personnel coordinate with the appropriate base agencies to incorporate the EPA approved pamphlet into the installation's newcomers' welcome package to ensure that both on- and off-base personnel have this information available.

b. An alternative to the welcome package would be making the pamphlet available during the base newcomer's briefing and having an appropriate base agency speaker provide an overview of lead hazards on- and off-base.

c. A third alternative would be to provide the pamphlet at the housing/housing referral offices as new personnel visit here very soon after arrival. A one page point paper summarizing on- and off-base lead hazards and points of contact for additional information would answer the initial questions upon receipt of the pamphlet.

Lead-Based Paint Final Disclosure Rule Definitions

ABATEMENT: Includes:

- (1) Removal of lead-based paint and lead-contaminated dust, the permanent containment or encapsulation of lead-based paint, the replacement of lead-painted surfaces or fixtures, and the removal or covering of lead-contaminated soil; and
- (2) All preparation, cleanup, disposal, and post-abatement clearance testing activities associated with such measures.

ACCESSIBLE SURFACE: An interior or exterior surface painted with lead-based paint that is accessible for a young child to mouth or chew.

AVAILABLE: In the possession of or reasonably obtainable by the seller or lessor at the time of the disclosure.

COMMON AREAS: A portion of a building generally accessible to all residents/users including, but not limited to, hallways, stairways, laundry and recreational rooms, playgrounds, community centers, and boundary fences.

DETERIORATED PAINT: Any interior or exterior paint that is peeling, chipping, chalking, or cracking, or any paint located on an interior or exterior surface or fixture that is damaged or deteriorated. [The last point deals with good paint that is on a deteriorating or damaged substrate, thus disbonding the lead-based paint and making it a hazard to a young child.]

EVALUATION: A risk assessment and/or inspection.

FRICITION SURFACE: An interior or exterior surface that is subject to damage by abrasion or friction, including certain window, floor, and stair surfaces.

IMPACT SURFACES: An interior or exterior surface that is subject to damage by repeated impacts; for example, certain parts of door frames.

HOMOGENEOUS HOUSING: Housing constructed under the same contract at the same time by the same crews using the same materials and standards. This housing is also repaired, maintained, and renovated as a block during subsequent contracts or in-house work using the same crews, materials, and standards. Thus, work is sufficiently consistent on these units to allow a statistical sampling vice an investigation of each and every unit for lead-based paint and/or lead-based paint hazards.

INSPECTION: (1) A surface-by-surface investigation to determine the presence of lead-based paint (Section 302(c) of 42 U.S.C. 4822) and (2) The report explaining the results of the investigation.

INTERIM CONTROLS (In-Place Management): A set of measures designed to temporarily reduce human exposure or the likelihood of 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.

LEAD-BASED PAINT: Paint or other surface coatings that contain lead equal to or in excess of 1.0 milligram per square centimeter or 0.5 percent by weight (5,000 ppm).

LEAD-BASED PAINT FREE HOUSING: Target housing that has been found to be free of lead-based paint or other surface coatings that contain lead equal to or in excess of 1.0 milligram per square centimeter or 0.5 percent by weight (5,000 ppm).

LEAD-BASED PAINT HAZARDS: 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.

LEAD-CONTAMINATED DUST: Surface dust in residential dwellings that contains an area or mass concentration of lead in excess of levels determined by the appropriate Federal agency to pose a threat of adverse health effects in pregnant women and young children.

LEAD-CONTAMINATED SOIL: Bare soil on residential real property that contains at or in excess of the levels determined to be hazardous to human health by the appropriate Federal agency.

REDUCTION: Measures designed to reduce or eliminate human exposure to lead-based paint hazards through methods including interim controls and abatement.

RISK ASSESSMENT: 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;
- (5) Provision of a report explaining the results of the investigation.

TARGET HOUSING: Any 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 (pregnancy included) in such housing) or any 0-bedroom dwelling.

0-BEDROOM DWELLING: Any residential dwelling in which the living area is not separated from the sleeping area. The term includes efficiencies, studio apartments, dormitory housing, military barracks, and rentals of individual rooms in residential dwellings.

(Sample Disclosure Format for Target Housing Rentals and Leases)

Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards

Lead Warning Statement

Housing built before 1978 may contain lead-based paint. Lead from paint, paint chips, and dust can pose health hazards if not managed properly. Lead exposure is especially harmful to young children and pregnant women. Before renting pre-1978 housing, lessors must disclose the presence of known lead-based paint and/or lead-based paint hazards in the dwelling. Lessees must also receive a federally approved pamphlet on lead poisoning prevention.

Lessor's Disclosure

- (a) Presence of lead-based paint and/or lead-based paint hazards (Check (i) or (ii) below):
- (i) _____ Known lead-based paint and/or lead-based paint hazards are present in the housing (explain).

- (ii) _____ Lessor has no knowledge of lead-based paint and/or lead-based paint hazards in the housing.
- (b) Records and reports available to the lessor (Check (i) or (ii) below):
- (i) _____ Lessor has provided the lessee with all available records and reports pertaining to lead-based paint and/or lead-based paint hazards in the housing (list documents below).

- (ii) _____ Lessor has no reports or records pertaining to lead-based paint and/or lead-based paint hazards in housing.

Lessee's Acknowledgment (initial)

- (c) _____ Lessee has received copies of all information listed above.
- (d) _____ Lessee has received the pamphlet *Protect Your Family from Lead in Your Home*.

Certification of Accuracy

The following parties have reviewed the information above and certify, to the best of their knowledge, that the information they have provided is true and accurate.

Lessor

Date

Lessee

Date

(Sample Disclosure Format for Target Housing Sales)

Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards

Lead Warning Statement

Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase.

Seller's Disclosure

- (a) Presence of lead-based paint and/or lead-based paint hazards (check (i) or (ii) below):
 - (i) _____ Known lead-based paint and/or lead-based paint hazards are present in the housing (explain).

 - (ii) _____ Seller has no knowledge of lead-based paint and/or lead-based paint hazards in the housing.
- (b) Records and reports available to the seller (check (i) or (ii) below):
 - (i) _____ Seller has provided the purchaser with all available records and reports pertaining to lead-based paint and/or lead-based paint hazards in the housing (list documents below).

 - (ii) _____ Seller has no reports or records pertaining to lead-based paint and/or lead-based paint hazards in the housing.

Purchaser's Acknowledgment (initial)

- (c) _____ Purchaser has received copies of all information listed above.
- (d) _____ Purchaser has received the pamphlet *Protect Your Family from Lead in Your Home*.
- (e) _____ Purchaser has (check (i) or (ii) below):
 - (i) _____ received a 10-day opportunity (or mutually agreed upon period) to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards; or
 - (ii) _____ waived the opportunity to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards.

Certification of Accuracy

The following parties have reviewed the information above and certify, to the best of their knowledge, that the information they have provided is true and accurate.

Seller

Date

Purchaser

Date