

Kansas Administrative Regulations

Department of Health and Environment

Article 72.—Residential Childhood Lead Poisoning Prevention Program

28-72-16. Work practice standards; risk assessment.

(a) Except as provided by K.S.A. 65-1,203 and amendments thereto, a risk assessment shall be conducted only by a person certified by KDHE, according to K.A.R. 28-72-2 and K.A.R. 28-72-6 through K.A.R. 28-72-12 as a risk assessor. If a risk assessment is conducted, the assessment shall be conducted according to the procedures specified in this regulation.

(b) An inspection of the residential dwelling or child-occupied facility shall be undertaken to locate the existence of deteriorated paint, assess the extent and causes of the deterioration, and assess other potential lead-based paint hazards.

(c) Background information regarding the physical characteristics of the residential dwelling or child-occupied facility and occupant-use patterns that could cause lead-based paint exposure to one or more children through the age of 72 months shall be collected.

(d) Each surface with deteriorated paint that is determined, using one or more of the documented methodologies in K.A.R. 28-72-13 (d)(1), to be in poor condition and to have a distinct painting history, shall be tested for the presence of lead. Each other surface determined, using one or more of the documented methodologies in K.A.R. 28-72-13 (d)(1), to be a potential lead-based paint hazard and to have a distinct painting history shall also be tested for the presence of lead.

(e) In residential dwellings, single-surface dust samples from at minimum one window and at minimum one floor area shall be collected in all living areas where one or more children through the age of 72 months are most likely to come into contact with dust.

(f) For multifamily dwellings and child-occupied facilities, the samples required in subsection (e) of this regulation shall be taken. In addition, window and floor dust samples shall be collected in the following locations:

(1) Common areas adjacent to the sampled residential dwelling or child-occupied facility; and

(2) other common areas in the building where the risk assessor determines that one or more children through the age of 72 months are likely to come into contact with dust.

(g) For child-occupied facilities, window and floor dust samples shall be collected in each room, hallway, or stairwell utilized by one or more children through the age of 72 months and in other common areas in the child-occupied facility where the risk assessor determines that one or more children through the age of 72 months are likely to come into contact with dust.

(h) Soil samples shall be collected and analyzed for lead concentrations in the following locations:

(1) Exterior play areas where bare soil is present; and

(2) dripline or foundation areas where bare soil is present.

(i) All paint, dust, or soil sampling or testing shall be conducted using one or more of the documented methodologies in K.A.R. 28-72-13(d)(1).

(j) All collected paint chip, dust, or soil samples shall be analyzed according to K.A.R. 28-72-19 to determine if the samples contain detectable levels of lead that can be quantified numerically.

(k) The risk assessor shall prepare a risk assessment report, which shall include the following information:

(1) The date of the assessment;

(2) the address of each building;

(3) the date of construction of the buildings;

(4) the apartment number, if applicable;

(5) the name, address, and telephone number of each owner of each building;

(6) the name, signature, and certificate number of the risk assessor conducting the assessment;

(7) the name, address, and telephone number of each recognized laboratory conducting an analysis of collected samples, along with the laboratory's certificate number;

(8) the results of the visual inspection;

(9) the testing method and sampling procedure used for each paint analysis;

(10) specific locations of each painted component tested for the presence of lead;

(11) all data collected from on-site testing, including quality control data and, if used, the serial number of any XRF device and a copy of the XRF device user's certificate of training provided by the equipment manufacturer;

(12) all results of laboratory analyses on collected paint, soil, and dust samples;

(13) any other sampling results;

(14) any background information collected pursuant to subsection (c);

(15) to the extent that they are used as part of the lead-based paint hazard determination, the results of any previous inspections or analyses for the presence of lead-based paint, or other assessments of lead-based paint-related hazards;

(16) a description of the location, type, and severity of identified lead-based paint hazards and any other potential lead hazards; and

(17) a description of interim controls or abatement options, or both, for each identified lead-based paint hazard and the suggested prioritization for addressing each hazard. If the use of an encapsulant or enclosure is recommended, the report shall recommend a maintenance and monitoring schedule for the encapsulant or enclosure.

(l) Time frame for submission of reports. The risk assessment report shall be provided to the owner of the property and to the person requesting the risk assessment within 20 business days after completion of the lead-based paint hazard risk assessment.

(Authorized by and implementing K.S.A. 65-1,202 and 65-1,203; effective, T-28-9-13-99, Sept. 13, 1999; effective Jan. 7, 2000; amended Dec. 6, 2002; amended April 9, 2010.)