

Draft Executive Order

Ensuring Healthy Homes: Eliminating Lead and Other Housing Hazards

Prepared by the National Center for Healthy Housing

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. Policy

1-101. A growing body of scientific knowledge demonstrates that children needlessly suffer disproportionately from lead in paint, dust, soil and drinking water. Hundreds of thousands of children have too much lead in their bodies from significant lead hazards in their homes. Lead exposure also poses risks to pregnant women and has been linked to cardiovascular and other adverse health problems in adults. Racial, ethnic, and low-income families bear higher risks and are disproportionately impacted, making lead a racial and environmental justice issue; for example, the average blood lead level for Black children is 40% higher than for white children. Lead poisoning, asthma and other diseases and injuries are preventable by making homes healthy.

Therefore, to the extent permitted by law and consistent with its mission, each Federal agency:

- a) shall make it a high priority to identify, assess, remediate and prevent lead and other hazards in the home to eliminate childhood lead poisoning as a major public health problem within a decade; and
- b) shall ensure that its policies, programs, activities, regulations and standards address disproportionate risks to children that result from housing health and safety risks.

1-102. Each agency will participate in the implementation of this order and comply with its provisions.

Sec. 2. Definitions. The following definitions shall apply to this order.

2-201. “Federal agency” means any authority of the United States that is an agency under 44 U.S.C. 3502 (1) or considered to be an independent regulatory agency under 44 U.S.C. 3502 (5). For purposes of this order, “military departments,” as defined in 5 U.S.C. 102, are covered under the auspices of the Department of Defense.

2-202. “Covered regulatory action” means any substantive action in a rule-making capacity, initiated after the date of this order or for which a Notice of Proposed Rulemaking is published 4 years after the date of this order and concerns a housing, public health or environmental health risk or safety risk that an agency has reason to believe may disproportionately affect children.

2-203. “Housing health risks and safety risks” mean risks to health or to safety that are attributable to products or substances or housing conditions that the child is likely to come into contact.

2-204. “Healthy housing” means a dwelling (including the interior, exterior, and surroundings) that is sited, designed, built, renovated, and maintained in ways that support good physical and mental health by providing shelter and proper ventilation, moisture control, pest control, safety from injuries, free of contaminants, accessibility, affordability, thermal comfort, cleanliness, and other features beneficial to its occupants and the community.

Sec. 3. President’s Task Force on Lead Poisoning Prevention and Healthy Housing

3-301. Name. There is hereby established the President’s Task Force on Lead Poisoning Prevention and Healthy Housing (“Task Force”).

3-302. Consultation. The Task Force will report to the President in consultation with the Domestic Policy Council and the Office of Management and Budget (OMB).

3-303. Membership. The Task Force shall be composed of the:

- a) Secretary of Housing and Urban Development, who shall serve as the Chair of the Task Force;
- b) Secretary of Health and Human Services, who shall serve as the Vice-Chair;
- c) Secretary of Education;
- d) Secretary of Labor;
- e) Attorney General;
- f) Secretary of Energy;
- g) Administrator of the Environmental Protection Agency;
- h) Secretary of the Treasury;
- i) Secretary of Homeland Security;
- j) Secretary of Agriculture;
- k) Secretary of Transportation;
- l) Director of the Office of Management and Budget;
- m) Chair of the Council on Environmental Quality;
- n) Chair of the Consumer Product Safety Commission;
- o) Assistant to the President for Economic Policy;
- p) Assistant to the President for Domestic Policy;
- q) Assistant to the President and Director of the Office of Science and Technology Policy;
- r) Chair of the Council of Economic Advisers;
- s) Secretary of Defense
- t) Surgeon General; and

u) Such other officials of executive departments and agencies as the President may, from time to time, designate.

Members of the Task Force may delegate their responsibilities under this order to subordinates.

3-304. Functions. The Task Force shall recommend to the President federal strategies for children's lead poisoning prevention and ensuring healthy homes, within the limits of the Administration's budget, to include the following elements:

- (a) statements of principles, general policy, and targeted annual priorities to guide the federal approach to achieving the goals of this order, including the understanding of lead exposure as an environmental and racial justice issue and that federal policy actions should be conducted through a health equity lens;
- (b) a forecast to estimate the annual number of housing units with lead hazards and other housing-related hazards during the 5-year period between 2022-2027 taking into account on-going trends in housing improvement, demolition, and construction;
- (c) based on that forecast, an interagency budget request to quantify and secure the funds and resources needed to reach the goal of eliminating lead and other hazards in homes occupied by families with young children or pregnant women by 2027, with a focus on the communities that are disproportionately impacted;
- (d) the interagency budget request will include, but not necessarily be limited to, funds needed for lead poisoning prevention and healthy housing inspection, assessment, remediation, education, subsidy, enforcement, training, research, population-wide housing and health surveys, evaluation, staffing, and other activities as the Task Force may identify;
- (e) a coordinated research agenda for the Federal Government on lead poisoning prevention and healthy housing;
- (f) recommendations for appropriate partnerships among federal, state, local, and tribal governments and the private, academic, philanthropic and nonprofit sectors;
- (g) proposals to enhance public outreach and communication to assist families in evaluating risks to children and in making informed housing choices and improvements;
- (h) an identification of high-priority initiatives that the Federal Government has undertaken or will undertake in advancing protection of children and adults from lead poisoning and other housing-related diseases and injuries;
- (i) an identification of high-priority initiatives and new ways to coordinate lead and healthy homes activities with related housing energy conservation, weatherization, sustainable development, climate mitigation, disaster recovery operations, public and worker health, education, disease and injury surveillance, and other similar allied programs and functions;
- (j) recommendations for the initiation of a broad federal strategy to replace single-pane windows in pre-1960 homes. Windows have the highest lead paint and lead dust levels compared to all other building components, particularly older single-pane windows. Replacing windows creates new jobs, conserves energy, increases home value, creates aesthetic appeal, and eliminates a major contributor to children's lead exposure. This strategy should support energy efficient, lead-free window replacement through tax credits, subsidies and other means. The task force will consider how to include window replacement in infrastructure improvement programs;

- (k) Recommendations for rule-making and regulatory processes necessary to meet the goals of this order, to be provided and carried out by agencies represented on the Task Force;
- (l) Recommendations for enforcement actions and priorities necessary to ensure that policies to address lead exposure do not increase the disproportionate impact on communities of color (i.e. partial lead service line replacement); and
- (m) a statement regarding the desirability of new legislation to fulfill or promote the purposes of this order. Legislative priorities may include (but are not limited to):
 - a. Amendment of the disclosure requirements of the Residential Lead-Based Paint Hazard Reduction Act (Title X of the Housing and Community Development Act of 1992) to require prior to obligation under a sale or lease contract, testing (if not previously performed) of paint, dust, and soil, and of the drinking water service line. This information must be disclosed to buyers and renters. The disclosure will allow remediation to be financed through mortgages or other financial means in homes to be occupied by children or pregnant women. The current disclosure rule does not require testing to identify “known” lead hazards, so usually nothing is disclosed and hazards are only identified after a child has been poisoned. This act should also be amended to ensure that homes with hazards are remediated before being leased. If a poisoned child lives in a multifamily housing unit with lead hazards, then all similar child-occupied units in the development should be tested, because it is likely other children or pregnant women are also at risk.
 - b. Creation of a tax credit for income-qualified owners, including both homeowners and property owners, of pre-1978 homes who conduct lead hazard remediation or other qualified healthy homes improvements in their property.

3-305. Report. The Task Force shall prepare a biennial report on research, data, or other information that would enhance understanding, analysis, and response to childhood lead poisoning and other housing-related health and safety risks to children, including the disproportionate risks to communities of color and low-income communities. For purposes of this report, cabinet agencies and other agencies identified by the Task Force shall identify and specifically describe for the Task Force key data needs that have arisen in the course of its programs and activities. The Task Force shall incorporate agency submissions into its report and ensure that this report is publicly available and widely disseminated.

3-306. Duration. The Task Force shall exist for a period of 4 years from the first meeting. At least 6 months prior to the expiration of that period, the member agencies shall assess the need for continuation of the Task Force or its functions and make appropriate recommendations to the President.

Sec. 4. Research Coordination and Integration.

4-401. Within 12 months of the date of this order, the Task Force shall develop or direct to be developed a review of existing and planned data resources and a proposed plan for ensuring that researchers and federal research agencies have access to information on all research, technical studies, and national surveys of housing quality and population health conducted or funded by the Federal Government that is related to lead poisoning and other housing-related health risks in children, including the American Housing Survey, the American Healthy Housing Survey, the National Health and Nutrition Examination Survey, and other similar surveys.

4-402. The plan shall promote the sharing of information on academic and private research on lead poisoning prevention and healthy housing. It shall include recommendations to encourage that such data, to the extent permitted by law, is available to the public, the scientific and academic communities, and all federal agencies.

Sec. 5. Interagency Forum on Healthy Housing Statistics.

5-501. The Director of the OMB (“Director”) shall convene an Interagency Forum on Child and Family Healthy Housing and Lead Statistics (“Forum”), which will include representatives from the appropriate Federal statistics and research agencies. The Forum shall produce an annual compendium (“Report”) of the most important indicators of the nation’s housing related to health outcomes of the Nation’s children.

5-502. The Forum shall determine the indicators to be included in each Report and identify the sources of data to be used for each indicator. The Forum shall provide an ongoing review of Federal collection and dissemination of data on housing quality occupied by children, families and pregnant women, and shall make recommendations to improve the coverage and frequency of data collection and to reduce duplication and overlap. The Forum shall make recommendations on a new integrated national housing and health survey that will provide data at the national, regional, state, and local levels.

5-503. The Report shall be published annually by the Forum.

Sec. 7. Preparatory Work for Regulatory Actions.

Consistent with relevant laws, within the next 90 days, the following agencies shall assess the benefits and costs, propose regulatory changes, and deliver their findings to the Director of OMB:

- (a) The Department of Housing and Urban Development (HUD) should require lead risk assessments in the Section 8 Housing Choice Voucher Program in homes with children or pregnant women instead of the current requirement for a mere visual examination, which cannot reliably detect lead problems. Additionally, these inspections should also include other health hazards. HUD has existing authority under the 1937 Housing Act (as amended) to assist states and subdivisions of states to “remedy the unsafe housing conditions” but did not exercise this authority when its Lead Safe Housing rule was promulgated in 1999. The Department of Defense should similarly require lead risk assessments and identification of other health hazards in military housing inspection protocols. The regulations shall also determine how any identified hazards are to be remediated.
- (b) The Federal Housing Administration (FHA), Department of Agriculture (USDA), the Department of Veterans Affairs (VA), the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) should require a lead risk assessment and abatement of lead-based paint hazards in pre-1978 structures and identification and replacement of lead service lines for government insured mortgages.
- (c) The Department of the Treasury should require that projects receiving Low-Income Housing Tax Credits are in compliance with Subpart J of HUD’s Lead Safe Housing Rule governing rehabilitation work. Treasury should also require that all Qualified Allocation Plans specifically require the determination and elimination of lead-based paint hazards and lead service lines and remediation of other housing health hazards.

- (d) The Department of Treasury should issue a ruling allowing lead abatement to be universally considered a medical expense for tax purposes, including utilization of Health Savings Accounts for this purpose.
- (e) The Department of Education should work with state or local boards of education to ensure that programs funded by the Individuals with Disabilities Education Act (IDEA) include children with a history of an elevated blood lead level under covered conditions for eligibility for services and that these children receive remedial and enrichment educational services as soon as developmental delays are identified.
- (f) The Department of Health and Human Services should work to streamline health programs, such as Medicaid and the Children's Health Insurance Program, to obtain waivers for remediation of lead and other housing-related health hazards.
- (g) The Environmental Protection Agency should update its exposure standards for lead in house dust and soil.

Sec. 7. General Provisions.

7-701. This order is intended only for internal management of the executive branch. This order is not intended, and should not be construed to create any right, benefit, or trust responsibility, substantive or procedural, enforceable law or equity by a party against the United States, its agencies, its officers, or its employees. This order shall not be construed to create any right to judicial review involving the compliance or noncompliance with this order by the United States, its agencies, its officers, or any other person.