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Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission, or entity in accordance with § 4-29-121(b).

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Revision Type (check all that apply):

- Amendment Content based on previous emergency rule filed on _____
 New Content is identical to the emergency rule
 Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that ALL new rule and repealed rule numbers are listed in the chart below. Please enter only ONE Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
0400-13-01	Lead-Based Paint Abatement
Rule Number	Rule Title
0400-13-01-.01	Lead-Based Paint Abatement
0400-13-01-.02	Lead-Based Paint Hazards
0400-13-01-.03	Residential Property Renovation

Chapter Number	Chapter Title
1200-01-18	Lead-Based Paint Abatement
Rule Number	Rule Title
1200-01-18-.01	Lead-Based Paint Abatement
1200-01-18-.02	Reserved
1200-01-18-.03	Reserved
1200-01-18-.04	Reserved
1200-01-18-.05	Lead-Based Paint Hazards (Subpart D)
1200-01-18-.06	Residential Property Renovation (Subpart E)

Place substance of rules and other info here. Please be sure to include a detailed explanation of the changes being made to the listed rule(s). Statutory authority must be given for each rule change. For information on formatting rules go to <https://sos.tn.gov/products/division-publications/rulemaking-guidelines>.

Chapter 1200-01-18
Lead-Based Paint Abatement

Repeal

Chapter 1200-01-18 Lead-Based Paint Abatement is repealed.

Authority: T.C.A. §§ 11-1-101, 68-131-401 et seq., and 4-5-201 et seq.

Chapter 0400-13-01
Lead-Based Paint Abatement

New Rules

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0400-13-01-.01 Lead-Based Paint Abatement

- (1) Scope and applicability.
 - (a) This rule contains procedures and requirements for the accreditation of lead-based paint activities training programs, procedures, and requirements for the certification of individuals and firms engaged in lead-based paint activities, and work practice standards for performing such activities.
 - (b) This rule applies to all individuals and firms who are engaged in lead-based paint activities in “target housing” and “child occupied facilities,” as defined in paragraph (3) of this rule, except persons who perform these activities within residential dwellings that they own, unless the residential dwelling is occupied by a person or persons other than the owner or the owner’s immediate family while these activities are being performed, or a child residing in the building has been identified as having an elevated blood lead level, as defined in paragraph (3) of this rule.
 - (c) Each department, agency, and instrumentality of the executive, legislative, and judicial branches of the federal government, and of the State of Tennessee having jurisdiction over any property or facility, or engaged in any activity resulting, or that may result, in a lead-based paint hazard, and each officer, agent, or employee thereof, shall be subject to, and comply with all federal, State, interstate, and local requirements, both substantive and procedural, including the requirements of this rule regarding lead-based paint, lead-based paint activities, and lead-based paint hazards.
 - (d) Nothing in this rule requires that the owner or occupant undertake any particular lead-based paint activity.
 - (e) Use of Number and Gender – As used in these rules:
 1. Words in the masculine gender also include the feminine and neuter genders; and
 2. Words in the singular include the plural; and
 3. Words in the plural include the singular.
 - (f) Rule Structure – These rules are organized, numbered, and referenced according to the following outline form:

- (1) paragraph
 - (a) subparagraph
 - 1. part
 - (i) subpart
 - (l) item
 - I. subitem
 - A. section
 - (A) subsection

(2) No person shall perform or represent that such person is qualified to perform any lead-based paint activities without having received the appropriate certification from the Commissioner, unless such person is:

- (a) An owner performing abatement upon that person’s own residential property;
- (b) An employee of a property management company doing routine cleaning and repainting upon property managed by that company, where there is insignificant damage to, wear of, or corrosion of existing lead-containing paint or coating substances; or
- (c) An owner routinely cleaning or repainting the owner’s property, where there is insignificant damage to, wear of, or corrosion of existing lead-containing paint or coating substances.

(3) Definitions.

When used in this chapter, the following terms have the meanings given below unless otherwise specified:

“Abatement” means any measures or set of measures designed to permanently eliminate lead-based paint hazards. “Abatement” includes but is not limited to:

- (a) The removal of paint and dust, the permanent enclosure or encapsulation of lead-based paint, the replacement of painted surfaces or fixtures, or the removal or permanent covering of soil, when lead-based paint hazards are present in such paint, dust, or soil; and
- (b) All preparation, clean-up, disposal, and post-abatement clearance testing activities associated with such measures.
- (c) Specifically, abatement includes, but is not limited to:
 - 1. Projects for which there is a written contract or other documentation that provides that an individual or firm will be conducting activities in or to a residential dwelling or child-occupied facility that:
 - (i) Shall result in the permanent elimination of lead-based paint hazards; or
 - (ii) Are designed to permanently eliminate lead-based paint hazards and are described in subparagraphs (a) and (b) of this definition.
 - 2. Projects resulting in the permanent elimination of lead-based paint hazards, conducted by firms or individuals certified in accordance with paragraph (5) of this rule, unless such projects are covered by subparagraph (d) of this definition;
 - 3. Projects resulting in the permanent elimination of lead-based paint hazards, conducted by firms or individuals who, through their company name or promotional literature, represent, advertise, or hold themselves out to be in the business of performing lead-based paint

activities as identified and defined by this paragraph, unless such projects are covered by subparagraph (d) of this definition; or

4. Projects resulting in the permanent elimination of lead-based paint hazards, that are conducted in response to State or local government abatement orders.

- (d) Abatement does not include renovation, remodeling, landscaping, or other activities that are not designed to permanently eliminate lead-based paint hazards but are instead designed to repair, restore, or remodel a given structure or dwelling, even though these activities may incidentally result in a reduction or elimination of lead-based paint hazards. Furthermore, abatement does not include interim controls, operations and maintenance activities, or other measures and activities designed to temporarily, but not permanently, reduce lead-based paint hazards.

“Accessible surface” means an interior or exterior surface painted with lead-based paint that is accessible for ingestion by a child six years of age or younger.

“Accredited training program” means a training program that has been accredited by the Commissioner pursuant to paragraph (4) of this rule to provide training for individuals engaged in lead-based paint activities in the state of Tennessee.

“Adequate quality control” means a plan or design that ensures the authenticity, integrity, and accuracy of samples, including dust, soil, and paint chip or paint film samples. Adequate quality control also includes provisions for representative sampling pursuant to the requirements of subpart (6)(a)3(iii) of this rule.

“Arithmetic mean” means the algebraic sum of data values divided by the number of data values (e.g., the sum of the concentration of lead in several soil samples divided by the number of samples).

“Authorized state or Indian tribe” means a state or Indian tribe authorized by EPA pursuant to TSCA 15 U.S.C. § 2684 and 40 C.F.R. § 745.324 to administer the Lead-Based Paint Abatement Program in lieu of EPA.

“Available” means being present at a worksite during all abatement, cleaning, and clearance activities.

“Business day” means Monday through Friday with the exception of federal and state holidays.

“Certified abatement worker” means an individual who has been trained as a lead-based paint abatement worker by the EPA or any authorized state or Indian tribe accredited training program and is certified by the Commissioner to perform abatements.

“Certified firm” means a company, partnership, corporation, sole proprietorship, association, or other business entity that performs lead-based paint activities to which the Commissioner has issued a certificate of approval pursuant to subparagraph (5)(d) of this rule.

“Certified inspector” means an individual who has been trained as a lead-based paint inspector by the EPA or any authorized state or Indian tribe accredited training program and is certified by the Commissioner to conduct inspections. A certified inspector also samples for the presence of lead in dust and soil for the purposes of abatement clearance testing.

“Certified project designer” means an individual who has been trained as a lead-based paint project designer by the EPA or any authorized state or Indian tribe accredited training program and is certified by the Commissioner to prepare abatement project designs, occupant protection plans, and abatement reports.

“Certified risk assessor” means an individual who has been trained as a lead-based paint risk assessor by the EPA or any EPA authorized state or Indian tribe accredited training program and is certified by the Commissioner to conduct risk assessments. A risk assessor also samples for the presence of lead in dust and soil for the purposes of abatement clearance testing.

“Certified supervisor” means an individual who has been trained as a lead-based paint supervisor by the EPA or any EPA authorized state or Indian tribe accredited training program and is certified by the Commissioner to supervise and conduct abatements, and to prepare occupant protection plans and

abatement reports for a project of 10 or fewer units.

“Child-occupied facility” means a building or portion of a building constructed prior to 1978, visited regularly by the same child, six years of age or under, on at least two different days within any week (Sunday through Saturday period), provided that each day’s visit lasts at least three hours and the combined weekly visits last at least six hours, and the combined annual visits last at least 60 hours. Child-occupied facilities may include, but are not limited to, day-care centers, preschools, and kindergarten classrooms.

“Clearance levels” are values that indicate the amount of lead in dust on a surface following completion of an abatement activity. To achieve clearance when dust sampling is required, values below these levels must be achieved.

“Commissioner” means the Commissioner of the Department of Environment and Conservation or the Commissioner’s authorized representative.

“Common area” means a portion of a building that is generally accessible to all occupants. Such an area may include, but is not limited to, hallways, stairways, laundry and recreational rooms, playgrounds, community centers, garages, and boundary fences.

“Common area group” means a group of common areas that are similar in design, construction, and function. Common area groups include but are not limited to hallways, stairwells, and laundry rooms.

“Completion date” means the date on which all activities on a permitted lead-based paint abatement project requiring the use of certified individuals are complete, including but not limited to the complete disassembly of all removal area barriers, final clearance testing, and disposal of all lead-based paint waste.

“Component or building component” means specific design or structural elements or fixtures of a building, residential dwelling, or child-occupied facility that are distinguished from each other by form, function, and location. These include, but are not limited to, interior components such as: ceilings, crown molding, walls, chair rails, doors, door trim, floors, fireplaces, radiators and other heating units, shelves, shelf supports, stair treads, stair risers, stair stringers, newel posts, railing caps, balustrades, windows and trim (including sashes, window heads, jambs, sills, or stools and troughs), built-in cabinets, columns, beams, bathroom vanities, counter-tops, and air conditioners. These also include, but are not limited to, exterior components such as: painted roofing, chimneys, flashing, gutters, downspouts, ceilings, soffits, fascias, rake boards, corner boards, bulkheads, doors and door trim, fences, floors, joists, lattice work, railings and railing caps, siding, handrails, stair risers and treads, stair stringers, columns, balustrades, windowsills, or stools and troughs, casings, sashes and wells, and air conditioners.

“Concentration” means the relative content of a specific substance contained within a larger mass, such as the amount of lead (in micrograms per gram or parts per million by weight) in a sample of dust or soil.

“Containment” means a process to protect workers and the environment by controlling exposures to the lead-contaminated dust and debris created during an abatement.

“Course agenda” means an outline of the key topics to be covered during a training course, including the time allotted to teach each topic.

“Course test” means an evaluation of the overall effectiveness of the training that shall test the trainees’ knowledge and retention of the topics covered during the training course.

“Course test blueprint” means written documentation identifying the proportion of course test questions devoted to each major topic in the course curriculum.

“Deteriorated paint” means paint that is cracking, flaking, chipping, peeling, or otherwise separating from the substrate of a building component.

“Discipline” means one of the specific types or categories of lead-based paint activities identified in this rule for which individuals may receive training from accredited training programs and become certified by the Commissioner. For example, “abatement worker” is a discipline.

“Distinct painting history” means the application history, as indicated by its visual appearance or a record

of application, over time, of paint or other surface coatings to a component or room.

“Division” means the Department of Environment and Conservation, Division of Solid Waste Management.

“Documented methodologies” are state-of-the-art methods or protocols used to sample for the presence of lead in paint, dust, or soil.

“Drip line” means the area within three feet surrounding the perimeter of a building.

“Elevated blood lead level” or “EBLL” means an excessive absorption of lead that is a confirmed concentration of lead in whole blood of 20 ug/dl (micrograms of lead per deciliter of whole blood) for a single venous test or of 15-19 ug/dl in two consecutive tests taken three to four months apart.

“Encapsulant” means a substance that forms a barrier between lead-based paint and the environment using a liquid-applied coating (with or without reinforcement materials) or an adhesively-bonded covering material.

“Encapsulation” means the application of an encapsulant.

“Enclosure” means the use of rigid, durable construction materials that are mechanically fastened to the substrate to act as a barrier between lead-based paint and the environment.

“EPA” means the United States Environmental Protection Agency and its divisions and sections.

“Friction surface” means an interior or exterior surface that is subject to abrasion or friction, including but not limited to, certain window, floor, and stair surfaces.

“Guest instructor” means an individual designated by the training program manager or principal instructor to provide instruction specific to the lecture, hands-on activities, or work practice components of a course.

“Hands-on skills assessment” means an evaluation that tests the trainees’ ability to satisfactorily perform the work practices and procedures identified in subparagraph (4)(d) of this rule, as well as any other skill taught in a training course.

“Hazardous waste” means any waste as defined in subparagraph (1)(c) of Rule 0400-12-01-.02.

“Housing for the elderly” means retirement communities or similar types of housing reserved for households composed of one or more persons 62 years of age or more at the time of initial occupancy.

“Immediate family” means an individual’s family members, including parents, grandparents, children, grandchildren, or legal guardians.

“Impact surface” means an interior or exterior surface that is subject to damage by repeated sudden force such as certain parts of doorframes.

“Inspection” means a surface-by-surface investigation conducted by a lead-based paint inspector or risk assessor to determine the presence of lead-based paint and the provision of a report explaining the results of the investigation.

“Interim controls” means a set of measures designed to temporarily reduce human exposure or likely exposure to lead-based paint hazards, including but not limited to, 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.

“Interior windowsill” means the portion of the horizontal window ledge that protrudes into the interior of the room.

“Last day of the month” means the last business day (Monday through Friday) of the calendar month, excluding state holidays.

“Lead-based paint” means paint or other surface coatings that contain lead equal to or exceeding 1.0

milligrams per square centimeter (mg/cm²), or more than 0.5 percent by weight.

“Lead-based paint abatement project” means the abatement of lead-based paint and lead-based paint hazards and submitted under a common project review notification.

“Lead-based paint activities” means, in the case of target housing and child-occupied facilities, inspection, risk assessment, lead-hazard screen, clearance testing, abatement, and lead-hazard reduction as defined in this rule. This does not include renovation, remodeling, landscaping, or other activities, when such activities are not designed to permanently eliminate lead-based paint hazards, but instead are designed to repair, restore, or remodel a structure, even though these activities may incidentally result in a reduction or elimination of lead-based paint hazards.

“Lead-based paint activities courses” or “training courses” means initial and refresher training courses (worker, supervisor, inspector, project designer, or risk assessor) provided by accredited training programs.

“Lead-based paint hazard” means 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 detailed in Rule 0400-13-01-.02.

“Lead-hazard reduction activities” means the inspection and assessment of lead-based paint hazards; the planning, implementation, and inspection of interim controls; and activities designed to reduce human exposure to lead-based paint hazards through both interim controls and abatement as determined by the Commissioner.

“Lead-hazard screen” is a limited risk assessment activity that involves limited paint and dust sampling as described in subparagraph (6)(c) of this rule.

“Living area” means any area of a residential dwelling used by one or more children aged six years and under, including but not limited to, living rooms, kitchen areas, dens, playrooms, and children’s bedrooms.

“Loading” means the quantity of a specific substance present per unit surface area such as the amount of lead in micrograms contained in the dust collected from a certain surface area divided by the surface area in square feet or square meters.

“Local government” means a county, city, town, borough, parish, district, association, or other public body (including an agency comprised of two or more of the foregoing entities) created under state law.

“Multi-family dwelling” means a structure that has more than one separate residential dwelling unit, which is used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of one or more persons.

“National certification exam” means an examination prepared by the EPA in a particular discipline that is administered by the Commissioner.

“Occupant” means any entity that has entered into an agreement as a lessee or purchaser of target housing, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes, and nonprofit organizations.

“Occupant protection plan” means a written plan, that describes the measure and management procedures that will be taken during abatement to protect building occupants from exposure to lead-based paint hazards. The plan shall be unique to each residential dwelling or child-occupied facility. For projects with 10 or fewer units, the plan shall be prepared by a lead supervisor or project designer. For projects with more than ten units, the plan shall be prepared by a lead project designer. The plan shall include the preparer’s signature and certification number.

“Owner” means any entity that has legal title to target housing, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes, and nonprofit organizations, except where a mortgagee holds legal title to property serving as collateral for a mortgage loan, in which case the owner would be the mortgagor.

“Paint in poor condition” means more than 10 square feet of deteriorated paint on exterior components with large surface areas; or more than two square feet of deteriorated paint on interior components with large surface areas (e.g., walls, ceilings, floors, doors); or more than 10% of the total surface area of the component is deteriorated on interior or exterior components with small surface areas (e.g., windowsills, baseboards, soffits, trim).

“Permanently covered soil,” means soil, that has been separated from human contact by the placement of a barrier consisting of solid, relatively impermeable materials such as pavement or concrete. Grass, mulch, and other landscaping materials are not considered permanent covering.

“Person” means an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, state, municipality, commission, political subdivision of a state, any interstate body, and governmental agency of this state, and any department, agency, or instrumentality of the executive, legislative, or judicial branches of the federal government.

“Play area” means an area of frequent soil contact by children six years of age or under as indicated by factors that include, but are not limited to: the presence of play equipment (e.g., sandboxes, swing sets, and sliding boards), toys, or other children’s possessions; observations of play patterns; or information provided by parents, residents, care givers, or property owners.

“Principal instructor” means the individual who has the primary responsibility for organizing and teaching a particular course.

“Project design” means a detailed description of the procedures, processes, and engineering controls that will be used to address the reduction of lead-based paint hazards, protect building occupants from lead exposure, and protect the environment from lead contamination.

“Project owner” means the person paying for the project.

“Reciprocity” means a cooperative interchange of privileges between consenting EPA authorized states or Indian tribes.

“Recognized laboratory” means an environmental laboratory recognized by EPA or the state pursuant to TSCA 15 U.S.C. § 2685(b) as being capable of performing an analysis for lead compounds in paint, soil, and dust.

“Reduction” means measures designed to reduce or eliminate human exposure to lead-based paint hazards through methods including interim controls and abatement.

“Renovation” means the modification of any existing structure, or portion thereof, that results in the disturbance of painted surfaces, unless that activity is performed as part of an abatement as defined in this paragraph. The term renovation includes (but is not limited to): the removal, modification, or repair of painted surfaces or painted components (e.g., modification of painted doors, surface restoration, window repair, surface preparation activity (such as sanding, scraping, or other such activities that may generate paint dust)); the removal of building components (e.g., walls, ceilings, plumbing, windows); weatherization projects (e.g., cutting holes in painted surfaces to install blown-in insulation or to gain access to attics, planning thresholds to install weather-stripping); and interim controls that disturb painted surfaces. A renovation performed for the purpose of converting a building, or part of a building, into target housing or a child-occupied facility is a renovation under this subpart. The term renovation does not include minor repair and maintenance activities as defined in paragraph (2) of Rule 0400-13-01-.03.

“Residential building” means a building containing one or more residential dwellings.

“Residential dwelling” means:

- (a) A detached single-family dwelling unit, including attached structures such as porches and stoops; or
- (b) A single-family dwelling unit in a structure that contains more than one separate residential dwelling unit, that is used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of one or more persons.

“Residential dwelling unit” means a single unit providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation.

“Risk assessment” means an on-site investigation, conducted by a person certified by the Commissioner as a risk assessor, to determine and report the existence, nature, severity, and location of lead-based paint hazards in residential dwellings, including:

- (a) Information gathering regarding the age and history of the housing and occupancy by children under age six;
- (b) Visual inspection;
- (c) Limited wipe sampling or other environmental sampling techniques;
- (d) Other activity as may be appropriate; and
- (e) Provision of a report explaining the results of the investigation.

“Room” means a separate part of the inside of a building, such as a bedroom, living room, dining room, kitchen, bathroom, laundry room, or utility room. To be considered a separate room, the room must be separated from adjoining rooms by built-in walls or archways that extend at least six inches from an intersecting wall. Half walls or bookcases count as room separators if built in. Movable or collapsible partitions or partitions consisting solely of shelves or cabinets are not considered built-in walls. A screened in porch that is used as a living area is a room.

“Soil sample” means a sample collected in a representative location using ASTM E1727, "Standard Practice for Field Collection of Soil Samples for Lead Determination by Atomic Spectrometry Techniques," or equivalent method.

“Start date” means the first day of any lead-based paint activities training course or lead-based paint abatement activity.

“Start date provided to the Commissioner” means the date included in the original project review notification or the most recent start date provided to the Commissioner in an updated notification.

“State” means the State of Tennessee, Department of Environment and Conservation unless otherwise defined or indicated.

“Target housing” means any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any one or more children aged six years or under resides or is expected to reside in such housing for the elderly or persons with disabilities) or any zero-bedroom dwelling.

“Training curriculum” means an established set of course topics for instruction in an accredited training program for a particular discipline designed to provide specialized knowledge and skills.

“Training hour” means at least 50 minutes of actual learning, including, but not limited to, time devoted to lecture, learning activities, small group activities, demonstrations, evaluations, or hands-on experience.

“Training manager” means the individual responsible for administering a training program and monitoring the performance of principal instructors and guest instructors.

“Training program” or “training provider” means any person offering or seeking accreditation to offer lead-based paint activities courses under this rule.

“Train-the-trainer course” means instruction offered by an accredited or approved institution or school of higher learning that provides instructions on procedures, strategies, tools, and curriculum development for training adults.

“TSCA” means the Toxic Substances Control Act, 15 U.S.C. §§ 2601 to 2692.

“Visual inspection for clearance testing” means the visual examination of a residential dwelling or a child-occupied facility following an abatement to determine whether the abatement has been successfully completed.

“Visual inspection for risk assessment” means the visual examination of a residential dwelling or a child-occupied facility to determine the existence of deteriorated lead-based paint or other potential sources of lead-based paint hazards.

“Weighted arithmetic mean” means the arithmetic mean of sample results weighted by the number of subsamples in each sample. Its purpose is to give influence to a sample relative to the surface area it represents. A single surface sample is comprised of a single subsample. A composite sample may contain from two to four subsamples of the same area as each other and of each single surface sample in the composite. The weighted arithmetic mean is obtained by summing, for all samples, the product of the sample's result multiplied by the number of subsamples in the sample and dividing the sum by the total number of subsamples contained in all samples. For example, the weighted arithmetic mean of a single surface sample containing 60 µg/ft², a composite sample (three subsamples) containing 100 µg/ft², and a composite sample (4 subsamples) containing 110 µg/ft² is 100 µg/ft². This result is based on the equation $[60+(3*100)+(4*110)]/(1+3+4)$.

“Window trough” means, for a typical double-hung window, the portion of the exterior windowsill between the interior windowsill (or stool) and the frame of the storm window. If there is no storm window, the window trough is the area that receives both the upper and lower window sashes when they are both lowered. The window trough is sometimes referred to as the window “well.”

“Zero-bedroom dwelling” means 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.

(4) Accreditation of Training Programs, Classroom-based and Online Refresher Training Courses: Target Housing and Child-Occupied Facilities.

(a) Scope.

1. This rule contains procedures and requirements for the accreditation of lead-based paint activities training programs and lead-based paint courses and refresher training courses.
2. A training program may seek accreditation to offer lead-based paint activities courses and online refresher courses in any of the following disciplines: inspector, risk assessor, supervisor, project designer, or abatement worker. A training program may also seek accreditation to offer classroom-based and online refresher courses for each of the above listed disciplines.
3. No person shall provide, offer, or claim to provide a department-accredited lead-based paint activities course without first applying for and receiving accreditation from the Commissioner as required under subparagraph (b) of this paragraph.
4. Accredited training programs, training managers, and principal instructors must comply with all requirements of this paragraph including the terms of the application once approved by the Commissioner and all requirements and limitations specified in any accreditation documents issued to the training program by the Commissioner.

(b) Application process.

1. A training program seeking accreditation shall submit a written application to the Commissioner containing the following information:
 - (i) The training program's name, address (headquarters and training site), and telephone number;
 - (ii) A list of courses for which it is applying for accreditation. For the purposes of this paragraph, courses taught in different languages and online courses are

considered different courses, and each course must independently meet the accreditation requirements.

- (iii) The name and documentation of qualifications of the training manager;
- (iv) The name(s) and documentation of qualifications of any principal instructor(s);
- (v) A statement signed by the training manager certifying that the training program meets the requirements established in subparagraph (c) of this paragraph. If a training program uses EPA-recommended model training materials, or training materials approved by a state or Indian tribe that has been authorized by EPA, the training program manager shall also include a statement certifying that.
- (vi) If a training program does not use EPA-recommended model training materials or training materials approved by an authorized state or Indian tribe, its application for accreditation shall also include:
 - (I) A copy of the student and instructor manuals, or other materials to be used for each course;
 - (II) A copy of the course agenda for each course; and
 - (III) When applying for accreditation of a course in a language other than English, a signed statement from a qualified, independent translator that the independent translator has compared the course to the English language version and found the translation to be accurate.
- (vii) All training programs shall include in their application for accreditation the following:
 - (I) A description of the facilities and equipment to be used for lecture and hands-on training;
 - (II) A copy of the course test blueprint for each course;
 - (III) A description of the activities and procedures that will be used for conducting the assessment of hands-on skills for each course;
 - (IV) A copy of the quality control plan as described in part (c)9 of this paragraph;
 - (V) Identification of the person who developed or authored the course materials;
 - (VI) Starting times and ending times for each day of training, and the total hours of each course;
 - (VII) A list of learning objectives for each lecture, exercise, and hands-on activity; and
 - (VIII) Such other documentation as may be reasonably required by the Commissioner to determine whether an accreditation should be issued under this rule.

2. If a training program meets the requirements in subparagraph (c) of this paragraph, then the Commissioner shall approve or disapprove the application for accreditation no more than 180 days after receiving a complete application from the training program. In the case of approval, a certificate of accreditation shall be sent to the applicant. In the case of disapproval, a letter describing the reasons for disapproval shall be sent to the applicant. Prior to disapproval, the Commissioner may, at the Commissioner's discretion, work with the applicant to address inadequacies in the application for accreditation. The

Commissioner may also request additional materials retained by the training program under subparagraph (j) of this paragraph. If a training program's application is disapproved, the program may reapply for accreditation at any time by filing a new, complete application that includes the correct application fees.

3. A training program may apply for accreditation to offer courses or refresher courses in as many disciplines as it chooses. A training program may seek accreditation for additional courses at any time as long as the program can demonstrate that it meets the requirements of this paragraph.
4. A training program applying for accreditation must submit the appropriate application fees in accordance with paragraph (10) of this rule.

(c) Requirements for the accreditation of training programs.

For a training program to obtain accreditation from the Commissioner to offer or conduct lead-based paint activities courses, the program shall meet the following requirements:

1. The training program shall employ a training manager who has:
 - (i) At least two years of experience, education, or training in teaching workers or adults; or
 - (ii) A bachelor's or graduate degree in building construction technology, engineering, industrial hygiene, safety, public health, education, business administration or program management or a related field; or
 - (iii) Two years of experience in managing a training program specializing in environmental hazards; and
 - (iv) Demonstrated experience, education, or training in the construction industry including lead or asbestos abatement, painting, carpentry, renovation, remodeling, occupational safety and health, or industrial hygiene.
2. The training manager shall designate a qualified principal instructor for each training course who has:
 - (i) Demonstrated experience, education, or training in teaching workers or adults;
 - (ii) Successfully completed at least 16 hours of any EPA-accredited or EPA-authorized state or Tribal-accredited lead-specific training; and
 - (iii) Demonstrated experience, education, or training in lead or asbestos abatement, painting, carpentry, renovation, remodeling, occupational safety and health, or industrial hygiene.
3. The designated principal instructor shall be responsible for the organization of the training course and oversight of the teaching of all course material. The training manager may designate guest instructors as needed to provide instruction specific to the lecture, hands-on activities, or work practice components of a course. However, the principal instructor is primarily responsible for teaching the course materials and must be present to provide instruction (or oversight of portions of the training course taught by guest instructors) for the training course for which the individual has been designated the principal instructor.
4. The documents listed below may be required by the Commissioner to provide evidence that training managers and principal instructors have the education, work experience, training requirements, or demonstrated experience required by parts 1 and 2 of this subparagraph. This documentation shall be submitted with the accreditation application and shall be retained by the training program as required by subparagraph (j) of this paragraph.

- (i) Official academic transcripts or diploma as evidence of meeting the education requirements;
 - (ii) Resumes, letters of reference, and detailed descriptions of work experience, including the number of and dates of projects and jobs, the size of each project and job, descriptions of tasks performed by the individual, as evidence of meeting the work experience requirements; and the names and telephone numbers of supervisors; and
 - (iii) Certificates from train-the-trainer courses and lead-specific training courses, as evidence of meeting the training requirements.
5. The training program shall ensure the availability of, and provide adequate facilities for, the delivery of the lecture, course test, hands-on training, and assessment activities. This includes providing training equipment that reflects current work practices and maintaining or updating the equipment and facilities as needed.
6. To become accredited in the following disciplines, the training program shall provide training courses that meet the following training hour requirements:
- (i) The inspector course shall last a minimum of 24 training hours, with a minimum of eight hours devoted to hands-on training activities. The minimum curriculum requirements for the inspector course are contained in part (d)1 of this paragraph;
 - (ii) The risk assessor course shall last a minimum of 16 training hours, with a minimum of four hours devoted to hands-on training activities. The minimum curriculum requirements for the risk assessor course are contained in part (d)2 of this paragraph;
 - (iii) The supervisor course shall last a minimum of 32 training hours, with a minimum of eight hours devoted to hands-on activities. The minimum curriculum requirements for the supervisor course are contained in part (d)3 of this paragraph;
 - (iv) The project designer course shall last a minimum of eight training hours. The minimum curriculum requirements for the project designer course are contained in part (d)4 of this paragraph;
 - (v) The abatement worker course shall last a minimum of 16 training hours, with a minimum of eight hours devoted to hands-on training activities. The minimum curriculum requirements for the abatement worker course are contained in part (d)5 of this paragraph; and
 - (vi) Each training course shall require each student to participate in the minimum training hours, including the minimum hours devoted to hands-on training activities.
7. For each course offered, the training program shall conduct a course test at the completion of the course, and if applicable, a hands-on skills assessment. Each student must successfully complete the hands-on skills assessment and receive a passing score on the course test to pass any course.
- (i) The training manager is responsible for maintaining the validity and integrity of the hands-on skills assessment to ensure that it accurately evaluates the trainees' performance of the work practices and procedures associated with the course topics contained in subparagraph (d) of this paragraph.
 - (ii) The training manager is responsible for maintaining the validity and integrity of the course test to ensure that it accurately evaluates the trainees' knowledge and retention of the course topics.
 - (iii) The course test must be developed in accordance with the test blueprint submitted with the training accreditation application.

- (iv) Course tests must have a minimum of 25 questions for the worker test and 50 questions for other disciplines.
 - (v) To receive a passing score, an individual must correctly answer 70% or more of the course test questions.
8. The training program shall issue unique course completion certificates to each individual who passes the training course. The course completion certificate shall include:
- (i) The name, a unique identification number, and address of the individual;
 - (ii) The name of the particular course the individual completed (i.e., initial or refresher plus discipline);
 - (iii) Inclusive dates of the training course and the date of test passage;
 - (iv) The name, address, and telephone number of the training program;
 - (v) The street address of the training site if different from the training program's address;
 - (vi) The printed name and signature of the training manager;
 - (vii) The language in which the course was taught, if other than English;
 - (viii) The date the course was accredited and the name of the agency issuing the accreditation; and
 - (ix) For initial inspector, risk assessor, project designer, supervisor, or abatement worker course completion certificates, the expiration date of the training certificate.
9. The training manager shall develop and implement a quality control plan. The plan shall be used to maintain and improve the quality of the training program over time. This plan shall contain at least the following elements:
- (i) Procedures for periodic revision of training materials and the course test to reflect innovations in the field; and
 - (ii) Procedures for the training manager's annual review of principal instructor competency.
10. Training courses offered by the training program must teach the work practice standards contained in paragraph (6) of this rule, applicable to the lead-based paint activity being taught and other applicable standards developed by EPA or the Commissioner.
11. The training manager shall be responsible for ensuring that the training program complies at all times with all of the requirements in this paragraph.
12. The training manager shall allow the Commissioner to audit the training program to verify that the contents of the application for accreditation are as described in subparagraph (b) of this paragraph and to monitor compliance with the requirements outlined by this rule.
13. If a training program utilizes materials printed in a language other than English, the Commissioner shall be provided an accurate translation of the materials in English.
14. The training manager shall provide the Commissioner notification of the lead-based paint activities courses offered.
- (i) The original course notification must be received by the Commissioner at least seven business days prior to the start date of any lead-based paint activities course

offered.

- (ii) The training manager must provide the Commissioner updated notification when lead-based paint activities courses will begin on a date other than the start dates specified in the original course notification, as follows:
 - (I) For lead-based paint activities courses beginning prior to the start date provided to the Commissioner, an updated course notification must be received by the Commissioner at least seven business days before the new start date; and
 - (II) For lead-based paint activities courses beginning after the start date provided to the Commissioner, an updated course notification must be received by the Commissioner at least two business days before the start date provided to Commissioner.
 - (iii) The training manager must update the Commissioner of any change in location of lead-based paint activities courses at least seven business days prior to the start date provided to the Commissioner.
 - (iv) The training manager must update the Commissioner regarding any course cancellations or any other change to the original notification. Updated course notifications must be received by the Commissioner at least two business days prior to the start date provided to the Commissioner.
 - (v) Each course notification under this part, including updates, must include the following:
 - (I) Notification type (original, update, cancellation);
 - (II) Training program name, the accreditation number, address, and telephone number;
 - (III) Course discipline, type (initial/refresher), and the language in which instruction will be given;
 - (IV) Date(s) and time(s) of training;
 - (V) Training location(s), telephone number, and address;
 - (VI) Principal instructor's name; and
 - (VII) Training manager's name and signature.
 - (vi) Notification must be made by written or electronic notification by such means approved by the Commissioner. Written or electronic notification can be accomplished using the Division form titled "Lead-Based Paint Training Notification," or a successor form approved by the Commissioner.
 - (vii) Lead-based paint activities courses must not begin on a date, or at a location other than that specified in the original notification unless an updated notification identifying a new start date or location is submitted, in which case the course must begin on the new start date and/or location specified in the updated notification.
 - (viii) No training program shall provide lead-based paint activities courses without first notifying the Commissioner of such activities in accordance with the requirements of this part.
15. The training manager must provide notification following completion of lead-based paint activities courses.

- (i) The training manager must provide the Commissioner notification after the completion of any lead-based paint activities course. This notice must be received by the Commissioner no later than 10 business days following course completion.
- (ii) The notification must include the following:
 - (I) Training program name, accreditation number, address, and telephone number;
 - (II) Course discipline and type (initial/refresher);
 - (III) Date(s) of training;
 - (IV) The following information for each student who took the course:
 - I. Name;
 - II. Address;
 - III. Date of birth;
 - IV. Course completion certificate number;
 - V. Course test score;
 - VI. A digital photograph of the student; and
 - (V) Training manager's name and signature.
- (iii) Notification must be made by written or electronic notification by such means approved by the Commissioner. Written or electronic notification can be accomplished using the Division form titled "Lead-Based Paint Training Notification," or a successor form approved by the Commissioner.
- (d) Minimum training curriculum requirements.

A training program accredited by the Commissioner to offer lead-based paint courses in the specific disciplines listed in this subparagraph must ensure that its courses of study include, at a minimum, the following topics. Requirements ending in an asterisk (*) indicate areas that require hands-on activities as an integral component of the course.

- 1. Inspector:
 - (i) Role and responsibilities of an inspector;
 - (ii) Background information on lead and its adverse health effects;
 - (iii) Background information on federal, State, and local regulations and guidance that pertains to lead-based paint and lead-based paint activities;
 - (iv) Lead-based paint inspection methods, including selection of rooms and components for sampling or testing; *
 - (v) Paint, dust, and soil sampling methodologies; *
 - (vi) Clearance standards and testing, including random sampling; *
 - (vii) Preparation of the final inspection report; and *
 - (viii) Recordkeeping.

2. Risk assessor:
 - (i) Role and responsibilities of a risk assessor;
 - (ii) Collection of background information to perform a risk assessment;
 - (iii) Sources of environmental lead contamination such as paint, surface dust and soil, water, air, packaging, and food;
 - (iv) Visual inspection for the purposes of identifying potential sources of lead-based paint hazards; *
 - (v) Lead hazard screen protocol;
 - (vi) Sampling for other sources of lead exposure; *
 - (vii) Interpretation of lead-based paint and other lead sampling results, including all applicable State or federal guidance or regulations pertaining to lead-based paint hazards; *
 - (viii) Development of hazard control options, the role of interim controls, and operations and maintenance activities to reduce lead-based paint hazards; and *
 - (ix) Preparation of a final risk assessment report.
3. Supervisor:
 - (i) Role and responsibilities of a supervisor;
 - (ii) Background information on lead and its adverse health effects;
 - (iii) Background information on federal, State, and local regulations and guidance that pertain to lead-based paint abatement;
 - (iv) Liability and insurance issues relating to lead-based paint abatement;
 - (v) Risk assessment and inspection report interpretation; *
 - (vi) Development and implementation of an occupant protection plan and abatement report;
 - (vii) Lead-based paint hazard recognition and control; *
 - (viii) Lead-based paint abatement and lead-based paint hazard reduction methods, including restricted practices; *
 - (ix) Interior dust abatement and cleanup and lead-based paint hazard control and reduction methods; *
 - (x) Soil and exterior dust abatement or lead-based paint hazard control and reduction methods; *
 - (xi) Clearance standards and testing;
 - (xii) Cleanup and waste disposal; and
 - (xiii) Recordkeeping.
4. Project designer:
 - (i) Role and responsibilities of a project designer;

- (ii) Development and implementation of an occupant protection plan for large-scale abatement projects;
- (iii) Lead-based paint abatement and lead-based paint hazard reduction methods, including restricted practices for large-scale abatement projects;
- (iv) Interior dust abatement and cleanup and lead hazard control and reduction methods for large-scale abatement projects;
- (v) Clearance standards and testing for large-scale abatement projects; and
- (vi) Integration of lead-based paint abatement methods with modernization and rehabilitation projects for large-scale abatement projects.

5. Abatement worker:

- (i) Role and responsibilities of an abatement worker;
- (ii) Background information on lead and its adverse health effects;
- (iii) Background information on federal, state and local regulations and guidance that pertain to lead-based paint abatement;
- (iv) Lead-based paint hazard recognition and control; *
- (v) Lead-based paint abatement and lead-based paint hazard reduction methods, including restricted practices; *
- (vi) Interior dust abatement methods and cleanup and lead-based paint hazard reduction; and *
- (vii) Soil and exterior dust abatement methods and lead-based paint hazard reduction.*

(e) Requirements for the accreditation of refresher training courses.

A training program may seek accreditation to offer refresher training courses in any of the following disciplines: inspector, risk assessor, supervisor, project designer, and abatement worker. To obtain State accreditation to offer refresher training, a training program shall allow the Commissioner to audit the training program to verify the contents of the application for accreditation as described in subparagraph (b) of this paragraph. Any refresher training course offered by a training program shall also meet the following minimum requirements:

1. Each refresher course shall review the curriculum topics of the full-length courses listed under subparagraph (d) of this paragraph, as appropriate. In addition, to become accredited to offer refresher training courses, training programs shall ensure that their courses of study include, at a minimum, the following:
 - (i) An overview of current safety practices relating to lead-based paint activities in general, as well as specific information pertaining to the appropriate discipline;
 - (ii) Current laws and regulations relating to lead-based paint activities in general, as well as specific information pertaining to the appropriate discipline; and
 - (iii) Current technologies relating to lead-based paint activities in general, as well as specific information pertaining to the appropriate discipline.
2. Refresher courses for inspector, risk assessor, supervisor, and abatement worker shall last a minimum of eight training hours. The project designer refresher course shall last a minimum of four training hours. Refresher courses for all disciplines except project designer must include a hands-on component.

3. Except for project designer refresher courses, the training program shall conduct a hands-on skills assessment. All training programs shall conduct a course test with a minimum of 25 questions at the completion of the refresher course.
4. A training program may apply for accreditation of a refresher course concurrently with its application for accreditation of the corresponding training course as described in subparagraph (b) of this paragraph. If so, the Commissioner shall use the approval procedure described in subparagraph (b) of this paragraph. In addition, the minimum requirements contained in parts (c)1 through (c)5 of this paragraph and parts 1, 2, and 3 of this subparagraph shall also apply.
5. A training program seeking accreditation to offer refresher training courses shall submit a written application to the Commissioner containing the following information:
 - (i) The refresher training program's name, address, and telephone number, including the street address of the training site if different from the training program's address.
 - (ii) A list of refresher courses for which the refresher training program is applying for accreditation to offer.
 - (iii) The name and documentation of the qualifications of the training program manager.
 - (iv) The name(s) and documentation of the qualifications of the principal instructor(s).
 - (v) A statement signed by the training program manager certifying that the refresher training program meets the minimum requirements established in subparagraph (c) of this paragraph, except for the requirements in part (c)6 of this paragraph.
 - (vi) If a refresher training program uses EPA-developed model training materials, or training materials approved by a state or Indian tribe that has been authorized by EPA to develop its refresher training course materials, the training manager shall include a statement certifying that fact.
 - (vii) If the refresher training course materials are not based on EPA-developed model training materials or training materials approved by an authorized state or Indian tribe, the training program's application for accreditation shall include:
 - (I) A copy of the student and instructor manuals to be used for each course; and
 - (II) A copy of the course agenda for each course.
 - (viii) All refresher training programs shall include in their application for accreditation the following:
 - (I) A description of the facilities and equipment to be used for lecture and hands-on training;
 - (II) A copy of the course test blueprint for each course;
 - (III) A description of the activities and procedures that will be used for conducting the hands-on skills assessment for each course (if applicable); and
 - (IV) A copy of the quality control plan as described in part (c)9 of this paragraph.
 - (ix) The requirements in parts (c)1 through 5, and 7 through 15 of this paragraph apply

to refresher training providers.

- (x) If a refresher training program meets the requirements of this part, then the Commissioner shall approve or disapprove the application for accreditation no more than 180 days after receiving a complete application from the refresher training program. In the case of approval, a certificate of accreditation shall be sent to the applicant. In the case of disapproval, a letter describing the reasons for disapproval shall be sent to the applicant. Prior to disapproval, the Commissioner may, at the Commissioner's discretion, work with the applicant to address inadequacies in the application for accreditation. The Commissioner may also request additional materials retained by the refresher training program under subparagraph (j) of this paragraph. If a refresher training program's application is disapproved, the program may reapply for accreditation at any time.
 - (xi) The language in which the refresher training course is taught, if other than English.
 - (xii) The date the refresher course was accredited and the name of the agency issuing the accreditation.
- (f) Requirements for the accreditation of online asynchronous and synchronous refresher training courses.
1. This subparagraph outlines procedures and requirements for the accreditation of online lead-based paint refresher course or courses. Initial lead-based paint training courses may not be offered online.
 2. Only the following entities are authorized to offer online lead-based paint refresher courses:
 - (i) Training providers that are accredited by the State of Tennessee to conduct online refresher courses on the effective date of this rule, provided the course meets all the requirements of this rule;
 - (ii) Training providers that have been or are currently accredited by the State of Tennessee to conduct classroom-based lead-based training courses; and
 - (iii) Institutions of higher learning located in the State of Tennessee that have provided documentation of continuing education through online training courses.
 3. A pre-existing approval for a standard classroom-based refresher training course does not extend to cover an online refresher training course, even if the course is based upon the same syllabus or instructional materials.
 4. An online refresher course shall be specific to a discipline and shall be conducted as separate and distinct course and not combined with any other training during the period of the refresher course.
 5. A training provider may seek accreditation to offer, and approval of, online refresher lead-based paint training courses in any of the following disciplines: inspector, risk assessor, supervisor, project designer, and abatement worker.
 6. For the purposes of this subparagraph, online refresher courses taught in different languages, even if they are based on the same curriculum, are considered different courses, and each course must independently meet the accreditation and approval requirements and a separate fee must be paid for each such course.
 7. Online refresher training courses shall be the same length as a classroom-based refresher training course as set out in part (e)2 of this paragraph.
 8. To be accredited to provide and receive approval of an online refresher course, a training provider shall submit an application pursuant to subparagraph (b) of this paragraph, the appropriate fees, and documentation that the training provider meets each of the following

criteria:

- (i) Submits the instructor's credentials (including the credentials of those who conduct or develop the online refresher training course) and provides updates of any subsequent changes in course instructors;
- (ii) Has systems in place that authenticate the identity of the students taking the online refresher training course and the student's eligibility to enroll in the course. Student authentication could be obtained by the student submitting personal and sensitive information to a training provider such as social security number, date of birth, state lead-based paint certification number, and special question and answer combination. Verification of this authentication information shall be requested prior to beginning the online refresher training course and at intermittent, designated intervals during the training. A training provider shall use appropriate encryption technologies to protect the student's sensitive user information to deter fraud, including the falsification of student identity;
- (iii) Has systems in place that ensure students are focusing on the training material throughout the entire training period. Online refresher training courses shall provide a strong interactive component to ensure continued student focus, such as through threaded discussion between the student and the instructor and via interactive video clips;
- (iv) Has systems in place that prevent students from prematurely skipping ahead. A training provider shall make sure there are minimum time allotments for each section of the training, monitor and record the student's actual time online, including breaks, and retain these records;
- (v) Has a specific discipline course instructor available to answer questions that students have while they are taking the online refresher training course. This could be facilitated via online threaded discussion, message boards, chat, or a toll-free telephone number available during training periods for a student to call with questions for a specific discipline course instructor regarding the course material;
- (vi) Provides technical support via methods outlined in item (v) of this subpart to the student during training periods to address any technical problems that arise, such as with the student's computer or with the online application. If a student is inadvertently logged out of an online session due to technical difficulties, the student shall be given credit for the portion of the course already completed. Similarly, that student shall be required to make-up the portion of the training missed;
- (vii) Includes a comprehensive overview of the curriculum requirements contained in subparagraph (d) of this paragraph for the discipline covered;
- (viii) Verifies the identity of each student taking the examination for an online refresher course in some manner to prevent fraud. A training provider may have either a testing center or proctor-based exam for the examination portion of the online refresher training course. The examination questions shall be randomized from course to course so that the same examination is not given repeatedly. An item bank (or a pool of questions used to vary the questions asked) shall be used to ensure that examination questions are not used repeatedly. The training provider shall institute controls to ensure that the examination screen cannot be saved, copied, or printed;
- (ix) Includes a review and discussion of changes in federal, state, and local regulations that are applicable to Tennessee in each online refresher training course. A training provider shall clearly identify the state the online course is specifically applicable to and approved by when advertising the course or when registering a student for the course;

- (x) Ensures systems are in place that reduce opportunities for document fraud including a distinct, online training certificate that contains all the requirements of part (c)8 of this paragraph and that designates the course using the following language: Traditional Classroom, Asynchronous Online Course, or Synchronous Online Course; and
 - (xi) Provides a detailed description of how the hands-on component required by part (e)2 of this paragraph for an inspector, risk assessor, supervisor, and abatement worker will be accomplished and how the hands-on skills assessment will be given for each discipline.
9. A training provider shall provide, and retain in the provider's records, a course evaluation of the online course to help determine the strengths and weaknesses of such course and to promote continuous improvement.
 10. A training provider shall allow the Commissioner unrestricted access to conduct audits of an online course at any time that the course is being provided.
- (g) Re-accreditation of training programs.
1. Unless re-accredited, a training program's accreditation to offer a training course (including refresher training accreditation) shall expire two years after the date of issuance. If a training program meets the requirements of this paragraph, the training program shall be re-accredited.
 2. A training program seeking re-accreditation shall submit a complete application to the Commissioner no later than 45 days before its accreditation expires.
 3. The training program's application for re-accreditation shall contain:
 - (i) The training program's name, address, and telephone number;
 - (ii) A list of courses for which the training program is applying for re-accreditation;
 - (iii) The name and qualifications of the training program manager;
 - (iv) The name(s) and qualifications of the principal instructor(s);
 - (v) A description of any changes to the training facility, equipment or course materials since its last application was approved that adversely affects the students' ability to learn;
 - (vi) A statement signed by the program manager confirming:
 - (I) The training program complies at all times with all requirements of subparagraphs (c), (e), and (f) of this paragraph, as applicable; and
 - (II) The recordkeeping and reporting requirements of subparagraph (j) of this paragraph shall be followed.
 - (vii) A payment of appropriate fees in accordance with paragraph (10) of this rule.
 4. Upon request, the training program shall allow the Commissioner to audit the training program and any course provided by the training program, including an online refresher training course, to verify that the contents of the application for re-accreditation are as described in part 3 of this subparagraph. Upon the Commissioner anonymously auditing a training program by attending a training course, the training course fee paid by the State shall be refunded in its entirety to the Department of Environment and Conservation.
- (h) Refusal to review, suspension, revocation, and modification of accredited training programs.

1. The Commissioner may, after notice and an opportunity for hearing, refuse to renew, suspend, revoke, or modify training program accreditation, including refresher training accreditation, if a training program, training manager, or other person with supervisory authority over the training program has:
 - (i) Misrepresented the contents or training hour requirements of a training course to the State or the student population;
 - (ii) Failed to submit required information or notifications required under this rule in a timely manner;
 - (iii) Failed to maintain required records;
 - (iv) Falsified accreditation records, instructor qualifications, or other accreditation-related information or documentation;
 - (v) Failed to comply with the training standards and requirements in this chapter;
 - (vi) Failed to comply with federal, State, or local lead-based paint statutes or regulations;
 - (vii) Made false or misleading statements in its application for accreditation or re-accreditation;
 - (viii) An environmental compliance history that demonstrates an unwillingness or inability to maintain compliance with environmental statutes or regulations;
 - (ix) A duly authorized representative, training manager, or principal instructor who has been convicted of a felony or found liable in a civil proceeding that involves violation of any state or federal regulation or law designed to protect human health or the environment; or
 - (x) Failed to achieve and maintain active status as a business entity with the Tennessee Secretary of State if required.
2. In addition to an administrative or judicial finding of violation, execution of a consent agreement in settlement of an enforcement action constitutes, for purposes of this rule, evidence of a failure to comply with relevant statutes or regulations.
3. The Commissioner may deny any application for a training program accreditation, including refresher training accreditation, for any reason set out in part 1 of this subparagraph.

- (i) Procedures for refusal to renew, suspension, revocation, or modification of training program accreditation.

Any revocation, suspension, refusal to renew, modification, or denial of an application to renew a training program accreditation shall be conducted in accordance with the Uniform Administrative and Procedures Act, T.C.A. Title 4, Chapter 5, Part 3.

- (j) Training Program Recordkeeping Requirements.

1. Accredited training programs shall maintain and make available to the Commissioner, upon request, the following records:
 - (i) All documents specified in part (c)4 of this paragraph that demonstrate the qualifications listed in parts (c)1 and 2 of this paragraph of the training manager and principal instructors;
 - (ii) Current curriculum/course materials and documents reflecting any changes made to these materials;

- (iii) The course test blueprint;
 - (iv) Information regarding how the hands-on skills assessment is conducted including, but not limited to:
 - (I) Who conducts the assessment;
 - (II) How the skills are graded;
 - (III) What facilities are used; and
 - (IV) The pass/fail rate;
 - (v) The quality control plan as described in part (c)9 of this paragraph;
 - (vi) Results of the students' hands-on skills assessments and course tests and a record of each student's course completion certificate;
 - (vii) Any other material not listed above in subparts (i) through (vi) of this part that was submitted to the Commissioner as part of the program's application for accreditation; and
 - (viii) For training courses delivered in an electronic format, a record of each student's log-ins, launches, progress, and completion, and a copy of the online learning completion certificate for each student.
2. The training program shall retain these records at the address specified on the training program accreditation application (or as modified in accordance with part 3 of this subparagraph) for a minimum of three years and six months from course completion.
 3. The training program shall notify the Commissioner in writing within 30 days of changing the address specified on its training program accreditation application or transferring the records from that address.
- (k) Amendment of accreditation.
1. A training program must amend its accreditation within 90 days of the date a change occurs to information included in the program's most recent application. If the training program fails to amend its accreditation within 90 days of the date the change occurs, the program may not provide lead-based paint activities training until its accreditation is amended.
 2. To amend an accreditation, a training program must submit a completed "Accreditation Application for Training Providers," signed by an authorized agent of the training provider, noting on the form that it is submitted as an amendment and indicating the information that has changed.
 3. If the amendment includes a new training program manager, any new or additional principal instructor(s), or any new permanent training location(s), the training program is not permitted to provide training under the new training manager or offer courses taught by any new principal instructor(s) or at the new training location(s) until the Commissioner either approves the amendment or 30 days have elapsed since an amendment has been submitted to the Commissioner, whichever occurs earlier, except:
 - (i) If the amendment includes a new training program manager or a new or additional principal instructor who was identified in a training provider accreditation application that the Commissioner has already approved under this paragraph, the training program may begin to provide training under the new training manager or offer courses taught by the new principal instructor on an interim basis as soon as the provider submits the amendment to the Commissioner. The training program may continue to provide training under the new training manager or offer courses taught by the new principal instructor if the Commissioner approves the

amendment or if the Commissioner does not disapprove the amendment within 30 days.

- (ii) If the amendment includes a new permanent training location, the training program may begin to provide training at the new permanent training location on an interim basis as soon as the provider submits the amendment to the Commissioner. The training program may continue to provide training at the new permanent training location if the Commissioner approves the amendment or if the Commissioner does not disapprove the amendment within 30 days.

(5) Certification of Individuals and Firms Engaged in Lead-Based Paint Activities: Target Housing and Child-Occupied Facilities.

(a) Certification of Individuals.

1. Individuals seeking certification by the Commissioner to engage in lead-based paint activities must:
 - (i) Either:
 - (I) Submit to the Commissioner an application (on forms provided by the Division) demonstrating that they meet the requirements established in subparagraph (b) of this paragraph for the particular discipline(s) for which certification is sought along with the appropriate application fees in accordance with paragraph (10) of this rule; or
 - (II) Submit to the Commissioner an application (on forms provided by the Division) with a legible copy of a valid lead-based paint activities certification from EPA or an EPA-authorized state or Indian tribe along with the appropriate application fees in accordance with paragraph (10) of this rule. Completing the refresher training requirements in subparagraph (c) of this paragraph and passing the national certification exam may be required prior to certification based upon the Commissioner's evaluation of submitted documents;
 - (ii) Submit to the Commissioner a standard color passport photograph with each application for the lead-based paint activity discipline for which certification is sought, and
 - (iii) Submit an attestation and documentation complying with the requirements of the Eligibility Verification for Entitlements Act, codified at T.C.A. Title 4, Chapter 58, Part 1.
2. Following the submission of a complete application demonstrating, to the Commissioner's satisfaction, that all the requirements of this paragraph have been met, the Commissioner shall certify an applicant as an inspector, risk assessor, supervisor, project designer, abatement worker, or combination thereof, as applicable.
3. Upon receiving the Commissioner's certification, individuals conducting lead-based paint activities shall comply with the work practice standards for performing the appropriate lead-based paint activities established in paragraph (6) of this rule.
4. It shall be a violation of this rule for an individual to conduct any of the lead-based paint activities described in paragraph (6) of this rule if that individual has not been certified to do so by the Commissioner.
5. Unless the Commissioner revokes, suspends, or refuses to renew the certification of an individual engaged in lead-based paint activities, certification shall be valid for three years. The expiration date shall be three years from the last day of the calendar month of issuance.

(b) Inspector, Risk Assessor, Supervisor, Project Designer, or Abatement Worker.

1. To become certified by the Commissioner as an inspector, risk assessor, supervisor, project designer, or abatement worker, pursuant to subpart (a)1(i) of this paragraph, an individual must:
 - (i) Successfully complete an accredited course in the appropriate discipline, including passage of the course exam, and receive a course completion certificate from an EPA, or an EPA authorized state or Indian tribe accredited training program;
 - (ii) Except for the abatement worker, pass the national certification exam in the appropriate discipline offered by the Commissioner; and
 - (iii) Meet or exceed the following requirements:
 - (I) Inspectors: no additional experience or education requirements.
 - (II) Risk assessors:
 - I. Successful completion of an accredited training course for inspectors; and
 - II. Bachelor's degree and one year of experience in a related field (e.g., lead, asbestos, environmental remediation work, or construction), or an associate's degree and two years of experience in a related field (e.g., lead, asbestos, environmental remediation work, or construction); or
 - III. Certification as an industrial hygienist, professional engineer, registered architect, or certification in a related engineering/health/environmental field (e.g., safety professional, environmental scientist); or
 - IV. A high school diploma (or equivalent), and at least three years of experience in a related field (e.g., lead, asbestos, environmental remediation work or construction).
 - (III) Supervisors:
 - I. One year of experience as a certified lead-based paint abatement worker; or
 - II. At least two years of experience in a related field (e.g., lead, asbestos, or environmental remediation work) or in the building trades.
 - (IV) Project designers:
 - I. Successful completion of an accredited training course for supervisors;
 - II. Bachelor's degree in engineering, architecture, or a related profession, and one year of experience in building construction and design or a related field; or
 - III. Four years of experience in building construction and design or a related field.
 - (V) Abatement workers: no additional experience or education requirements.

2. Applicants for certification shall submit proof satisfactory to the Commissioner of meeting

the requirements of this subparagraph, including but not limited to the following documents:

- (i) Official academic transcripts or diploma, as evidence of meeting the education requirements;
- (ii) Resumes, letters of reference, or documentation of work experience, as evidence of meeting the work experience requirements; and
- (iii) Course completion certificates from lead-specific or other related training courses, issued by accredited training programs, as evidence of meeting the training requirements.

3. In order to take the national certification exam for a particular discipline, an individual must:

- (i) Successfully complete an accredited course in the appropriate discipline, which includes passing the course exam, and receive a course completion certificate from an accredited training program; and
- (ii) Meet or exceed the education and/or experience requirements in subpart 1(ii) of this subparagraph.

4. After passing the appropriate national certification exam and submitting an application demonstrating, to the Commissioner's satisfaction, that the individual meets all applicable training, education, and experience prerequisites established in part 1 of this subparagraph, the Division shall issue a photo identification certification card to the individual. To maintain certification, an individual must be re-certified as described in subparagraph (c) of this paragraph.

5. An individual may take the Commissioner's national certification exam no more than three times within six months of receiving a course completion certificate.

6. If an individual does not pass the certification exam and receive a certificate with six months of receiving the individual's course completion certificate, the individual must retake the appropriate course from an accredited training program before reapplying for certification from the state.

(c) Re-certification of individuals.

1. To maintain certification in a particular discipline, a certified individual shall apply to and be re-certified in that discipline by the Commissioner every three years.

2. To obtain re-certification, an individual previously certified by the Commissioner shall:

- (i) Successfully complete the appropriate accredited refresher training course or courses within one year prior to the expiration date of their current certification;
- (ii) Submit to the Commissioner a complete re-certification application with a legible copy of the lead-based paint refresher training course completion certificate at least 60 days prior to the expiration of certification;
- (iii) Submit to the Commissioner a standard color passport photograph with an application for each lead-based paint discipline for which re-certification is sought; and
- (iv) Submit the appropriate application fee in accordance with paragraph (10) of this rule.

3. A risk assessor must timely complete the refresher courses for both inspectors and risk assessors to be re-certified.

4. A project designer shall timely complete the refresher courses for both supervisors and

project designers to be re-certified.

(d) Certification of firms.

1. All firms that perform or offer to perform any of the lead-based paint activities described in paragraph (6) of this rule shall be certified by the Commissioner.
2. A firm seeking certification shall submit to the Commissioner an application on forms provided by the Division, the appropriate application fees in accordance with paragraph (10) of this rule, and a letter attesting that the firm will only employ appropriately certified employees to conduct lead-based paint activities and that the firm and its employees will follow the work practice standards in paragraph (6) of this rule for conducting lead-based paint activities. The application shall include, but not be limited to:
 - (i) The name of the firm;
 - (ii) The firm's federal employer identification number, if applicable;
 - (iii) If the firm is an individual, a general partnership, or other business entity where individuals hold the right to all or part of the certification, the names and Social Security Numbers of each individual or general partner;
 - (iv) Contact information for the firm, including the firm's phone number, fax number, email address, and mailing address;
 - (v) A list of any environmental non-compliance actions taken against the firm, the date of such actions, and the state where such actions occurred;
 - (vi) If the firm is an individual, general partnership, or other business entity where individuals hold the right to all or part of the certification, an attestation and documentation for each such individual complying with the requirements of the Eligibility Verification for Entitlements Acts, codified at T.C.A. Title 4, Chapter 58, Part 1; and
 - (vii) All other documentation as may be reasonably requested by the Commissioner to determine whether such application shall be granted or denied.
3. From the date of receiving the firm's complete application requesting certification, the Commissioner shall have 90 days to approve or disapprove the firm's request for certification. Within that time, the Commissioner shall respond with either a Certificate of Approval or a letter describing the reasons for disapproval.
4. The firm shall maintain all records pursuant to the requirements in paragraph (6) of this rule.
5. Firms applying for re-certification must submit the documents described in part 2 of this subparagraph and appropriate fees described in paragraph (10) of this rule.
6. Firms may first apply to the Commissioner for certification to engage in lead-based paint activities pursuant to this paragraph on or after the effective date of this rule.
7. Unless the Commissioner revokes or suspends the certification of a firm engaged in lead-based paint activities, certification shall be valid for three years. The certification expiration date shall be three years from the last day of the month of issuance.

(e) Violations for individuals.

1. It shall be a violation of this chapter for any individual to have:
 - (i) Obtained training documentation through fraudulent means;

- (ii) Gained admission to and completed an accredited training program through misrepresentation of qualifications for admission;
- (iii) Obtained certification through misrepresentation of the individual's education, training, professional registration, or experience;
- (iv) Performed work requiring certification at a job site without being in physical possession of a valid photo identification certification card;
- (v) Permitted the duplication or use of the individual's certificate by another person;
- (vi) Performed work for which certification is required, but for which the appropriate certification had not been received at that time;
- (vii) Failed to comply with the appropriate work practice standards for lead-based paint activities in paragraph (6) of this rule;
- (viii) Failed to comply with federal, State, or local lead-based paint statutes or regulations;
- (ix) Been convicted of an environmental felony or found liable in a civil proceeding that involves violations of any state or federal regulation or law designed to protect human health or the environment; or
- (x) An environmental history that demonstrates an unwillingness or inability to maintain compliance with environmental statutes or regulations.

2. In addition to an administrative or judicial finding of violation, for purposes of this chapter only, execution of a consent or settlement agreement in settlement of an enforcement action constitutes evidence of a failure to comply with relevant statutes or regulations.

(f) Violations for firms.

1. It shall be a violation of this chapter for any firm to have:

- (i) Performed work requiring certification at a job site with individuals who are not certified;
- (ii) Failed to comply with the work practice standards established in paragraph (6) of this rule;
- (iii) Misrepresented facts in its letter of application for certification to the state;
- (iv) Failed to maintain required records;
- (v) Failed to comply with federal, State, or local lead-based paint statutes or regulations;
- (vi) An environmental history that demonstrates an unwillingness or inability to maintain compliance with environmental statutes or regulations;
- (vii) Been convicted of an environmental felony or found liable in a civil proceeding that involves violations of any state or federal regulation designated to protect human health or the environment; or
- (viii) Failed to be actively registered, if required, as a business entity with the Tennessee Secretary of State as required by law.

2. In addition to an administrative or judicial finding of violation, for purposes of this chapter only, execution of a consent agreement in settlement of an enforcement action constitutes evidence of a failure to comply with relevant statutes or regulations.

3. The Commissioner may deny any application for the certification of an individual for any reason set out in subparagraph (e) of this paragraph. The Commissioner may deny any application for the certification of a firm for any reason set out in subparagraph (f) of this paragraph.

- (g) Procedures for suspension, revocation, or modification of the certification of individuals or firms.

Any revocation, suspension, or denial of an application to renew the certification of an individual or firm shall be conducted in accordance with the Uniform Administrative Procedures Act, T.C.A. Title 4, Chapter 5, Part 3.

- (h) Unless otherwise specified in writing by the Commissioner:

1. An individual whose certification in a discipline has been suspended must complete any required refresher training courses to renew the suspended accreditation.
2. An individual whose certification in a discipline has been revoked must take any required initial training courses and reapply to become certified again.
3. A firm whose certification has been revoked must reapply for certification after the revocation period ends to become certified again.
4. A firm whose certification has been suspended and the suspension ends prior to the expiration of the firm's certification is not required to do anything to re-activate its certification. However, if the firm's certification expires during the suspension period, the firm must reapply for certification after the suspension ends.

- (6) Work Practice Standards for Conducting Lead-Based Paint Activities: Target Housing and Child- Occupied Facilities.

- (a) Applicability and Terms.

1. All lead-based paint activities shall be performed pursuant to the work practice standards contained in this paragraph.
2. When performing any lead-based paint activity described by the certified individual as an inspection, lead-hazard screen, risk assessment, project design, or abatement, a certified individual must perform that activity in compliance with the appropriate requirements of this paragraph.
3. Documented methodologies that are appropriate for this paragraph are found in the following:
 - (i) The U.S. Department of Housing and Urban Development (HUD) Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing;
 - (ii) The EPA Guidance on Residential Lead-Based Paint, Lead-Contaminated Dust, and Lead-Contaminated Soil;
 - (iii) The EPA Residential Sampling for Lead: Protocols for Dust and Soil Sampling (EPA report number 7474-R-95-001);
 - (iv) Regulations, guidance, methods or protocols issued by states and Indian tribes that have been authorized by EPA;
 - (v) The Enterprise Foundation, Housing Developer Pro specification computer software package; and
 - (vi) Other equivalent methods and guidelines.

4. Clearance levels that are appropriate for the purposes of this paragraph may be found in subpart (f)9(viii) of this paragraph.
- (b) Inspection.
1. An inspection shall be conducted only by a person certified by the Commissioner as an inspector or risk assessor and, if conducted, must be conducted according to the procedures of this subparagraph.
 2. When conducting an inspection, the following locations shall be selected according to documented methodologies and tested for the presence of lead-based paint:
 - (i) In a residential dwelling and child-occupied facility, each component with a distinct painting history and each exterior component with a distinct painting history shall be tested for lead-based paint, except those components that the inspector or risk assessor determines to have been replaced after 1978 or to not contain lead-based paint; and
 - (ii) In a multi-family dwelling or child-occupied facility, each component with a distinct painting history in every common area, except those components that the inspector or risk assessor determines to have been replaced after 1978 or to not contain lead-based paint.
 3. Paint shall be sampled in the following manner:
 - (i) The analysis of paint to determine the presence of lead shall be conducted using documented methodologies that incorporate adequate quality control procedures; and
 - (ii) All collected paint chip samples shall be analyzed according to subparagraph (g) of this paragraph to determine if they contain detectable levels of lead that can be quantified numerically.
 4. The certified inspector or risk assessor shall prepare an inspection report and comply with the project review acknowledgement required in part (k)1 of this paragraph. The inspection report shall include the following information:
 - (i) Date of each inspection;
 - (ii) Address of building;
 - (iii) Date of construction;
 - (iv) Apartment numbers (if applicable);
 - (v) Name, address, and telephone number of the owner or owners of each residential dwelling or child-occupied facility;
 - (vi) Name, signature, and certification number of each certified inspector and risk assessor conducting testing;
 - (vii) Name, address, and telephone number of the certified firm employing each inspector and risk assessor, if applicable;
 - (viii) Each testing method and device and/or sampling procedure employed for paint analysis, including quality control data and, if used, the serial number of any x-ray fluorescence (XRF) device;
 - (ix) Specific locations of each painted component tested for the presence of lead-based paint; and

- (x) The results of the inspection expressed in terms appropriate to the sampling method used.
5. The inspection report required by part 4 of this subparagraph shall be made available to the Commissioner upon request.
- (c) Lead Hazard Screen.
- 1. A lead hazard screen shall be conducted only by a person certified by the Commissioner as a risk assessor.
 - 2. A lead hazard screen shall be conducted as follows:
 - (i) Background information regarding the physical characteristics of the residential dwelling or child-occupied facility and occupant use patterns that may cause lead-based paint exposure to one or more children age six years and under shall be collected.
 - (ii) A visual inspection of the residential dwelling or child-occupied facility shall be conducted to:
 - (I) Determine if any deteriorated paint is present, and
 - (II) Locate at least two dust sampling locations.
 - (iii) If deteriorated paint is present, each surface with deteriorated paint, that is determined, using documented methodologies, to be in poor condition and to have a distinct painting history, shall be tested for the presence of lead.
 - (iv) In residential dwellings, two composite dust samples shall be collected, one from the floors and the other from the windows, in rooms, hallways, or stairwells where one or more children, age six and under, are most likely to come in contact with dust.
 - (v) In multi-family dwellings and child-occupied facilities, in addition to the floor and window samples required in subpart (iv) of this part, the risk assessor shall also collect composite dust samples from common areas where one or more children, age six and under, are most likely to come into contact with dust.
 - 3. Dust samples shall be collected and analyzed in the following manner:
 - (i) All dust samples shall be taken using documented methodologies that incorporate adequate quality control procedures; and
 - (ii) All collected dust samples shall be analyzed according to subparagraph (g) of this paragraph to determine if they contain detectable levels of lead that can be quantified numerically.
 - 4. Paint shall be sampled in the following manner:
 - (i) The analysis of paint to determine the presence of lead shall be conducted using documented methodologies that incorporate adequate quality control procedures; and
 - (ii) All collected paint chip samples shall be analyzed according to subparagraph (g) of this paragraph to determine if they contain detectable levels of lead that can be quantified numerically.
 - 5. The risk assessor shall prepare a lead hazard screen report, which shall include the following information:

- (i) The information required in a risk assessment report as specified in subparagraph (d) of this paragraph, including subparts (d)11(i) through (xiv) of this paragraph, and excluding subparts (d)11(xv) through (xviii) of this paragraph. Additionally, any background information collected pursuant to subpart 2(i) of this subparagraph shall be included in the risk assessment report; and
- (ii) Recommendations, if warranted, for a follow-up risk assessment, and as appropriate, any further actions.

(d) Risk Assessment.

1. A risk assessment shall be conducted only by a person certified by the Commissioner as a risk assessor and in accordance with the procedures of this subparagraph.
2. A visual inspection for risk assessment 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 access other potential lead-based paint hazards.
3. Background information regarding the physical characteristics of the residential dwelling or child-occupied facility and occupant use patterns that may cause lead-based paint exposure to one or more children aged six years and under shall be collected.
4. The following surfaces that are determined, using documented methodologies, to have a distinct painting history, shall be tested for the presence of lead:
 - (i) Each friction surface or impact surface with visibly deteriorated paint; and
 - (ii) All other surfaces with visibly deteriorated paint.
5. In residential dwellings, dust samples (either composite or single surface samples) from the interior windowsill(s) and floor shall be collected and analyzed for lead concentration in all living areas where one or more children, aged six and under, are most likely to come into contact with dust.
6. For multi-family dwellings and child-occupied facilities, the samples required in part 4 of this subparagraph shall be taken. In addition, interior windowsill and floor-dust samples (either composite or single surface samples) shall be collected and analyzed for lead concentration in the following locations:
 - (i) Common areas adjacent to the sampled residential dwelling or child-occupied facility; and
 - (ii) Other common areas in the building where the risk assessor determines that one or more children aged six and under are likely to come into contact with dust.
7. For child-occupied facilities, interior windowsill and floor-dust samples (either composite or single surface samples) shall be collected and analyzed for lead concentration in each room, hallway, or stairwell utilized by one or more children, age six and under, and in other common areas in the child-occupied facility where one or more children, age six and under, are likely to come into contact with dust.
8. Soil samples shall be collected and analyzed for lead concentrations in the following locations:
 - (i) Exterior play areas where bare soil is present;
 - (ii) The rest of the yard (i.e., non-play areas) where bare soil is present; and
 - (iii) Drip line/foundation areas where bare soil is present.
9. Any paint, dust, or soil sampling or testing shall be conducted using documented

methodologies that incorporate adequate quality control procedures.

10. Any collected paint chip, dust, or soil samples shall be analyzed according to subparagraph (g) of this paragraph to determine if they contain detectable levels of lead that can be quantified numerically.
11. The certified risk assessor shall prepare a risk assessment report that includes the following information:
 - (i) Date of assessment;
 - (ii) Address of each building;
 - (iii) Date of construction of buildings;
 - (iv) Apartment number (if applicable);
 - (v) Name, address, and telephone number of each owner of each building;
 - (vi) Name, signature, and certification of the certified risk assessor conducting the assessment;
 - (vii) Name, address, and telephone number of the certified firm employing each certified risk assessor if applicable;
 - (viii) Name, address, and telephone number of each recognized laboratory conducting analysis of collected samples;
 - (ix) Results of the visual inspection;
 - (x) Testing method and sampling procedure for paint analysis employed;
 - (xi) Specific locations of each painted component tested for the presence of lead;
 - (xii) All data collected from on-site testing, including quality control data and, if used, the serial number of any XRF device;
 - (xiii) All results of laboratory analysis on collected paint, soil, and dust samples;
 - (xiv) Any other sampling results;
 - (xv) Any background information collected pursuant to part 3 of this subparagraph;
 - (xvi) 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;
 - (xvii) A description of the location, type, and severity of identified lead-based paint hazards and any other potential lead hazards; and
 - (xviii) A description of interim controls and/or abatement options for each identified lead-based paint hazard and a 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.

(e) Lead Hazard Reduction Specifications.

1. The abatement and lead hazard reduction specifications shall be unique to each residential dwelling or child-occupied facility and shall be developed before the abatement and lead hazard reduction occurs.

2. The certified supervisor or project designer shall also provide to the project owner, for each specification package, a detailed cost estimate to complete the general requirements, project execution, and the lead hazard reduction and abatement.
3. The abatement and lead hazard reduction project specifications shall be written to include the following information:
 - (i) Date of each project specification;
 - (ii) Address of building;
 - (iii) Name, signature, and certification number of each certified supervisor and/or project designer writing the project specification;
 - (iv) Name, address, and telephone number of the certified firm employing each supervisor and/or project designer, if applicable;
 - (v) Building construction date;
 - (vi) Apartment numbers (if applicable);
 - (vii) General Requirements and Conditions:
 - (I) Description of work;
 - (II) Terminology/definitions;
 - (III) Applicable federal, state, and local regulations, standards and guidelines;
 - (IV) Contractor qualifications and responsibilities;
 - (V) Contractor's employee qualifications
 - (VI) Scheduling of lead hazard reduction;
 - (VII) Worker protection;
 - (VIII) Occupant protection plan; and
 - (IX) Site preparation and levels of protection pursuant to the containment erected;
 - (viii) Products;
 - (ix) Execution:
 - (I) Work area preparation; and
 - (II) Work area containment;
 - (x) Site-Specific Hazard Reduction Measures:
 - (I) Detailed specification and procedures for lead hazard reduction and abatement for each area;
 - (II) Detailed clean-up requirements and clearance testing;
 - (III) Disposal of lead-based paint materials and lead-based paint waste and debris;

- (IV) Contractor's air monitoring and analysis;
 - (V) Medical monitoring;
 - (VI) Logbook; and
 - (VII) Submittals;
 - (xi) Site Lead-based Paint Inspection/Risk Assessment Data Sheets;
 - (xii) Site sketch depicting interior floors, rooms, windows, and exterior construction and structures; and
 - (xiii) Contractor's bid proposal sheet.
- (f) Abatement and Lead Hazard Reductions.
1. An abatement or lead hazard reduction shall be conducted only by firms and individuals certified by the Commissioner and in accordance with the procedures of this subparagraph.
 2. A certified supervisor is required for each abatement project and shall be onsite during all work site preparation and during the post-abatement cleanup of work areas. At all other times when abatement activities are being conducted, the certified supervisor shall be onsite or available by telephone, pager, or answering service and able to be present at the work site in no more than two hours.
 3. The certified supervisor and the certified firm employing that supervisor shall ensure that all abatement activities are conducted according to the requirements of this paragraph and all other federal, state, and local requirements.
 4. The following shall be maintained on site during lead-based paint abatement and lead-hazard reduction activities and be immediately made available for review by the Commissioner:
 - (i) A copy of the project review notification, project review acknowledgement to proceed, and all revisions;
 - (ii) The occupant protection plan;
 - (iii) A copy of the applicable lead-based paint abatement design, risk assessment, and inspection reports;
 - (iv) Photo identification certification card issued by the Commissioner for all certified persons and firms performing lead-based paint activities; and
 - (v) A bound logbook that shall include, but not be limited to, copies of any accident and injury report, results of all air sampling, receipts from the landfill (trip tickets), daily inspection notes concerning any deviation from the standard working procedures, sign-in/sign-out sheets of site visitors and workers, and any other pertinent documents, permits, notification, photographs, and records. The information required to be maintained by this part may be maintained electronically so long as it is available at all times on site and available for review by the Commissioner.
 5. A written occupant protection plan shall be developed for all abatement projects in accordance with the following procedures:
 - (i) The occupant protection plan shall be submitted to the Commissioner at least five days before the commencement of the lead hazard reduction.
 - (ii) The occupant protection plan shall be signed by a principal of the certified firm that

is under contract to perform the lead hazard control and abatement activities and the person who prepared the plan.

- (iii) The occupant protection plan shall be unique to each residential dwelling or child-occupied facility and shall be developed before the abatement. The occupant protection plan shall describe the measures and management procedures that will be taken during the abatement to protect the building occupants from exposure to any lead-based paint hazards. If exterior abatement is being conducted, the plan should also include the protection of persons within 10 feet per building story of the building's exterior.
- (iv) Either a certified supervisor or project designer may prepare the occupant protection plan for a single-family dwelling, a multi-family dwelling with 10 or fewer units, or a child-occupied facility less than or equal to 1200 square feet or a conversion project less than or equal to 1200 square feet.
- (v) Only a certified project designer may prepare the occupant protection plan for multi-family dwellings with 11 or more units or a child-occupied facility equal to or greater than 1201 square feet or a conversion project equal to or greater than 1201 square feet.
- (vi) The occupant protection plan shall contain the work site preparation level of containment as specified in the following tables for interior, exterior, and window treatment lead hazard control activities:

Interior Worksite Preparation Levels (Not Including Windows)				
Description	Level 1	Level 2	Level 3	Level 4
Typical Application (Hazard Controls)	Dust removal and any abatement or interim control method disturbing no more than two square feet of painted surface per room	Any interim control or abatement method disturbing between two and 10 square feet of painted surface per room	Same as Level 2.	Any interim control or abatement method disturbing more than 10 square feet per room.
Time Limit Per Dwelling	One workday.	One workday.	Five workdays.	None.
Resident Location	Inside dwelling, but outside work area. Resident must have lead-safe passage to bathroom, at least one living area, and entry/egress pathways. Alternatively, resident can leave the dwelling during the work day.	Same as Level 1.	Outside the dwelling; but can return in evening after day's work and cleanup are completed. Resident must have safe passage to bathroom, at least one living area, and entry/egress pathways upon return. Alternatively, resident can leave the dwelling until all work is completed.	Outside the dwelling for duration of project; cannot return until clearance has been achieved.
Containment and Barrier System	Single layer of plastic sheeting on floor extending five	Two layers of plastic on entire floor. Plastic sheet	Two layers of plastic on entire floor. Plastic sheet	Two layers of plastic on entire floor. If entire unit is

	feet beyond the perimeter of the treated area in all directions. No plastic sheeting on doorways is required, but a low physical barrier (furniture, wood planking) to prevent inadvertent access by resident is recommended. Children should not have access to plastic sheeting (suffocation hazard).	with primitive airlock flap on all doorways. Doors secured from inside the work area need not be sealed. Children should not have access to plastic sheeting (suffocation hazard).	with primitive airlock flap on all doorways to work areas. Doors secured from inside the work area need not be sealed. Overnight barrier should be locked or firmly secured. Children should not have access to plastic sheeting (suffocation hazard).	being treated, cleaned, and cleared, individual room doorways need not be sealed. If only a few rooms are being treated, seal all doorways with primitive airlock flap to avoid cleaning entire dwelling. Doors secured from inside the work area need not be sealed.
Warning Signs	Required at entry to room but not on building (unless exterior work is also under way).	Same as Level 1.	Posted at main and secondary entryways.	Posted at building exterior near main and secondary entryways.
Ventilation System	Dwelling ventilation system turned off, but vents need not be sealed with plastic if they are more than five feet away from the surface being treated. Negative pressure zones (with "negative air" machines) are not required, unless large supplies of fresh air must be admitted into the work area to control exposures to other hazardous substances (for example, solvent vapors).	Turned off and all vents in room sealed with plastic. Negative pressure zones (with "negative air" machines) are not required, unless large supplies of fresh air must be admitted into the work area to control exposures to other hazardous substances (for example, solvent vapors).	Same as Level 2.	Same as Level 2.
Furniture	Left in place uncovered if furniture is more than five feet from working surface. If within five feet, furniture should be sealed with a single layer of plastic or moved for paint treatment. No covering is required for dust removal.	Removed from work area. Large items that cannot be moved can be sealed with a single layer of plastic sheeting and left in work area.	Same as Level 2.	Same as Level 2.

Cleanup (See Chapter 14 of the U.S. Department of Housing and Urban Development Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing for further discussion of cleanup methods)	HEPA vacuum, wet wash, and HEPA vacuum all surfaces and floors extending 5 feet in all directions from the treated surface. For dust removal work alone, a HEPA vacuum and wet wash cycle is adequate (i.e., no second pass with a HEPA vacuum is needed). Also, wet wash and HEPA vacuum floor in adjacent area (s) used as pathway to work area. Do not store debris inside dwelling overnight; transfer to a locked secure area at the end each day.	HEPA vacuum, wet wash, and HEPA vacuum all surfaces in room. Also, wet wash and HEPA vacuum floor in adjacent area(s) used as pathway to work area. Do not store debris inside dwelling overnight; use a secure locked area.	Remove top layer of plastic from floor and discard. Keep bottom layer of plastic on floor for use on the next day. HEPA vacuum, wet wash, and HEPA vacuum all surfaces in room. Also, wet wash and HEPA vacuum floor in adjacent area(s) used as pathway to work area. Do not store debris inside dwelling overnight; use a secure locked area.	Full HEPA vacuum, wet wash, and HEPA vacuum cycle, as detailed in Chapter 14 of the U.S. Department of Housing and Urban Development Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing.
Dust Sampling	Clearance only.	Clearance only.	One sample collected outside work area every few jobs plus clearance.	Clearance only.

Exterior Worksite Preparation Levels (Not Including Windows)			
Description	Level 1	Level 2	Level 3
Typical Applications	Any interim control or abatement method disturbing less than 10 square feet of exterior painted surface per dwelling. Also includes soil control work.	Any interim control or abatement method disturbing 10 to 50 square feet of exterior painted surface per dwelling. Also includes soil control work.	Any interim control or abatement method disturbing more than 50 square feet of exterior painted surface per dwelling. Also includes soil control work.
Time Limit Per Dwelling	One day.	None.	None.
Resident Location	Inside dwelling but outside work area for duration of project until cleanup has been completed. Alternatively, resident can leave until all work has been completed. Resident must have lead-safe access to entry/egress pathways.	Relocated from dwelling during workday but may return after daily cleanup has been completed.	Relocation from dwelling for duration of project until final clearance is achieved.
Containment and Barrier System	One layer of plastic on ground extending 10 feet beyond the perimeter of	Same as Level 1.	Same as Level 1.

	working surfaces. Do not anchor ladder feet on top of plastic (puncture the plastic to anchor ladders securely to ground). For all other exterior plastic surfaces, protect plastic with boards to prevent puncture from falling debris, nails, etc., if necessary. Raise edges of plastic to create a basin to prevent of unexpected precipitation. Secure plastic to side of building with tape or other anchoring system (no gaps between plastic and building). Weight all plastic sheets down with two-by-fours or similar objects. Keep all windows within 20 feet of working surfaces closed, including windows of adjacent structures.		
Playground Equipment, Toys, Sandbox	Remove all movable items to a 20-foot distance from working surfaces. Items that cannot be readily moved to a 20-foot distance can be sealed with taped plastic sheeting.	Same as Level 1.	Same as Level 1.
Signs	Post warning signs on the building and at a 20-foot perimeter around building (or less if distance to next building or sidewalk is less than 20 feet).	Same as Level 1.	Same as Level 1.
Weather	Do not conduct work if wind speeds are greater than 20 miles per hour. Work must stop and cleanup must occur before rain begins.	Same as Level 1.	Same as Level 1.
Porches	One lead-safe entryway must be made available to residents at all times. Do not treat front and rear porches at the same time if there is not a third doorway.	Front and rear porches cannot be treated at the same time if unprotected workers must use the entryway.	Same as Level 2.
Dust & Soil Sampling	Clearance only.	Clearance only.	Clearance only.
Porches	One lead-safe entryway must be made available to residents at all times. Do not treat front and rear porches at the same time if there is	Front and rear porches cannot be treated at the same time if unprotected workers must use the entryway.	Same as Level 2.

	not a third doorway		
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Window Treatment or Replacement Work Preparation Levels	
Appropriate Applications	Any Window Treatment or Replacement.
Resident Location	Remain inside dwelling but outside work area until project has been completed. Alternatively, can leave until all work has been completed. Resident must have access to lead-safe entry/egress pathway.
Time Limit Per Dwelling	None.
Containment and Barrier System	One layer of plastic sheeting on ground or floor extending five feet beyond perimeter of window being treated/replaced. Two layers of plastic taped to interior wall if working on window from outside; if working from the inside, tape two layers of plastic to exterior wall. If working from inside; implement a minimum Interior Worksite Preparation Level 2. Children cannot be present in an interior room where plastic sheeting is located due to suffocation hazard. Do not anchor ladder feet on top of plastic (puncture the plastic to anchor ladders securely to ground). For all other exterior plastic surfaces, protect plastic with boards to prevent puncture from falling debris, nails, etc. (if necessary). Secure plastic to side of building with tape or other anchoring system (no gaps between plastic and building). Weigh all plastic sheets down with two-by-fours or similar objects. All windows in dwelling should be kept closed. All windows in adjacent dwelling that are closer than 20 feet to the work area should be kept closed.
Signs	Post warning signs on the building and at a 20-foot perimeter around building (or less if distance to next building or sidewalk is less than 20 feet). If window is to be removed from inside, no exterior sign is necessary.
Security	Erect temporary fencing or barrier tape at a 20-foot perimeter around building (or less if distance to next building or sidewalk is less than 20 feet). Use a locked dumpster, covered truck, or locked room to store debris before disposal.
Weather	Do not conduct work if wind speeds are greater than 20 miles per hour. Work must stop and cleanup must occur before rain begins, or work should proceed from the inside only.
Playground Equipment, Toys, Sandbox	Removed from work area and adjacent areas. Remove all items to a 20-foot distance from dwelling. Large, unmovable items can be sealed with taped plastic sheeting.
Cleaning	If working from inside, HEPA vacuum, wet wash, and HEPA vacuum all interior surfaces within 10 feet of work area in all directions. If working from the exterior, no cleaning of the interior is needed, unless the containment is breached. Similarly, no cleaning is needed on the exterior if all work is done on the interior and the containment is not breached. If containment is breached, then cleaning on both sides of the window should be performed. No debris or plastic should be left out overnight if work is not completed. All debris must be kept in a secure area until final disposal.

6. After the commencement of an abatement project, all persons within a containment area shall be lead-based paint abatement personnel certified by the Commissioner.
7. The work practices listed below shall be restricted during an abatement as follows:
 - (i) Open-flame burning or torching of lead-based paint is prohibited;

- (ii) Machine sanding or grinding or abrasive blasting or sandblasting of lead-based paint is prohibited unless used with High Efficiency Particulate Air (HEPA) exhaust control that removes particles of 0.3 microns or larger from the air at 99.97 percent or greater efficiency;
 - (iii) Dry scraping of lead-based paint is permitted only in conjunction with heat guns or around electrical outlets or when treating defective paint spots totaling no more than two square feet in any one room, hallway, or stairwell or totaling no more than 20 square feet on exterior surfaces; and
 - (iv) Operating a heat gun on lead-based paint is permitted only at temperatures below 1100 degrees Fahrenheit.
8. Soil abatement shall be conducted as follows:
- (i) If soil is removed:
 - (I) Removed soil shall be replaced by soil with a lead concentration as close to local background as practicable, but no greater than 400 ppm.
 - (II) Removed soil shall not be used as topsoil at another residential property or child-occupied facility.
 - (ii) If soil is not removed, the soil shall be rendered permanently covered soil.
9. The following post-abatement clearance procedures shall be performed only by a certified inspector or risk assessor:
- (i) Following an abatement, a visual inspection shall be performed by a lead-based paint certified inspector or risk assessor to determine if deteriorated painted surfaces or visible amounts of dust, debris, or residue are still present. If deteriorated painted surfaces or visible amounts of dust, debris, or residue are present, these conditions must be eliminated prior to continuation of the clearance procedures.
 - (ii) Following the visual inspection and any post-abatement cleanup required by subpart (i) of this part, clearance sampling for lead in dust shall be conducted. Clearance sampling may be conducted by employing single-surface sampling or composite sampling techniques.
 - (iii) Dust samples for clearance purposes shall be taken using documented methodologies that incorporate adequate quality control procedures.
 - (iv) Dust samples for clearance purposes shall be taken a minimum of one hour after completion of final post-abatement cleanup activities.
 - (v) The following post-abatement clearance activities shall be conducted as appropriate based upon the extent or manner of abatement activities conducted in or to the residential dwelling or child-occupied facility:
 - (I) After conducting an abatement with containment between abated and unabated areas, one dust sample shall be taken from one interior windowsill and from one window trough (if present) and one dust sample shall be taken from the floors of each of no less than four rooms, hallways, or stairwells within the containment area. In addition, one dust sample shall be taken from the floor outside the containment area. If there are less than four rooms, hallways, or stairwells within the containment area, then all rooms, hallways, or stairwells shall be sampled.
 - (II) After conducting an abatement with no containment, two dust samples shall be taken from each of no less than four rooms, hallways, or stairwells

in the residential dwelling or child-occupied facility. One dust sample shall be taken from one interior windowsill and window trough (if present) of each room, and one dust sample shall be taken from the floor of each room, hallway, or stairwell selected. If there are less than four rooms, hallways, or stairwells within the residential dwelling or child-occupied facility then all rooms, hallways, or stairwells shall be sampled.

- (III) Following an exterior paint abatement, a visible inspection shall be conducted. All horizontal surfaces in the outdoor living area closest to the abated surface shall be found to be cleaned of visible dust and debris. In addition, a visual inspection shall be conducted to determine the presence of paint chips on the drip line or next to the foundation below any exterior surface abated. If paint chips are present, they must be removed from the site and properly disposed of according to all applicable federal, State, and local requirements.
 - (vi) The rooms, hallways, or stairwells selected for sampling shall be selected according to documented methodologies.
 - (vii) The certified inspector or risk assessor shall compare the residual lead level (as determined by the laboratory analysis) from each single surface dust sample with clearance levels in subpart (viii) of this part for lead in dust on floors, interior windowsills, and window troughs or from each composite dust sample with the applicable clearance levels for lead in dust on floors, interior windowsills, and window troughs divided by half the number of subsamples in the composite sample. If the residual lead level in a single surface dust sample equals or exceeds the applicable clearance level or if the residual lead level in a composite dust sample equals or exceeds the applicable clearance level divided by half the number of subsamples in the composite sample, the components represented by the failed sample shall be re-cleaned and retested.
 - (viii) The clearance levels for lead in dust are 10 $\mu\text{g}/\text{ft}^2$ for floors, 100 $\mu\text{g}/\text{ft}^2$ for interior windowsills, and 400 $\mu\text{g}/\text{ft}^2$ for window troughs.
10. In a multi-family dwelling with similarly constructed and maintained residential dwellings, random sampling for the purpose of clearance may be conducted provided:
- (i) The certified individuals who abate or clean the residential dwellings do not know which residential dwelling will be selected for the random sample.
 - (ii) A sufficient number of residential dwellings are selected for dust sampling to provide a 95% level of confidence that no more than 5% or 50 of the residential dwellings (whichever is smaller) in the randomly sampled population exceed the appropriate clearance levels.
 - (iii) The randomly selected residential dwellings shall be sampled and evaluated for clearance according to the procedures found in part 9 of this subparagraph.
11. An abatement report and project specifications shall be prepared by a certified supervisor or project designer for single family dwellings or multi-family dwellings with 10 or fewer units. A certified project designer shall prepare an abatement report and project specifications for child-occupied facilities and multi-family dwellings having 11 or more units. The completed abatement report shall be submitted to the Commissioner no more than 15 days following the completion of the abatement project. Any project specifications shall meet the requirements in part (e)3 of this paragraph. The abatement report shall include the following information:
- (i) Start and completion dates of abatement and a copy of the Project Review Acknowledgement to Proceed obtained from the Commissioner;
 - (ii) The name and address of each certified firm conducting the abatement and the

name of each supervisor assigned to the abatement project;

- (iii) The occupant protection plan prepared pursuant to part 5 of this subparagraph;
- (iv) The name, address, and signature of each certified risk assessor or inspector conducting clearance sampling and the date of clearance testing;
- (v) The results of clearance testing and all soil analyses (if applicable) and the name of each recognized laboratory that conducted the analyses; and
- (vi) A detailed written description of the abatement, including abatement methods used, locations of rooms and components where abatement occurred, the reason for selecting particular abatement methods for each component, and any suggested monitoring of encapsulants or enclosures.

(g) Collection and Laboratory Analysis of Samples.

Any paint chip, dust, or soil sample collected pursuant to the work practice standards contained in this paragraph shall be:

- 1. Collected by persons certified by the Commissioner as an inspector or risk assessor; and
- 2. Analyzed by a laboratory recognized by the National Lead Laboratory Accreditation Program or equivalent and capable of performing analyses for lead compounds in paint chip, dust, and soil samples pursuant to TSCA 15 U.S.C. § 2685(b) laboratory requirements.

(h) Composite Dust Sampling.

Composite dust sampling may only be conducted in the situations specified in subparagraphs (c), (d), and (f) of this paragraph. If such sampling is conducted, the following conditions apply:

- 1. Composite dust samples shall consist of at least two subsamples;
- 2. Every component that is being tested shall be included in the sampling; and
- 3. Composite dust samples shall not consist of subsamples from more than one type of component.

(i) Determinations.

- 1. Lead-based paint is present:
 - (i) On any surface that is tested and found to contain lead equal to or in excess of 1.0 milligrams per square centimeter or equal to or in excess of 0.5% by weight; or
 - (ii) On any surface like a surface tested in the same room equivalent that has a similar painting history and that is found to be lead-based paint.
- 2. A paint-lead hazard is present:
 - (i) On any friction surface that is subject to abrasion and where the lead dust levels on the nearest horizontal surface underneath the friction surface (e.g., the windowsill or floor) are equal to or greater than the dust hazard levels identified in subpart (f)9(viii) of this paragraph; or
 - (ii) On any chewable lead-based paint surface on which there is evidence of teeth marks; or
 - (iii) Where there is any damaged or otherwise deteriorated lead-based paint on an impact surface that is caused by impact from a related building component (such

as a doorknob that knocks into a wall or a door that knocks against its door frame);
or

- (iv) If there is any other deteriorated lead-based paint in any residential building or child-occupied facility or on the exterior of any residential building or child-occupied facility.

3. A dust-lead hazard is present in a residential dwelling or child occupied facility:

- (i) In a residential dwelling on floors and interior windowsills when the weighted arithmetic mean lead loading for all single surface or composite samples of floors and interior windowsills window sills are equal to or greater than 10 $\mu\text{g}/\text{ft}^2$ for floors and 100 $\mu\text{g}/\text{ft}^2$ for interior windowsills, respectively;
- (ii) On floors or interior windowsills in an unsampled residential dwelling in a multi-family dwelling, if a dust-lead hazard is present on floors or interior windowsills, respectively, in at least one sampled residential unit on the property; and
- (iii) On floors or interior windowsills in an unsampled common area in a multi-family dwelling, if a dust-lead hazard is present on floors or interior windowsills, respectively, in at least one sampled common area in the same common area group on the property.

4. A soil-lead hazard is present:

- (i) In a play area when the soil-lead concentration from a composite play area sample of bare soil is equal to or greater than 400 parts per million; or
- (ii) In the rest of the yard when the arithmetic mean lead concentration from a composite sample (or arithmetic mean of composite samples) of bare soil from the rest of the yard (i.e., non-play areas) for each residential building on a property is equal to or greater than 1,200 parts per million.

(j) Recordkeeping.

All reports or plans required in this paragraph shall be maintained on site by the certified supervisor during abatement activities and by the certified firm or individual that prepared the report for no fewer than three years. The certified firm or individual also shall provide copies of these reports to the building owner who contracted for its services.

(k) Notification.

A certified firm must notify the Commissioner of lead-based paint activities as follows:

1. Except as provided in part 2 of this subparagraph, the Commissioner must be notified prior to conducting lead-based paint activities. The original notification must be received by the Commissioner at least five business days before the start date of any lead-based paint activities.
2. Notification for lead-based paint activities required in response to an elevated blood lead level (EBLL) determination, or federal, State, or local emergency abatement order, should be received by the Commissioner as early as possible before, but must be received no later than, the start date of the lead-based paint activities. Should the start date or location provided to the Commissioner change, an updated notification must be received by the Commissioner on or before the start date provided to the Commissioner. Documentation showing evidence of an EBLL determination or a copy of the federal, state, Tribal, or local emergency abatement order must be included in the written notification to take advantage of this abbreviated notification period.
3. Except as provided in part 2 of this subparagraph, updated notification must be provided

to the Commissioner for lead-based paint activities that will begin on a date other than the start date specified in the original notification as follows:

- (i) For lead-based paint activities beginning prior to the start date provided to the Commissioner, an updated notification must be received by the Commissioner at least five business days before the new start date included in the notification.
 - (ii) For lead-based paint activities beginning after the start date provided to the Commissioner, an updated notification must be received by the Commissioner on or before the start date provided to the Commissioner.
4. Except as provided in part 2 of this subparagraph, updated notification must be provided to the Commissioner for any change in location of lead-based paint activities at least five business days prior to the start date provided to the Commissioner.
5. Updated notification must be provided to the Commissioner when lead-based paint activities are canceled or when there are other significant changes including, but not limited to, when the square footage or acreage to be abated changes by more than 20%. This updated notification must be received by the Commissioner on or before the start date provided to the Commissioner, or if work has already begun, within 24 hours of the change.
6. The following must be included in each notification:
 - (i) Notification type (original, updated, cancellation);
 - (ii) Date when lead-based paint activities will start;
 - (iii) Date when lead-based paint activities will end (approximation using best professional judgment);
 - (iv) Firm's name, certification number, address, and telephone number;
 - (v) Type of building (e.g., single family dwelling, multi-family dwelling, child-occupied facilities) on/in which abatement work will be performed;
 - (vi) Property name (if applicable);
 - (vii) Property address including apartment or unit number(s) (if applicable) for abatement work;
 - (viii) If using the abbreviated time period as described in part 2 of this subparagraph, documentation showing evidence of an EBLL determination or a copy of the federal, State, Tribal, or local emergency abatement order;
 - (ix) Name and certification number of the project supervisor;
 - (x) Approximate square footage or acreage to be abated;
 - (xi) Brief description of abatement, risk assessment, inspection, lead hazard screen, lead hazard reduction, and clearance activities to be performed; and
 - (xii) Name, title, and signature of the representative of the certified firm who prepared the notification.
7. Notification must be made by written notification or electronically by such means approved by the Commissioner. Written notification can be accomplished using the Division form titled "Lead-Based Paint Activity Notification," or a successor to that form approved by the Commissioner. All written notification must be delivered by U.S. Postal Service, fax, commercial delivery service, or hand delivery.
8. In the event of changes to the original notification, lead-based paint activities shall not begin

on a date or at location other than that specified in either an original or updated notification.

9. No firm or individual shall engage in lead-based paint activities prior to notifying the Commissioner of such activities according to the requirements of this subparagraph.

(7) Lead-Based Paint Activities Requirements.

Lead-based paint activities shall only be conducted according to the procedures and work practice standards contained in paragraph (6) of this rule. No individual or firm may offer to perform or perform any lead-based paint activity unless properly certified by the Commissioner to perform that activity according to the procedures in paragraph (5) of this rule.

(8) Enforcement and Penalties.

Enforcement of the provisions of these rules and penalties for violations shall be as set forth in these rules and T.C.A. §§ 68-131-404 and 68-131-405.

(9) Inspections.

The Commissioner and the Commissioner's designated staff have the authority to enter any structure, including residences, where lead-based paint activities have occurred, or are being conducted, for the purpose of determining compliance with lead-based paint abatement requirements, provided they either:

- (a) Obtain the consent of the owner or an adult occupant of the premises after presenting credentials identifying themselves as employees of the Department; or
- (b) Apply for and obtain a warrant from a court with jurisdiction, which shall be issued by the court upon a showing of probable cause that the inhabitants of the dwelling are likely to suffer adverse health effects from continued exposure to a lead-based paint hazard.

(10) Fees for Accreditation, Certification, and Registration of Lead-Based Paint Activities.

(a) Purpose.

The purpose of this paragraph is to establish and impose fees for certified individuals and firms engaged in lead-based paint activities and persons operating accredited training programs and lead-based paint project review notifications.

(b) Persons who must pay fees.

Fee amounts in accordance with this paragraph must be paid by:

1. Training programs.

All training programs applying to the Commissioner for the accreditation and re-accreditation of training programs in one or more of the following disciplines: inspector, risk assessor, supervisor, project designer, and abatement worker.

2. Firms and Individuals.

All firms and individuals seeking certification and re-certification from the Commissioner to engage in lead-based paint activities in one or more of the following disciplines: inspector, risk assessor, supervisor, project designer, and abatement worker.

(c) Fee Amounts.

1. Application, project review notification, and other fees under this rule shall be as follows until June 30, 2024:

Training Program	Initial Application Fees	Re-accreditation [Every two years, see Rule
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		0400-13-01-.01(4)(g)1.]
Initial Course		
Inspector	\$2,500	\$800
Risk Assessor	\$1,760	\$575
Supervisor	\$3,250	\$1,025
Worker	\$1,760	\$575
Project designer	\$1,010	\$355
Refresher Course		
Inspector	\$1,010	\$355
Risk Assessor	\$1,010	\$355
Supervisor	\$1,010	\$355
Worker	\$1,010	\$355
Project designer	\$640	\$245
Lead-based Paint Activities-Individual		
	Certification	Annual Registration Renewal
Inspector	\$200	\$ 100
Risk assessor	\$250	\$ 125
Supervisor	\$200	\$ 100
Worker	\$60	\$30
Project designer	\$300	\$ 150
Lead-based Paint Activities-Firm		
	Certification	Annual Registration Renewal
Firm	\$ 500	\$ 300
		Re-certification [every three years, see Rule 0400-13-01-.01(5)(c)1 for details.]
		Certification Renewal [every three years, see Rule 0400-13-01-.01(5)(d)7.]
		\$ 500

2. Application, project review notification, and other fees under this rule shall be as follows beginning July 1, 2024:

Training Program	Initial Application Fees	Re-accreditation [Every two years, see Rule 0400-13-01-.01(4)(g)1.]
Initial Course		
Inspector	\$4,150	\$1,350
Risk Assessor	\$2,900	\$1,350
Supervisor	\$5,400	\$1,675
Worker	\$2,900	\$1,350
Project designer	\$1,600	\$580
Refresher Course		
Inspector	\$1,300	\$800
Risk Assessor	\$1,300	\$800
Supervisor	\$1,300	\$800
Worker	\$1,300	\$800
Project designer	\$1,000	\$400
To Change or Add an individual as the Training Manager or Principal Instructor(s)		
	\$250	
Lead-Based Paint Activities – Individuals		
	Application Fees	Re-certification [every three years, see Rule 0400-13-01-.01(5)(c)1 for details.]
Inspector	\$675	\$675
Risk assessor	\$850	\$850
Supervisor	\$675	\$675

Worker	\$200	\$200
Project designer	\$1,000	\$1,000
Certification ID Card Replacement	\$50	

Lead-Based Paint Activities Certification – Firm	Application Fees	Certification Application Fees for Firms [Every three years in accordance with Rule 0400-13-01-.01(5)(d)7.]
Lead-Based Paint Activity Firm	\$1,850	\$1,850
Replacement Firm Certificate	\$150	

Lead-Based Paint Activities – Project Review Notification Fee		
Abatement Type	Project Contract Cost	Project Review Notification Fee
All types of abatement in single family, multi-family, and child-occupied facilities	All abatement project costs	0.02 times project contract cost
Amended/revise project notification for all types of abatement in single family, multi-family and child-occupied facilities	All abatement project costs	\$50
All Lead-Based Paint inspections, risk assessments, occupant protection, plans, clearance sampling, and project specifications	Not applicable	No Fee

3. National Certification Exam Fee.

Individuals required to take a national certification exam in accordance with paragraph (5) of this rule will be assessed a fee of \$70 for each exam attempt.

4. Lost Certification Identification Card or Certificate.

A \$50 fee shall be charged for replacement of a registration card or a photo identification certification card or certificate.

(d) Photo Identification Certification Card or Certificate Replacement.

1. Parties seeking a photo identification certification card or a Certificate replacement shall complete the applicable portions of the appropriate application in accordance with the instructions provided. The appropriate applications are:

- (i) Individuals. “Application to Conduct Lead-based Paint Abatement Activities.”
- (ii) Firms. “Application to Conduct Lead-based Paint Abatement Activities.”
- (iii) Training Programs. “Accreditation Application for Training Programs.”

2. Submit application and payment in the amount specified in subparagraph (c) of this paragraph in accordance with the instructions provided with the application package.

(11) Reciprocity.

The Commissioner will seek to establish written reciprocal arrangements with other EPA-authorized states and Indian tribes that have established training program accreditation and individual certification requirements that meet or exceed the requirements of EPA outlined in 40 C.F.R. Part 745 Subpart L –Lead-Based Paint Activities and these rules. A training program reciprocity agreement may address cooperation in the approval determination, the review (inclusive of conducting record and course audits and compliance monitoring) of training programs, instructors, student testing, and examination administration, curriculum development, policy formulation, and the exchange of information and data. The Commissioner may grant accreditation of training programs and certification of individuals based on a reciprocity agreement provided the training program and individual completes the application process and payment of corresponding fees outlined in paragraph (10) of this rule. In addition, eligible servicemembers and spouses of servicemembers may secure accreditation in accordance with the provisions of T.C.A. § 4-3-1304(d) and 50 U.S.C. § 4025a (January 5, 2023).

Authority: T.C.A. §§ 11-1-101, 68-131-401 et seq., and 4-5-201 et seq.

0400-13-01-.02 Lead-Based Paint Hazards.

(1) Scope and Applicability.

- (a) This rule identifies lead-based paint hazards.
- (b) The standards for lead-based paint hazards in this rule apply to target housing and child-occupied facilities.
- (c) Nothing in this rule requires the owner of one or more properties subject to these standards to evaluate the property or properties for the presence of lead-based paint hazards or to take any action to control these conditions if one or more hazards is identified.
- (d) Identification of the lead hazards as defined on and after the effective date of this rule shall be disclosed to the property owner and occupants of the target housing and child-occupied facility.

(2) Definitions.

In addition to the definitions in Rule 0400-13-01-.01, the following definitions apply to this rule, unless otherwise specified:

“Wipe sample” means a sample collected by wiping a representative surface of known area, as determined by ASTM E1728, "Standard Practice for Field Collection of Settled Dust Samples Using Wipe Sampling Methods for Lead Determination by Atomic Spectrometry Techniques, or equivalent method, with an acceptable wipe material as defined in ASTM E 1792, "Standard Specification for Wipe Sampling Materials for Lead in Surface Dust", or equivalent method.

(3) Lead-Based Paint Hazards.

- (a) A paint-lead hazard is any of the following:
 - 1. Any lead-based paint on a friction surface that is subject to abrasion and where the lead dust levels on the nearest horizontal surface underneath the friction surface (e.g., the windowsill or floor) are equal to or greater than the dust-lead hazard levels identified in subparagraph (b) of this paragraph.
 - 2. Any damaged or otherwise deteriorated lead-based paint on an impact surface that is caused by impact from a related building component, such as a doorknob that knocks into a wall or a door that knocks against its door frame.
 - 3. Any chewable lead-based painted surface on which there is evidence of teeth marks.
 - 4. Any other deteriorated lead-based paint in any residential building or child-occupied facility or on the exterior of any residential building or child-occupied facility.

- (b) A dust-lead hazard is surface dust in a residential dwelling or child-occupied facility that contains a mass-per-area concentration of lead equal to or exceeding 10 µg/ft² on floors or 100 µg/ft² on interior windowsills based on wipe samples.
- (c) A soil-lead hazard is bare soil on residential real property or on the property of a child-occupied facility that contains total lead equal to or exceeding 400 parts per million (µg/g) in a play area or average of 1,200 parts per million of bare soil in the rest of the yard based on soil samples.
- (d) Applicable work practice standards and certification, occupant protection, and clearance requirements are found in Rule 0400-13-01-.01. The work practice standards in that rule do not apply when treating paint-lead hazards of less than:
 - 1. Two square feet of deteriorated lead-based paint per room or equivalent,
 - 2. Twenty square feet of deteriorated paint on the exterior building, or
 - 3. Ten percent of the total surface area of deteriorated paint on an interior or exterior type of component with a small surface area.

Authority: T.C.A. §§ 11-1-101, 68-131-401 et seq., and 4-5-201 et seq.

0400-13-01-.03 Residential Property Renovation

(1) Purpose and Applicability.

- (a) The purpose of this rule is to require each person who performs a renovation of target housing for compensation to provide a lead hazard information pamphlet to the owner and occupant of such housing prior to commencing the renovation.
- (b) Except as provided in subparagraph (c) of this paragraph, this rule applies to all renovations of target housing performed for compensation.
- (c) This rule does not apply to renovation activities that are limited to the following:
 - 1. Minor repair and maintenance activities.
 - 2. Emergency renovation operations.
 - 3. Renovations in target housing in which a written determination has been made by an inspector (certified by the Commissioner pursuant to paragraph (5) of Rule 0400-13-01-.01) that the components affected by the renovation are free of 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, where the renovator has obtained a copy of the determination.

(2) Definitions

In addition to the definitions in Rule 0400-13-01-.01, the following definitions apply to this rule, unless otherwise specified:

“The Act” means T.C.A. Title 68, Chapter 131, Part 4, Tennessee Lead-Based Paint Abatement Certification Act.

“Child-occupied facility” means a building or portion of a building, constructed prior to 1978, visited regularly by the same child, under six years of age, on at least two different days within any week (Sunday through Saturday period), provided that each day’s visit lasts at least three hours and the combined weekly visits last at least six hours, and the combined annual visits last at least 60 hours. Child-occupied facilities may include, but are not limited to, day care centers, preschools, and kindergarten classrooms. Child-occupied facilities may be located in target housing or in public or commercial buildings. With respect to common areas in public or commercial buildings that contain child-occupied facilities, the child-occupied facility encompasses only those common areas that are routinely used by children under age six, such as

restrooms and cafeterias. Common areas that children under age six only pass through, such as hallways, stairways, and garages are not included. In addition, with respect to exteriors of public or commercial buildings that contain child-occupied facilities, the child-occupied facility encompasses only the exterior sides of the building that are immediately adjacent to the child-occupied facility or the common areas routinely used by children under age six.

“Compensation” means payment for services rendered in the form of money, goods, or services and bartering.

“Emergency renovation operation” means renovation activities, such as operations necessitated by non-routine failures of equipment, that were not planned but result from a sudden, unexpected event that, if not immediately attended to, presents a safety or public health hazard, or threatens equipment and/or property with significant damage.

“Lessee” means any entity that enters into an agreement to lease, rent, or sublease target housing, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes, and nonprofit organizations.

“Minor repair and maintenance activities” are activities, including minor heating, ventilation or air conditioning work, electrical work, and plumbing, that disrupt six square feet or less of painted surface per room for interior activities or 20 square feet or less of painted surface for exterior activities where none of the work practices prohibited or restricted by subparagraph (6)(f) of Rule 0400-13-01-.01 are used and where the work does not involve window replacement or demolition of painted surface areas. When removing painted components, or portions of painted components, the entire surface area removed is the amount of painted surface disturbed. Jobs, other than emergency renovations, performed in the same room within the same 30 days must be considered the same job for the purpose of determining whether the job is a minor repair and maintenance activity.

“Multi-family housing” means a housing property consisting of more than four dwelling units.

“Pamphlet” means the EPA pamphlet developed under 15 U.S.C. § 2686(a) for use in complying with this and other rulemakings under TSCA 15 U.S.C. § 2686(b) and the Residential Lead-Based Paint Hazard Reduction Act, or any state or Tribal pamphlet approved by EPA pursuant to 40 C.F.R. § 745.326 that is developed for the same purpose. This includes reproductions of the pamphlet when copied in full and without revision or deletion of material from the pamphlet (except for the addition or revision of state or local sources of information.)

“Renovator” means an individual who either performs or directs workers who perform renovations. A certified renovator is a renovator who has successfully completed a renovator course accredited by EPA or an EPA-authorized state or Tribal program.

“Residential dwelling” means:

- (a) A single-family dwelling, including attached structures such as porches and stoops; or
- (b) A single-family dwelling unit in a structure that contains more than one separate residential dwelling unit, and in which each such unit is used or occupied, or intended to be used or occupied, in whole or in part, as the residence of one or more persons.

(3) Information Distribution Requirements.

(a) Renovation of Dwelling Units.

No more than 60 days before beginning renovation activities in any residential dwelling unit of target housing, the renovator shall:

1. Provide the owner of the unit with the pamphlet, and comply with one of the following:
 - (i) Obtain, from the owner, a written acknowledgment that the owner has received the pamphlet; or

(ii) Obtain a certificate of mailing at least seven days prior to the renovation.

2. In addition to the requirements in part 1 of this subparagraph, if the owner does not occupy the dwelling unit, provide an adult occupant of the unit with the pamphlet, and comply with one of the following:

(i) Obtain, from the adult occupant, a written acknowledgment that the occupant has received the pamphlet; or certify in writing that a pamphlet has been delivered to the dwelling and that the renovator has been unsuccessful in obtaining a written acknowledgment from an adult occupant. Such certification must include the address of the unit undergoing renovation, the date and method of delivery of the pamphlet, names of the persons delivering the pamphlet, reason for lack of acknowledgment (e.g., occupant refuses to sign, no adult occupant available), the signature the renovator, and the date of signature; or

(ii) Obtain a certificate of mailing at least seven days prior to the renovation.

(b) Renovations in Common Areas.

No more than 60 days before beginning renovation activities in common areas of multi-family housing, the renovator shall:

1. Provide the owner with the pamphlet, and comply with one of the following:

(i) Obtain, from the owner, a written acknowledgment that the owner has received the pamphlet; or

(ii) Obtain a certificate of mailing at least seven days prior to the renovation.

2. Notify in writing, or ensure written notification of, each unit of the multi-family housing and make the pamphlet available upon request prior to the start of renovation. Such notification shall be accomplished by distributing written notice to each affected unit. The notice shall describe the general nature and locations of the planned renovation activities; the expected starting and ending dates; and a statement of how the occupant can obtain the pamphlet, at no charge, from the renovator.

3. Prepare, sign, and date a statement describing the steps performed to notify all occupants of the intended renovation activities and to provide the pamphlet.

4. If the scope, locations, or expected starting and ending dates of the planned renovation activities change after the initial notification, the renovator must provide further written notification to the owners and occupants providing revised information on the ongoing or planned activities. This subsequent notification must be provided before the renovator initiates work beyond that described in the original notice.

(c) Written Acknowledgment.

Sample language for acknowledgment is provided in paragraph (6) of this rule. The written acknowledgments required in subparts (a)1(i), (a)2(i), and (b)1(i) of this paragraph shall:

1. Include a statement recording the owner or occupant's name and acknowledging receipt of the pamphlet prior to the start of renovation, the address of the unit undergoing renovation, the signature of the owner or occupant as applicable, and the date of signature;

2. Be either a separate sheet or part of any written contract or service agreement for the renovation; and

3. Be written in the same language as the text of the contract or agreement for the renovation or, in the case of non-owner-occupied target housing, in the same language as the lease or rental agreement or the pamphlet.

(4) Recordkeeping Requirements.

- (a) Renovators shall retain and, if requested, make available to the Commissioner all records necessary to demonstrate compliance with this rule for a period of three years following completion of the renovation activities in target housing.
- (b) Records that must be retained pursuant to subparagraph (a) of this paragraph include (where applicable):
 - 1. Reports certifying that a determination had been made by an inspector, certified pursuant to paragraph (5) of Rule 0400-13-01-.01, that lead-based paint is not present in the area affected by the renovation, as described in paragraph (1) of this rule;
 - 2. Signed and dated acknowledgments of receipt as described in subparts (3)(a)1(i), (3)(a)2(i), (3)(b)1(i), of this rule;
 - 3. Certifications of attempted delivery, as described in subpart (3)(a)2(i) of this rule;
 - 4. Certificates of mailing as described in subparts (3)(a)1(ii), (3)(a)2(ii), and (3)(b)1(ii) of this rule; and
 - 5. Records of notification activities performed regarding common area renovations, as described in parts (3)(b)3 and (3)(b)4 of this rule.

(5) Enforcement and Penalties.

Enforcement of these rules and penalties for violations are set forth in T.C.A. §§ 68-131-404 and 68-131-405.

(6) Acknowledgment and Certification Statements.

(a) Acknowledgment Statement.

- 1. As required under part (3)(c)1 of this rule, acknowledgments shall include a statement of receipt of the pamphlet prior to the start of renovation, the address of the unit undergoing renovation, the signature of the owner or occupant as applicable, and the date of signature.
- 2. The following is a sample of language that could be used for such acknowledgments:

I have received a copy of the pamphlet, *Protect Your Family From Lead In Your Home*, informing me of the potential risk of lead hazard exposure from renovation activity to be performed in my dwelling unit. I received this pamphlet before the work began.

Signature _____

Printed Name _____

Date _____

Unit Address _____

(b) Certification of Attempted Delivery.

- 1. When an occupant is unavailable for signature or refuses to sign the acknowledgment of receipt of the pamphlet, the renovator is permitted (per subpart (3)(a)2(i) of this rule) to certify delivery for each instance. The certification shall include the address of the unit undergoing renovation, the date and method of delivery of the pamphlet, names of the persons delivering the pamphlet, reason for lack of acknowledgment (e.g., occupant refuses to sign, no adult occupant available), the signature of the renovator, and the date of signature.

2. The following is a sample of language that could be used under those circumstances:

(i) Refusal To Sign.

I certify that I have made a good faith effort to deliver the pamphlet, *Protect Your Family From Lead In Your Home*, to the unit listed below at the dates and times indicated, and that the occupant refused to sign the acknowledgment. I further certify that I have left a copy of the pamphlet at the unit with the occupant.

Signature _____

Printed Name _____

Date _____

Unit Address _____

Attempted delivery dates and times: _____

(ii) Unavailable For Signature.

I certify that I have made a good faith effort to deliver the pamphlet, *Protect Your Family From Lead In Your Home*, to the unit listed below, and that the occupant was unavailable to sign the acknowledgment. I further certify that I have left a copy of the pamphlet at the unit with the occupant.

Signature _____

Printed Name _____

Date _____

Unit Address _____

Attempted delivery dates and times: _____

(7) Violations.

(a) It is a violation for a renovator to:

1. Fail or refuse to comply with any provision of this rule.
2. Fail or refuse to establish and maintain records required by paragraph (4) of this rule.
3. Fail to or refuse to make available to the Commissioner records as required by this rule.
4. Fail to or refuse to permit the Commissioner access to records as required by this rule.
5. Fail to or refuse to permit the Commissioner or the Commissioner's authorized representatives entry or inspection of the business premises of persons and firms engaged in renovation during business hours upon presenting credentials identifying themselves as employees of the department.

Authority: T.C.A. §§ 11-1-101, 68-131-401 et seq., and 4-5-201 et seq.

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Commissioner on 11/14/2023, and in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 05/18/2023

Rulemaking Hearing(s) Conducted on: (add more dates). 07/11/2023

Date: November 14, 2023

Signature: 


Name of Officer: David W. Salyers, P.E.

Title of Officer: Commissioner

Agency/Board/Commission: Commissioner of the Department of Environment and Conservation

Rule Chapter Number(s): 0400-13-01 and 1200-01-18

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.


Jonathan Skrmetti
Attorney General and Reporter
3-4-2024
Date

Department of State Use Only

Filed with the Department of State on: 3/7/2024

Effective on: 6/5/2024


Tre Hargett
Secretary of State

RECEIVED

Mar 07 2024, 1:53 pm

Secretary of State
Division of Publications

Public Hearing Comments

One copy of a document that satisfies T.C.A. § 4-5-222 must accompany the filing.

1. Comment: A commenter believes that investing in more hands-on community outreach and education or training opportunities in the community is critical to developing successful accredited firms. The commenter recommends providing extensive outreach and education to accredited firms when increasing existing fees and implementing new fees, and to explain in more detail the reasons for disciplinary action and penalties before enforcement to ensure buy-in from everyone so that all firms are on the same page.

Response: The Department's Lead Hazard Program readily provides compliance assistance to the regulated community. In addition, the Lead Hazard Program intends to provide several opportunities for interested parties to attend a virtual meeting before and after the amendments become effective to explain the need for the new and increased fees and to answer questions about compliance and enforcement.

2. Comment: The U.S. Department of Justice provided a notification to state licensing authorities regarding professional license portability for servicemembers and their spouses. The Servicemembers Civil Relief Act (SCRA) was signed into law on January 5, 2023, and codified at 50 U.S.C. § 4025a, which applies to states.

Response: We appreciate the notification, and are happy to support our servicemembers and their spouses. The rule contemplates reciprocity agreements with other states. The Tennessee General Assembly previously adopted a similar provision, codified at T.C.A. § 4-3-1304(d), so substantively this does not change the law in Tennessee. However, in the interest of providing clarity and transparency, the final rule is amended to cross-reference both the state requirement and SCRA.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

- (1) The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, or directly benefit from, the proposed rule.

Specifically, the rule impacts 763 lead-based paint certified firms, individuals, and training programs in Tennessee. These entities are small businesses and persons that primarily support the U.S. Department of Housing and Urban Development (HUD) lead hazard control grants managed by Memphis, Knoxville, Chattanooga, and Shelby County.

- (2) The projected reporting, recordkeeping, and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record.

The rules do not add additional reporting, recordkeeping, or other administrative costs.

- (3) A statement of the probable effect on impacted small businesses and consumers.

These amendments update state law to comply with current EPA requirements. Adopting these amendments will allow small businesses in Tennessee to continue working directly with the Department on lead abatement certification and training, instead of going through EPA. These amendments increase existing fees and add new fees to cover added administrative costs and to support the Department's establishment of new on-line capabilities to allow these entities to submit documentation, apply for certification, pay fees, and receive project approvals.

- (4) A description of any less burdensome, less intrusive, or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business.

The purpose and objectives of these rules could not be met through less restrictive means. The Tennessee lead-based paint certification and abatement program is authorized by EPA to administer the program in lieu of EPA. To maintain program authorization, the federal regulations require the state to adopt the revised dust-lead hazard standards and dust-lead clearance levels.

- (5) A comparison of the proposed rule with any federal or state counterparts.

Tennessee is authorized to run the lead-based paint certification and abatement program in the state in lieu of EPA. Other states in the southeast have similar authorized programs. All authorized states are required to adopt the same federal amendments to retain program authorization.

- (6) Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

All businesses, regardless of size, are required by federal law to comply with the certification and work practice standards outlined in federal and state lead-based paint abatement certification regulations and statutes. Thus, an exemption from state law would subject the small businesses to working directly with EPA.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228, "On any rule and regulation proposed to be promulgated, the proposing agency shall state in a simple declarative sentence, without additional comments on the merits for the policy of the rule or regulation, whether the rule or regulation may have a projected financial impact on local governments." The statement shall describe the financial impact in terms of increase in expenditures or decrease in revenues."

These rules will not result in an increase in expenditures or a decrease in revenues for local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A)** A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The Department of Environment and Conservation (TDEC) is transferring Chapter 1200-01-18 Lead-based Paint Abatement to Chapter 0400-13-01, updating some of the existing language to comply with current EPA requirements, and making programmatic changes. The major changes made by these rules are:

- (a) Allowing training programs to offer online refresher training courses, if appropriately accredited;
- (b) Lowering the level at which residential lead contaminated dust must be identified as a hazard, as required to comply with current federal requirements;
- (c) Containing a more thorough listing of reasons for disciplinary action;
- (d) Setting out notification requirements for lead-based paint training courses;
- (e) Creating a requirement that a training program notify the Commissioner of changes, such as designating a new training manager;
- (f) Setting the written requirements for the Occupant Protection Plan; and
- (g) Increasing existing fees and implementing new fees.

- (B)** A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

Two major amendments made by these rules are required to comply with the new federal Dust-Lead Hazard Standards (DHLS) at 40 C.F.R. § 745.227(h)(3)(i) that were effective January 6, 2020, and the new dust-lead clearance levels at 40 C.F.R. § 745.227(e)(8)(viii) that were effective March 8, 2021. The Tennessee lead-based paint certification and abatement program is authorized by EPA to administer the program in lieu of EPA. As an authorized program, Tennessee is required to adopt the federal DHLS and dust-lead clearance levels.

- (C)** Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

The proposed rule changes affect:

- (a) Individuals who conduct lead-based-paint (LBP) activities in accordance with the current work-practice standards;
- (b) Individuals who operate LBP training programs;
- (c) Firms and individuals who must be certified to conduct LBP activities in accordance with the rule;
- (d) Firms and individuals who conduct rehabilitations in pre-1978 target housing receiving federal assistance;
- (e) Entities that operate a laboratory accredited by EPA's National Lead Laboratory Accreditation Program (NLLAP) to analyze samples collected pursuant to these rules;
- (f) Child daycare services located in pre-1978 structures; and
- (g) Elementary and secondary schools with kindergarten classrooms.

TDEC has not received any indication from these entities that they object to the rule amendments.

- (D)** Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

TDEC is not aware of any opinions of the Attorney General and Reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule.

- (E)** An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

The rule is unlikely to lead to an increase or decrease local revenues and expenditures. The increase in certification fees is anticipated to result in an increase of \$40,000 per year in state revenue.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Adrienne White
William R. Snodgrass TN Tower
312 Rosa L. Parks Avenue, 14th Floor,
Nashville, Tennessee 37243;
(615) 532-0885
Adrienne.White@tn.gov.

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Blair Beaty
Legislative Director
Office of General Counsel

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Office of General Counsel
Tennessee Department of Environment and Conservation
William R. Snodgrass Tennessee Tower
312 Rosa L. Parks Avenue, 2nd Floor
Nashville, Tennessee 37243
(615) 253-1965
Blair.Beaty@tn.gov

- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.

- (1) A description of the action proposed, the purpose of the action, the legal authority for the action and the plan for implementing the action.

TDEC is transferring Chapter 1200-01-18 Lead-based Paint Abatement to Chapter 0400-13-01 (where most current environmental rules are located), updating some of the existing language to comply with new EPA requirements, making programmatic changes.

These rules are implemented pursuant to Tennessee Code Annotated Title 11, Chapter 1, Part 1; Title 68, Chapter 131, Part 4; and Title 4, Chapter 5, Part 2.

- (2) A determination that the action is the least-cost method for achieving the stated purpose.

These rules are the least-cost method to adopt the federal dust-lead hazard standards, the federal dust-lead clearance levels, and the other changes in the rule. As an authorized program, the federal regulations require the state to adopt the revised dust-lead hazard standards and dust-lead clearance levels.

- (3) A comparison of the cost-benefit relation of the action to nonaction.

Tennessee is authorized to run the lead-based paint certification and abatement program in the state on behalf of EPA and as a result receives from EPA a \$500,000 grant annually for program operations. Not amending these rules to incorporate the more stringent lead clearance standards will result in Tennessee losing its federal authorization and annual grant. Without program authorization, training providers, firms, and individuals seeking certification for LBP activities would have to seek certification and oversight from EPA directly.

- (4) A determination that the action represents the most efficient allocation of public and private resources.

This action represents the most efficient allocation of public and private resources because these amended rules will enable the regulated entities to continue to receive oversight and the required annual certifications from TDEC.

- (5) A determination of the effect of the action on competition.

These amendments will not adversely impact competition in the marketplace because all persons directly impacted by these rules must comply with EPA's new dust lead hazard standards and clearance levels as incorporated in these rules.

- (6) A determination of the effect of the action on the cost of living in the geographical area in which the action would occur.

The cost of living in Tennessee will not be affected by these amendments.

- (7) A determination of the effect of the action on employment in the geographical area in which the action would occur.

These amendments will not impact employment in the state.

- (8) The source of revenue to be used for the action.

The action can be accommodated with existing resources and the contemplated fee increase.

- (9) A conclusion as to the economic impact upon all persons substantially affected by the action, including an analysis containing a description as to which persons will bear the costs of the action and which persons will benefit directly and indirectly from the action.

This action will result in a health benefit to children aged six and under and women of child-bearing age because it reduces the level at which a residential lead-based paint hazard is identified and the amount of contamination that must be removed following abatement in pre-1978 housing and child-care facilities.

The 763 lead-based paint certified individuals, firms, and training providers will bear the costs of this action, but they also economically benefit from grants made possible pursuant to the certification program. The lead-based paint activities performed by these entities are primarily funded by HUD housing programs, such as:

- Community Development Block Grant (CDBG) administered by the Tennessee Department of Economic and Community Development (ECD), allocation: \$27,760,023.
- HOME Investment Partnerships Program (HOME) administered by Tennessee Housing Development Agency (THDA), allocation: \$12,960,298.
- HUD Lead-Hazard Reduction Program \$16,000,000 in grants to Memphis, Knoxville, Shelby county and Chattanooga.

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Division of Publications
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 Nashville, TN 37243
 Phone: 615-741-2650
 Email: publications.information@tn.gov

For Department of State Use Only

Sequence Number: _____
 Rule ID(s): _____
 File Date: _____
 Effective Date: _____

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission, or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Environment and Conservation
Division:	Solid Waste Management
Contact Person:	Adrienne White
Address:	William R. Snodgrass TN Tower 312 Rosa L. Parks Avenue, 14th Floor Nashville, Tennessee
Zip:	37243
Phone:	(615) 532-0885
Email:	Adrienne.White@tn.gov

Revision Type (check all that apply):

- Amendment
 New
 Repeal
 Content based on previous emergency rule filed on _____
 Content is identical to the emergency rule

Rule(s) (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that ALL new rule and repealed rule numbers are listed in the chart below. Please enter only ONE Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
0400-13-01	Lead-Based Paint Abatement
Rule Number	Rule Title
0400-13-01-.01	Lead-Based Paint Abatement
0400-13-01-.02	Lead-Based Paint Hazards (Subpart D)
0400-13-01-.03	Residential Property Renovation (Subpart E)

Chapter Number	Chapter Title
1200-01-18	Lead-Based Paint Abatement
Rule Number	Rule Title
1200-01-18-.01	Lead-Based Paint Abatement
1200-01-18-.02	Reserved
1200-01-18-.03	Reserved
1200-01-18-.04	Reserved
1200-01-18-.05	Lead-Based Paint Hazards (Subpart D)
1200-01-18-.06	Residential Property Renovation (Subpart E)

Place substance of rules and other info here. Please be sure to include a detailed explanation of the changes being made to the listed rule(s). Statutory authority must be given for each rule change. For information on formatting rules go to <https://sos.tn.gov/products/division-publications/rulemaking-guidelines>.

Chapter 1200-01-18
Lead-Based Paint Abatement

Repeal

Chapter 1200-01-18 Lead-Based Paint Abatement is repealed.

Authority: T.C.A. §§ 11-1-101, 68-131-401 et seq., and 4-5-201 et seq.

Chapter 0400-13-01
Lead-Based Paint Abatement

New Rules

Table of Contents

~~1200-01-18-.01~~ 0400-13-01-.01 Lead-Based Paint Abatement
~~1200-01-18-.02~~ Reserved
~~1200-01-18-.03~~ Reserved
~~1200-01-18-.04~~ Reserved
~~1200-01-18-.05~~ 0400-13-01-.02 Lead-Based Paint Hazards (Subpart D)
~~1200-01-18-.06~~ 0400-13-01-.03 Residential Property Renovation (Subpart E)

~~1200-1-18-.04~~ 0400-13-01-.01 Lead-Based Paint Abatement

- (1) Scope and applicability. ~~[40 CFR 745.220]~~
- (a) This ~~Rule rule~~ contains procedures and requirements for the accreditation of lead-based paint activities training programs, procedures, and requirements for the certification of individuals and firms engaged in lead-based paint activities, and work practice standards for performing such activities. ~~It also requires that certified individuals and firms, except as otherwise stated, as defined in this Rule, shall perform all lead-based paint activities.~~
- (b) This ~~Rule is applicable rule applies~~ to all individuals and firms who are engaged in lead-based paint activities in “target housing” and “child occupied facilities,” as defined in paragraph ~~(4) (3)~~ of this ~~Rule rule~~, except persons who perform these activities within residential dwellings that they own, unless the residential dwelling is occupied by a person or persons other than the owner or the owner’s immediate family while these activities are being performed, or a child residing in the building has been identified as having an elevated blood lead level, as defined in paragraph ~~(4) (3)~~ of this ~~Rule rule~~.
- (c) Each department, agency, and instrumentality of the executive, legislative, and judicial branches of the ~~Federal Government federal government~~, and ~~of the~~ State of Tennessee having jurisdiction over any property or facility, or engaged in any activity resulting, or ~~which that~~ may result, in a lead-based paint hazard, and each officer, agent, or employee thereof, shall be subject to, and comply with all ~~Federal federal~~, State interstate, and local requirements, both substantive and procedural, including the requirements of this ~~Rule rule~~ regarding lead-based paint, lead-based paint activities, and lead-based paint hazards.
- (d) Nothing in this ~~Rule rule~~ requires that the owner or occupant undertake any particular lead-based paint activity.
- (e) Use of Number and Gender – As used in these ~~Rules rules~~:
1. Words in the masculine gender also include the feminine and neuter genders; and

2. Words in the singular include the plural; and
 3. Words in the plural include the singular.
- (f) Rule Structure – These ~~Rules~~ rules are organized, numbered, and referenced according to the following outline form:
- (1) paragraph
 - (a) subparagraph
 1. part
 - (i) subpart
 - (I) item
 - I. subitem
 - A. section
 - (A) subsection

(2) ~~Reserved~~ No person shall perform or represent that such person is qualified to perform any lead-based paint activities without having received the appropriate certification from the Commissioner, unless such person is:

(a) An owner performing abatement upon that person's own residential property;

(b) An employee of a property management company doing routine cleaning and repainting upon property managed by that company, where there is insignificant damage to, wear of, or corrosion of existing lead-containing paint or coating substances; or

(c) An owner routinely cleaning or repainting the owner's property, where there is insignificant damage to, wear of, or corrosion of existing lead-containing paint or coating substances.

~~(3) Reserved~~

~~(4)~~(3) Definitions. ~~[40-CFR-745.223]~~

When used in ~~these rules~~ this chapter, the following terms have the meanings given below unless otherwise specified:

“Abatement” means any measures or set of measures designed to permanently eliminate lead-based paint hazards ~~in “target housing” and “child-occupied facilities”~~. ~~Such term~~ “Abatement” includes but is not limited to:

- (a) The removal of paint and dust, the permanent enclosure or encapsulation of lead-based paint, the replacement of painted surfaces or fixtures, or the removal or permanent covering of soil, when lead-based paint hazards are present in such paint, dust, or soil; and
- (b) All preparation, clean-up, disposal, and post-abatement clearance testing activities associated with such measures.
- (c) Specifically, abatement includes, but is not limited to:
 1. Projects for which there is a written contract or other documentation ~~which that~~ provides that an individual or firm will be conducting activities in or to a residential dwelling or child-occupied facility that:

- (i) Shall result in the permanent elimination of lead-based paint hazards; or
 - (ii) Are designed to permanently eliminate lead-based paint hazards and are described in subparagraphs (a) and (b) of this definition.
2. Projects resulting in the permanent elimination of lead-based paint hazards, conducted by firms or individuals certified in accordance with paragraph ~~(7)(5)~~ of this Rule rule, unless such projects are covered by subparagraph (d) of this definition;
 3. Projects resulting in the permanent elimination of lead-based paint hazards, conducted by firms or individuals who, through their company name or promotional literature, represent, advertise, or hold themselves out to be in the business of performing lead-based paint activities as identified and defined by this paragraph, unless such projects are covered by subparagraph (d) of this definition; or
 4. Projects resulting in the permanent elimination of lead-based paint hazards, that are conducted in response to State or local government abatement orders.
- (d) Abatement does not include renovation, remodeling, landscaping, or other activities, ~~when such activities that~~ are not designed to permanently eliminate lead-based paint hazards, but are instead are designed to repair, restore, or remodel a given structure or dwelling, even though these activities may incidentally result in a reduction or elimination of lead-based paint hazards. Furthermore, abatement does not include interim controls, operations and maintenance activities, or other measures and activities designed to temporarily, but not permanently, reduce lead-based paint hazards.

“Accessible surface” means an interior or exterior surface painted with lead-based paint that is accessible for ingestion by a child ~~6 six~~ years of age or younger.

“Accredited training program” means a training program that has been accredited by the Commissioner pursuant to paragraph ~~(6)(4)~~ of this rule to provide training for individuals engaged in lead-based paint activities in the state of Tennessee.

~~“Act” means Tennessee Code Annotated Section 68-131-401 et seq.~~

“Adequate quality control” means a plan or design ~~which that~~ ensures the authenticity, integrity, and accuracy of ~~lead-based paint~~ samples, including dust, soil, and paint chip or paint film samples. Adequate quality control also includes provisions for representative sampling pursuant to the requirements ~~in of~~ subpart ~~(8)(6)(a)3(iii)~~ of this Rule rule.

“Arithmetic mean” means the algebraic sum of data values divided by the number of data values (e.g., the sum of the concentration of lead in several soil samples divided by the number of samples).

“Authorized ~~State state~~ or Indian ~~Tribe tribe~~” means a State state or Indian Tribe tribe authorized by EPA pursuant to TSCA 15 U.S.C. § 2684 and 40 CFR C.F.R. § 745.324 to administer the Lead-Based Paint Abatement Program ~~TSCA Section 404(a)~~ in lieu of EPA.

“Available” means being present at a ~~work-site, worksite~~ during all abatement, cleaning, and clearance activities.

“Business day” means Monday through Friday with the exception of federal and state holidays.

“Certified abatement worker” means an individual who has been trained as a lead-based paint abatement worker by ~~an the~~ EPA or any EPA authorized state or Indian Tribe tribe accredited training program, and is certified by the Commissioner to perform abatements.

“Certified firm” means a company, partnership, corporation, sole proprietorship, association, or other business entity, that performs lead-based paint activities, to which the Commissioner has issued a certificate of approval pursuant to subparagraph ~~(7)(5)(d)~~ of this Rule rule.

“Certified inspector” means an individual who has been trained as a lead-based paint inspector by ~~an the~~

EPA or any EPA authorized state or Indian ~~Tribe~~ tribe accredited training program, and is certified by the Commissioner to conduct inspections. A certified inspector also samples for the presence of lead in dust and soil for the purposes of abatement clearance testing.

“Certified project designer” means an individual who has been trained as a lead-based paint project designer by ~~an~~ the EPA or any EPA authorized state or Indian ~~Tribe~~ tribe accredited training program, and is certified by the Commissioner to prepare abatement project designs, occupant protection plans, and abatement reports.

“Certified risk assessor” means an individual who has been trained as a lead-based paint risk assessor by the EPA or any EPA authorized state or Indian ~~Tribe~~ tribe accredited training program, and is certified by the Commissioner to conduct risk assessments. A risk assessor also samples for the presence of lead in dust and soil for the purposes of abatement clearance testing.

“Certified supervisor” means an individual who has been trained as a lead-based paint supervisor by the EPA or any EPA authorized state or Indian ~~Tribe~~ tribe accredited training program, and is certified by the Commissioner to supervise and conduct abatements, and to prepare occupant protection plans and abatement reports for a project of 10 or fewer units.

“Child-occupied facility” means a building, or portion of a building constructed prior to 1978, visited regularly by the same child, six ~~(6)~~ years of age or under, on at least two ~~(2)~~ different days within any week (Sunday through Saturday period), provided that each day’s visit lasts at least three ~~(3)~~ hours and the combined weekly visits last at least six ~~(6)~~ hours, and the combined annual visits last at least ~~sixty (60)~~ sixty (60) hours. Child-occupied facilities may include, but are not limited to, day-care centers, ~~pre-schools~~ preschools, and kindergarten classrooms.

“Clearance levels” are values that indicate the maximum amount of lead permitted in dust on a surface following completion of an abatement activity. To achieve clearance when dust sampling is required, values below these levels must be achieved.

“Commissioner” means the Commissioner of the ~~Tennessee~~ Department of Environment and Conservation or ~~his~~ the Commissioner’s authorized representative.

“Common area” means a portion of a building that is generally accessible to all occupants. Such an area may include, but is not limited to, hallways, stairways, laundry and recreational rooms, playgrounds, community centers, garages, and boundary fences.

“Common area group” means a group of common areas that are similar in design, construction, and function. Common area groups include but are not limited to hallways, stairwells, and laundry rooms.

“Completion date” means the date on which all activities on a permitted lead-based paint abatement project requiring the use of certified individuals are complete, including, but not limited to, the complete disassembly of all removal area barriers, final clearance testing, and disposal of all lead-based paint waste.

“Component or building component” means specific design or structural elements or fixtures of a building, residential dwelling, or child-occupied facility that are distinguished from each other by form, function, and location. These include, but are not limited to, interior components such as: ceilings, crown molding, walls, chair rails, doors, door trim, floors, fireplaces, radiators and other heating units, shelves, shelf supports, stair treads, stair risers, stair stringers, newel posts, railing caps, balustrades, windows and trim (including sashes, window heads, jambs, sills, or stools and troughs), built-in cabinets, columns, beams, bathroom vanities, counter-tops, and air conditioners, ~~and~~ These also include, but are not limited to, exterior components such as: painted roofing, chimneys, flashing, gutters, and downspouts, ceilings, soffits, fascias, rake boards, corner boards, bulkheads, doors and door trim, fences, floors, joists, lattice work, railings and railing caps, siding, handrails, stair risers and treads, stair stringers, columns, balustrades, ~~window sills~~ windowsills, or stools and troughs, casings, sashes and wells, and air conditioners.

“Concentration” means the relative content of a specific substance contained within a larger mass, such as the amount of lead (in micrograms per gram or parts per million by weight) in a sample of dust or soil.

“Containment” means a process to protect workers and the environment by controlling exposures to the lead-contaminated dust and debris created during an abatement.

“Course agenda” means an outline of the key topics to be covered during a training course, including the time allotted to teach each topic.

“Course test” means an evaluation of the overall effectiveness of the training that shall test the trainees’ knowledge and retention of the topics covered during the training course.

“Course test blueprint” means written documentation identifying the proportion of course test questions devoted to each major topic in the course curriculum.

“Deteriorated paint” means paint that is cracking, flaking, chipping, ~~chalking~~, peeling, or otherwise separating from the substrate of a building component.

“Discipline” means one of the specific types or categories of lead-based paint activities identified in this ~~Rule rule~~ for which individuals may receive training from accredited training programs and become certified by the Commissioner. For example, “abatement worker” is a discipline.

“Distinct painting history” means the application history, as indicated by its visual appearance or a record of application, over time, of paint or other surface coatings to a component or room.

“Division” means the Department of Environment and Conservation, Division of Solid Waste Management.

“Documented methodologies” are state-of-the-art methods or protocols used to sample for the presence of lead in paint, dust, ~~and or~~ soil.

“Drip line” means the area within three feet surrounding the perimeter of a building.

“Elevated blood lead level” (~~EBL~~) or “EBLL” means an excessive absorption of lead that is a confirmed concentration of lead in whole blood of 20 ug/dl ~~+~~ (micrograms of lead per deciliter of whole blood) for a single venous test or of 15-19 ug/dl in two ~~(2)~~ consecutive tests taken ~~3~~ three to ~~4~~ four months apart.

“Encapsulant” means a substance that forms a barrier between lead-based paint and the environment using a liquid-applied coating (with or without reinforcement materials) or an adhesively-~~bonded~~ covering material.

“Encapsulation” means the application of an encapsulant.

“Enclosure” means the use of rigid, durable construction materials that are mechanically fastened to the substrate ~~in order~~ to act as a barrier between lead-based paint and the environment.

“EPA” means the United States Environmental Protection Agency and its divisions and ~~or~~ sections.

“Friction surface” means an interior or exterior surface that is subject to abrasion or friction, including, but not limited to, certain ~~windows window~~, ~~floors floor~~, and stair surfaces.

“Guest instructor” means an individual designated by the training program manager or ~~principle principal~~ instructor to provide instruction specific to the lecture, hands-on activities, or work practice components of a course.

“Hands-on skills assessment” means an evaluation ~~which that~~ tests the trainees’ ability to satisfactorily perform the work practices and procedures identified in subparagraph (6)(d) of this ~~Rule rule~~, as well as any other skill taught in a training course.

“Hazardous waste” means any waste as defined in subparagraph (1)(c) of Rule 4200-01-11-02(1)(c) 0400-12-01-02.

“Housing for the elderly” means retirement communities or similar types of housing reserved for households composed of one or more persons 62 years of age or more at the time of initial occupancy.

“Immediate family” means an individual’s family members, ~~who include~~ including parents, grandparents, children, grandchildren, or legal guardians.

“Impact surface” means an interior or exterior surface that is subject to damage by repeated sudden force such as certain parts of doorframes.

“Inspection” means a surface-by-surface investigation, conducted by a lead-based paint inspector or risk assessor to determine the presence of lead-based paint and the provision of a report explaining the results of the investigation.

“Interim controls” means a set of measures designed to temporarily reduce human exposure or likely exposure to lead-based paint hazards, including, but not limited to, 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.

“Interior windowsill” means the portion of the horizontal window ledge that protrudes into the interior of the room.

“Last ~~Day~~ day of the ~~Month~~ month” means the last business day (Monday through Friday) of the calendar month, excluding ~~legal~~ State ~~state~~ holidays.

~~“Lead program” means the Tennessee Lead-Based Paint Certification and Abatement Program.~~

“Lead-based paint” means paint or other surface coatings that contain lead equal to or ~~in excess of~~ exceeding 1.0 milligrams per square centimeter (mg/cm²), or more than 0.5 percent by weight.

“Lead-based paint abatement project” means the abatement of lead-based paint ~~from one or more residential dwelling units and/or child-occupied facilities located within the same local government jurisdiction~~ and lead-based paint hazards and submitted under a common project review notification.

“Lead-based paint activities” means, in the case of target housing and child-occupied facilities, inspection, risk assessment, lead-hazard screen, clearance testing, ~~lead-based paint~~ abatement, and lead-hazard reduction as defined in this rule. This does not include renovation, remodeling, landscaping, or other activities, when such activities are not designed to permanently eliminate lead-based paint hazards, but instead are designed to repair, restore, or remodel a structure, even though these activities may incidentally result in a reduction or elimination of lead-based paint hazards.

“Lead-based paint activities courses” or “training courses” means initial and refresher training courses (worker, supervisor, inspector, project designer, or risk assessor) provided by accredited training programs.

“Lead-based paint hazard” means: 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 detailed in Rule 0400-13-01-.02.

~~(a) — Paint Lead Hazard — A paint lead hazard is any of the following:~~

- ~~1. — Any lead-based paint on a friction surface that is subject to abrasion and where the lead dust levels on the nearest horizontal surface underneath the friction surface (e.g., the window sill, or floor) are equal to or greater than the dust lead hazard levels identified in subparagraph (b) of this definition.~~
- ~~2. — Any damaged or otherwise deteriorated lead-based paint on an impact surface that is caused by impact from a related building component (such as a doorknob that knocks into a wall or a door that knocks against its door frame).~~
- ~~3. — Any chewable lead-based painted surface on which there is evidence of teeth marks.~~
- ~~4. — Any other deteriorated lead-based paint in any residential building or child-occupied facility or on the exterior of any residential building or child-occupied facility.~~

~~(b) — Dust Lead Hazard — A dust lead hazard is surface dust in a residential dwelling or child-occupied facility that contains a mass-per-area concentration of lead equal to or exceeding 40 µg/ft² on floors~~

~~or 250 µg/ft² on interior window sills based on wipe samples.~~

~~(c) — Soil-Lead Hazard — A soil lead hazard is bare soil on residential real property or on the property of a child-occupied facility that contains total lead equal to or exceeding 400 parts per million (µg/g) in a play area or average of 1,200 parts per million of bare soil in the rest of the yard based on soil samples.~~

~~(d) — Work Practice Requirements — Applicable certification, occupant protection, clearance requirements, and work practice standards as found in Rule 0400-13-01-.01. The work practice standards in that Rule do not apply when treating paint lead hazards of less than:~~

~~1. — Two square feet of deteriorated lead-based paint per room or equivalent;~~

~~2. — Twenty square feet of deteriorated paint on the exterior building; or~~

~~3. — Ten percent of the total surface area of deteriorated paint on an interior or exterior type of component with a small surface area.~~

“Lead-hazard reduction activities” means the inspection and assessment of lead-based paint hazards; the planning, implementation, and inspection of interim controls; and ~~abatement~~ activities designed to reduce human exposure to lead-based paint hazards through both interim controls and abatement as determined by the Commissioner.

“Lead-hazard screen” is a limited risk assessment activity that involves limited paint and dust sampling as described in subparagraph ~~(8)(6)~~(c) of this Rule rule.

“Living area” means any area of a residential dwelling used by one or more children aged six 6 years and under, including, but not limited to, living rooms, kitchen areas, dens, playrooms, and children’s bedrooms.

“Loading” means the quantity of a specific substance present per unit surface area such as the amount of lead in micrograms contained in the dust collected from a certain surface area divided by the surface area in square feet or square meters.

“Local government” means a county, city, town, borough, parish, district, association, or other public body (including an agency comprised of two or more of the foregoing entities) created under State state law.

“Multi-family dwelling” means a structure that has more than one separate residential dwelling unit, which is used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of one or more persons.

“National certification exam” means an examination prepared by the EPA in a particular discipline that is administered by the Commissioner.

“Occupant” means any entity that has entered into an agreement as a lessee or purchaser of target housing, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes, and nonprofit organizations.

“Occupant ~~Protection Plan~~ protection plan” means a written plan, ~~which that~~ describes the measure and management procedures that will be taken during abatement to protect building occupants from exposure to lead-based paint hazards. The plan shall be unique to each residential dwelling or child-occupied facility. For projects ~~less than ten~~ with 10 or fewer units, the plan shall be prepared by a lead supervisor or project designer. For projects with more than ten ~~or more~~ units, the plan shall be prepared by a lead project designer. The plan shall include the preparer’s signature and certification number.

“Owner” means any entity that has legal title to target housing, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes, and nonprofit organizations, except where a mortgagee holds legal title to property serving as collateral for a mortgage loan, in which case the owner would be the mortgagor.

“Paint in poor condition” means more than ~~ten (10)~~ square feet of deteriorated paint on exterior components with large surface areas; or more than two ~~(2)~~ square feet of deteriorated paint on interior components with

large surface areas (e.g., walls, ceilings, floors, doors); or more than ~~ten percent (10%)~~ of the total surface area of the component is deteriorated on interior or exterior components with small surface areas (~~window sills e.g., windowsills~~, baseboards, soffits, trim).

“Permanently covered soil,” means soil, ~~which that~~ has been separated from human contact by the placement of a barrier consisting of solid, relatively impermeable materials, such as pavement or concrete. Grass, mulch, and other landscaping materials are not considered permanent covering.

“Person” means an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, state, municipality, commission, political subdivision of a state, any interstate body, and governmental agency of this state, and any department, agency, or instrumentality of the executive, legislative, ~~and or~~ judicial branches of the federal government.

“Play area” means an area of frequent soil contact by children six years of age or under as indicated by factors that include, but are not limited to: the presence of play equipment (e.g., sandboxes, swing sets, and sliding boards), toys, or other children’s possessions; observations of play patterns; or information provided by parents, residents, care givers, or property owners.

“Principal instructor” means the individual who has the primary responsibility for organizing and teaching a particular course.

“Project design” means a detailed description of the procedures, processes, and engineering controls that will be used to address the reduction of lead-based paint hazards, protect building occupants from lead exposure, and protect the environment from lead contamination.

“Project owner” means the person paying for the project.

“Reciprocity” means a cooperative interchange of privileges between consenting EPA authorized states ~~or Indian tribes~~.

“Recognized laboratory,” means an environmental laboratory recognized by EPA or the ~~State state~~ pursuant to ~~TSCA section 405~~ TSCA 15 U.S.C. § 2685(b) as being capable of performing an analysis for lead compounds in paint, soil, and dust.

“Reduction” means measures designed to reduce or eliminate human exposure to lead-based paint hazards through methods including interim controls and abatement.

“Renovation” means the modification of any existing structure, or portion thereof, that results in the disturbance of painted surfaces, unless that activity is performed as part of an abatement as defined in this paragraph. The term renovation includes (but is not limited to): the removal, modification, or repair of painted surfaces or painted components (e.g., modification of painted doors, surface restoration, window repair, surface preparation activity (such as sanding, scraping, or other such activities that may generate paint dust)); the removal of building components (e.g., walls, ceilings, plumbing, windows); weatherization projects (e.g., cutting holes in painted surfaces to install blown-in insulation or to gain access to attics, planning thresholds to install weather-stripping); and interim controls that disturb painted surfaces. A renovation performed for the purpose of converting a building, or part of a building, into target housing or a child-occupied facility is a renovation under this subpart. The term renovation does not include minor repair and maintenance activities as defined in paragraph (2) of Rule 0400-13-01-.03.

“Residential building” means a building containing one or more residential dwellings.

“Residential dwelling” means:

- (a) A detached single-family dwelling unit, including attached structures such as porches and stoops; or
- (b) A single-family dwelling unit in a structure that contains more than one separate residential dwelling unit, ~~which that~~ is used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of one or more persons.

“Residential dwelling unit” means a single unit providing complete, independent living facilities for one or

more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation.

~~“Risk assessment” means: (a) an on-site investigation to determine the existence, nature, severity, and location of lead-based paint hazards, and (b) the provision of a report by the individual or the firm conducting the risk assessment, explaining the results of the investigation and options for reducing lead-based paint hazards~~ an on-site investigation, conducted by a person certified by the Commissioner as a risk assessor, to determine and report the existence, nature, severity, and location of lead-based paint hazards in residential dwellings, including:

(a) Information gathering regarding the age and history of the housing and occupancy by children under age six;

(b) Visual inspection;

(c) Limited wipe sampling or other environmental sampling techniques;

(d) Other activity as may be appropriate; and

(e) Provision of a report explaining the results of the investigation.

“Room” means a separate part of the inside of a building, such as a bedroom, living room, dining room, kitchen, bathroom, laundry room, or utility room. To be considered a separate room, the room must be separated from adjoining rooms by built-in walls or archways that extend at least six inches from an intersecting wall. Half walls or bookcases count as room separators if built in. Movable or collapsible partitions or partitions consisting solely of shelves or cabinets are not considered built-in walls. A screened in porch that is used as a living area is a room.

“Soil sample” means a sample collected in a representative location using ASTM E1727, "Standard Practice for Field Collection of Soil Samples for Lead Determination by Atomic Spectrometry Techniques," or equivalent method.

“Start date” means the first day of any lead-based paint activities training course or lead-based paint abatement activity.

“Start date provided to the ~~Division Commissioner~~” means the date included in the original project review notification or the most recent start date provided to the ~~Division Commissioner~~ in an updated notification.

“State” means the State of Tennessee, Department of Environment and Conservation unless otherwise defined or indicated.

“Target housing” means any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any one or more children aged six ~~(6)~~ years or under resides or is expected to reside in such housing for the elderly or persons with disabilities) or any ~~0~~ zero-bedroom dwelling.

~~“Third party certification exam” means a third party examination in a particular discipline, which that is recognized by the Commissioner and administered by an approved third party certification exam administrator.~~

~~“Third party certification exam administrator” means an administrator approved by the Commissioner to conduct third party certification exams.~~

“Training curriculum” means an established set of course topics for instruction in an accredited training program for a particular discipline designed to provide specialized knowledge and skills.

“Training hour” means at least ~~fifty (50)~~ minutes of actual learning, including, but not limited to, time devoted to lecture, learning activities, small group activities, demonstrations, evaluations, ~~and~~/or hands-on experience.

“Training manager” means the individual responsible for administering a training program and monitoring the performance of principal instructors and guest instructors.

“Training program” or “training provider” means any person offering or seeking accreditation to offer lead-based paint activities courses under this rule.

“Train-the-trainer course” means instruction offered by an accredited or approved institution or school of higher learning that provides instructions on procedures, strategies, tools, and curriculum development for training adults.

“TSCA” means the Toxic Substances Control Act, 15 U.S.C. §§ 2601 to 2692.

“Visual inspection for clearance testing” means the visual examination of a residential dwelling or a child-occupied facility following an abatement to determine whether ~~or not~~ the abatement has been successfully completed.

“Visual inspection for risk assessment” means the visual examination of a residential dwelling or a child-occupied facility to determine the existence of deteriorated lead-based paint or other potential sources of lead-based paint hazards.

“Weighted arithmetic mean” means the arithmetic mean of sample results weighted by the number of subsamples in each sample. Its purpose is to give influence to a sample relative to the surface area it represents. A single surface sample is comprised of a single subsample. A composite sample may contain from two to four subsamples of the same area as each other and of each single surface sample in the composite. The weighted arithmetic mean is obtained by summing, for all samples, the product of the sample's result multiplied by the number of subsamples in the sample and dividing the sum by the total number of subsamples contained in all samples. For example, the weighted arithmetic mean of a single surface sample containing 60 µg/ft², a composite sample (three subsamples) containing 100 µg/ft², and a composite sample (4 subsamples) containing 110 µg/ft² is 100 µg/ft². This result is based on the equation $[60+(3*100)+(4*110)]/(1+3+4)$.

“Window trough” means, for a typical double-hung window, the portion of the exterior windowsill between the interior windowsill (or stool) and the frame of the storm window. If there is no storm window, the window trough is the area that receives both the upper and lower window sashes when they are both lowered. The window trough is sometimes referred to as the window “well.”

“Zero-bedroom dwelling” means 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.

~~(5) (Reserved)~~

~~(6)~~(4) Accreditation of Training Programs, Classroom-based and Online Refresher Training Courses: Target Housing and Child-Occupied Facilities. ~~[40 CFR 745.225]~~

(a) Scope.

- ~~1.~~ This rule contains procedures and requirements for the accreditation of lead-based paint activities training programs and lead-based paint courses, refresher training courses, and national certification exams.
- ~~1.2.~~ A training program may seek accreditation to offer lead-based paint activities courses and online refresher courses in any of the following disciplines: ~~Inspector~~ inspector, risk assessor, supervisor, project designer, ~~and or~~ abatement worker. A training program may also seek accreditation to offer classroom-based and online refresher courses for each of the above listed disciplines.
- ~~2.~~ ~~Training programs may first apply to the Commissioner for accreditation of their lead-based paint activities courses or refresher courses pursuant to this paragraph on or after the effective date of this Rule.~~
- ~~3.~~ A training program shall not provide, offer, or claim to provide State-accredited lead-based paint activities courses without applying for and receiving accreditation. No person shall provide, offer, or claim to provide a department-accredited lead-based paint activities

~~course without first applying for and receiving accreditation~~ from the Commissioner as required under subparagraph (b) of this paragraph ~~on or after the effective date of this Rule.~~

~~4. Accredited training programs, training managers, and principal instructors must comply with all requirements of this paragraph including the terms of the application once approved by the Commissioner and all requirements and limitations specified in any accreditation documents issued to the training program by the Commissioner.~~

(b) Application process.

~~The following are procedures a training program shall follow to receive State accreditation to offer lead-based paint activities courses:~~

1. A training program seeking accreditation shall submit a written application to the ~~Division Commissioner~~ containing the following information:

(i) The training program's name, address (headquarters and training site), and telephone number;

(ii) A list of courses for which it is applying for accreditation; ~~For the purposes of this paragraph, courses taught in different languages and online courses are considered different courses, and each course must independently meet the accreditation requirements.~~

~~(iii) The name and documentation of qualifications of the training manager;~~

~~(iv) The name(s) and documentation of qualifications of any principal instructor(s);~~

~~(iii)(v)~~ A statement signed by the training ~~program~~ manager certifying that the training program meets the requirements established in subparagraph (c) of this paragraph. If a training program uses EPA-recommended model training materials, or training materials approved by a ~~State state~~ or Indian ~~Tribe tribe~~ that has been authorized by EPA, the training program manager shall ~~also~~ include a statement certifying that, ~~as well.~~

~~(iv)(vi)~~ If a training program does not use EPA-recommended model training materials or training materials approved by an authorized ~~State state~~ or Indian ~~Tribe tribe~~, its application for accreditation shall also include:

(I) A copy of the student and instructor manuals, or other materials to be used for each course;

(II) A copy of the course agenda for each course; and

~~(III) When applying for accreditation of a course in a language other than English, a signed statement from a qualified, independent translator that the independent translator has compared the course to the English language version and found the translation to be accurate.~~

~~(v)(vii)~~ All training programs shall include in their application for accreditation the following:

(I) A description of the facilities and equipment to be used for lecture and hands-on training;

(II) A copy of the course test blueprint for each course;

(III) A description of the activities and procedures that will be used for conducting the assessment of hands-on skills for each course;

- (IV) A copy of the quality control plan as described in part (c)9 of this paragraph;
- (V) ~~A statement as to~~ Identification of the person who developed or authored the course materials;
- (VI) Starting times and ending times for each day of training, and the total hours of each course; ~~and~~
- (VII) A list of learning objectives for each lecture, exercise, and hands-on activity; ~~and~~
- (VIII) Such other documentation as may be reasonably required by the Commissioner to determine whether an accreditation should be issued under this rule.

- 2. If a training program meets the requirements in subparagraph (c) of this paragraph, then the Commissioner shall approve or disapprove the application for accreditation no more than 180 days after receiving a complete application from the training program. In the case of approval, a certificate of accreditation shall be sent to the applicant. In the case of disapproval, a letter describing the reasons for disapproval shall be sent to the applicant. Prior to disapproval, the ~~Division Commissioner~~ may, at ~~it's~~ the Commissioner's discretion, work with the applicant to address inadequacies in the application for accreditation. The ~~Division Commissioner~~ may also request additional materials retained by the training program under subparagraph ~~(g)(i)~~ of this paragraph. If a training program's application is disapproved, the program may reapply for accreditation at any time by filing a new, complete application that includes the correct application fees.
- 3. A training program may apply for accreditation to offer courses or refresher courses in as many disciplines as it chooses. A training program may seek accreditation for additional courses at any time as long as the program can demonstrate that it meets the requirements of this paragraph.
- 4. A training program applying for accreditation must submit the appropriate application fees in accordance with paragraph ~~(18)(10)~~ of this ~~Rule~~ rule.

(c) Requirements for the accreditation of training programs.

For a training program to obtain accreditation from the Commissioner to offer or conduct lead-based paint activities courses, the program shall meet the following requirements:

- 1. The training program shall employ a training manager who has:
 - (i) At least two ~~(2)~~ years of experience, education, or training in teaching workers or adults; or
 - (ii) A bachelor's or graduate degree in building construction technology, engineering, industrial hygiene, safety, public health, education, business administration or program management or a related field; or
 - (iii) Two ~~(2)~~ years of experience in managing a training program specializing in environmental hazards; and
 - (iv) Demonstrated experience, education, or training in the construction industry including: lead or asbestos abatement, painting, carpentry, renovation, remodeling, occupational safety and health, or industrial hygiene.
- 2. The training manager shall designate a qualified principal instructor for each training course who has:
 - (i) Demonstrated experience, education, or training in teaching workers or adults; ~~and~~

- (ii) Successfully completed at least ~~sixteen (16)~~ hours of any EPA-accredited or EPA-authorized State state or Tribal-accredited lead-specific training; and
 - (iii) Demonstrated experience, education, or training in lead or asbestos abatement, painting, carpentry, renovation, remodeling, occupational safety and health, or industrial hygiene.
3. The designated principal instructor shall be responsible for the organization of the training course and oversight of the teaching of all course material. The training manager may designate guest instructors as needed to provide instruction specific to the lecture, hands-on activities, or work practice components of a course. ~~Guest instructors who provide hands-on/work practice instruction shall meet the same qualifications as the principal instructor. However, the principal instructor is primarily responsible for teaching the course materials and must be present to provide instruction (or oversight of portions of the training course taught by guest instructors) for the training course for which the individual has been designated the principal instructor.~~
4. The documents listed below may be required by the Commissioner to provide evidence that training managers and principal instructors have the education, work experience, training requirements, or demonstrated experience, ~~specifically listed in required by~~ parts ~~(e)~~1 and ~~(e)~~2 of this subparagraph. This documentation shall be submitted with the accreditation application and shall be retained by the training program as required by ~~the recordkeeping requirements contained in~~ subparagraph (g)(j) of this paragraph.
- (i) Official academic transcripts or diploma as evidence of meeting the education requirements;
 - (ii) Resumes, letters of reference, and detailed descriptions of work experience, including the number of and dates of projects and jobs, the size of each project and job, descriptions of tasks performed by the individual, as evidence of meeting the work experience requirements; and the names and telephone numbers of supervisors; and
 - (iii) Certificates from train-the-trainer courses and lead-specific training courses, as evidence of meeting the training requirements.
5. The training program shall ensure the availability of, and provide adequate facilities for, the delivery of the lecture, course test, hands-on training, and assessment activities. This includes providing training equipment that reflects current work practices and maintaining or updating the equipment and facilities as needed.
6. To become accredited in the following disciplines, the training program shall provide training courses that meet the following training hour requirements:
- (i) The inspector course shall last a minimum of ~~twenty-four (24)~~ training hours, with a minimum of eight ~~(8)~~ hours devoted to hands-on training activities. The minimum curriculum requirements for the inspector course are contained in part (d)1 of this paragraph;
 - (ii) The risk assessor course shall last a minimum of ~~sixteen (16)~~ training hours, with a minimum of four ~~(4)~~ hours devoted to hands-on training activities. The minimum curriculum requirements for the risk assessor course are contained in part (d)2 of this paragraph;
 - (iii) The supervisor course shall last a minimum of ~~thirty-two (32)~~ training hours, with a minimum of eight ~~(8)~~ hours devoted to hands-on activities. The minimum curriculum requirements for the supervisor course are contained in part (d)3 of this paragraph;
 - (iv) The project designer course shall last a minimum of eight ~~(8)~~ training hours. The

minimum curriculum requirements for the project designer course are contained in part (d)4 of this paragraph; ~~and~~

- (v) The abatement worker course shall last a minimum of ~~sixteen (16)~~ training hours, with a minimum of eight ~~(8)~~ hours devoted to hands-on training activities. The minimum curriculum requirements for the abatement worker course are contained in part (d)5 of this paragraph; ~~and~~

(vi) Each training course shall require each student to participate in the minimum training hours, including the minimum hours devoted to hands-on training activities.

- 7. For each course offered, the training program shall conduct a course test at the completion of the course, and if applicable, a hands-on skills assessment. Each ~~individual student~~ must successfully complete the hands-on skills assessment and receive a passing score on the course test to pass any course.

- (i) The training manager is responsible for maintaining the validity and integrity of the hands-on skills assessment ~~test~~ to ensure that it accurately evaluates the trainees' performance of the work practices and procedures associated with the course topics contained in subparagraph (d) of this paragraph.

- (ii) The training manager is responsible for maintaining the validity and integrity of the course test to ensure that it accurately evaluates the trainees' knowledge and retention of the course topics.

- (iii) The course test ~~shall~~ must be developed in accordance with the test blueprint submitted with the training accreditation application.

- (iv) Course tests ~~should~~ must have a minimum of ~~twenty-five (25)~~ questions for the worker test and ~~fifty (50)~~ questions for other disciplines.

- (v) To receive a passing score, an individual must correctly answer 70% or more of the course test questions.

- 8. The training program shall issue unique course completion certificates to each individual who passes the training course. The course completion certificate shall include:

- (i) The name, a unique identification number, and address of the individual;
- (ii) The name of the particular course ~~that~~ the individual completed (i.e., initial or refresher plus discipline);
- (iii) Inclusive dates of the training course and the date of test passage;
- (iv) The name, address, and telephone number of the training program;
- (v) The street address of the training site if different from the training program's address;
- (vi) The printed name and signature of the training manager;
- (vii) The language in which the course was taught, if other than English; ~~and~~
- (viii) The date the course was accredited and the name of the agency issuing the accreditation; ~~and~~

(ix) For initial inspector, risk assessor, project designer, supervisor, or abatement worker course completion certificates, the expiration date of the training certificate.

- 9. The training manager shall develop and implement a quality control plan. The plan shall be used to maintain and improve the quality of the training program over time. This plan shall

contain at least the following elements:

- (i) Procedures for periodic revision of training materials and the course test to reflect innovations in the field; and
 - (ii) Procedures for the training manager's annual review of principal instructor competency.
10. ~~The training program shall offer courses, which teach the work practice standards for conducting lead-based paint activities~~ Training courses offered by the training program must teach the work practice standards contained in paragraph ~~(8)(6)~~ (6) of this rule, applicable to the lead-based paint activity being taught and other applicable standards developed by EPA or the Commissioner. ~~These standards shall be taught in the appropriate courses to provide trainees with the knowledge needed to perform the lead-based paint activities they are responsible for conducting such a manner that trainees are provided with the knowledge needed to perform.~~
 11. The training manager shall be responsible for ensuring that the training program complies at all times with all of the requirements in this paragraph.
 12. The training manager shall allow the Commissioner to audit the training program to verify that the contents of the application for accreditation are as described in subparagraph (b) of this paragraph and to monitor compliance with the requirements outlined by this rule.
 - ~~13. The training manager shall provide the Commissioner a copy of the schedule for all training courses related to lead-based paint abatement at least thirty (30) day prior to course commencement.~~
 - ~~14. The training manager shall provide the Commissioner notice of changes in scheduled training courses related to lead-based paint abatement immediately.~~
 - ~~15.~~13. If a training program utilizes materials printed in a language other than English, the Commissioner shall be provided an accurate translation of the materials in English.
 - ~~14.~~ The training manager shall provide the Commissioner notification of the lead-based paint activities courses offered.
 - ~~(i) The original course notification must be received by the Commissioner at least seven business days prior to the start date of any lead-based paint activities course offered.~~
 - ~~(ii) The training manager must provide the Commissioner updated notification when lead-based paint activities courses will begin on a date other than the start dates specified in the original course notification, as follows:~~
 - ~~(I) For lead-based paint activities courses beginning prior to the start date provided to the Commissioner, an updated course notification must be received by the Commissioner at least seven business days before the new start date; and~~
 - ~~(II) For lead-based paint activities courses beginning after the start date provided to the Commissioner, an updated course notification must be received by the Commissioner at least two business days before the start date provided to Commissioner.~~
 - ~~(iii) The training manager must update the Commissioner of any change in location of lead-based paint activities courses at least seven business days prior to the start date provided to the Commissioner.~~
 - ~~(iv) The training manager must update the Commissioner regarding any course cancellations or any other change to the original notification. Updated course~~

notifications must be received by the Commissioner at least two business days prior to the start date provided to the Commissioner.

(v) Each course notification under this part, including updates, must include the following:

(I) Notification type (original, update, cancellation);

(II) Training program name, the accreditation number, address, and telephone number;

(III) Course discipline, type (initial/refresher), and the language in which instruction will be given;

(IV) Date(s) and time(s) of training;

(V) Training location(s), telephone number, and address;

(VI) Principal instructor's name; and

(VII) Training manager's name and signature.

(vi) Notification must be made by written or electronic notification by such means approved by the Commissioner. Written or electronic notification can be accomplished using the Division form titled "Lead-Based Paint Training Notification," or a successor form approved by the Commissioner.

(vii) Lead-based paint activities courses must not begin on a date, or at a location other than that specified in the original notification unless an updated notification identifying a new start date or location is submitted, in which case the course must begin on the new start date and/or location specified in the updated notification.

(viii) No training program shall provide lead-based paint activities courses without first notifying the Commissioner of such activities in accordance with the requirements of this part.

15. The training manager must provide notification following completion of lead-based paint activities courses.

(i) The training manager must provide the Commissioner notification after the completion of any lead-based paint activities course. This notice must be received by the Commissioner no later than 10 business days following course completion.

(ii) The notification must include the following:

(I) Training program name, accreditation number, address, and telephone number;

(II) Course discipline and type (initial/refresher);

(III) Date(s) of training;

(IV) The following information for each student who took the course:

I. Name;

II. Address;

III. Date of birth;

IV. Course completion certificate number;

V. Course test score;

VI. A digital photograph of the student; and

(V) Training manager's name and signature.

(iii) Notification must be made by written or electronic notification by such means approved by the Commissioner. Written or electronic notification can be accomplished using the Division form titled "Lead-Based Paint Training Notification," or a successor form approved by the Commissioner.

(d) Minimum training curriculum requirements.

~~To become accredited to offer lead-based paint courses instruction in the specific disciplines listed below, training programs must ensure that their courses of study include, at a minimum, the following course topics for each. A training program accredited by the Commissioner to offer lead-based paint courses in the specific disciplines listed in this subparagraph must ensure that its courses of study include, at a minimum, the following topics.~~ Requirements ending in an asterisk (*) indicate areas that require hands-on activities as an integral component of the course.

1. Inspector:

- (i) Role and responsibilities of an inspector;
- (ii) Background information on lead and its adverse health effects;
- (iii) Background information on ~~Federal~~ federal, State, and local regulations and guidance that pertains to lead-based paint and lead-based paint activities;
- (iv) Lead-based paint inspection methods, including selection of rooms and components for sampling or testing; *
- (v) Paint, dust, and soil sampling methodologies; *
- (vi) Clearance standards and testing, including random sampling; *
- (vii) Preparation of the final inspection report; and *
- (viii) Recordkeeping.

2. Risk assessor:

- (i) Role and responsibilities of a risk assessor;
- (ii) Collection of background information to perform a risk assessment;
- (iii) Sources of environmental lead contamination such as paint, surface dust and soil, water, air, packaging, and food;
- (iv) Visual inspection for the purposes of identifying potential sources of lead-based paint hazards; *
- (v) Lead hazard screen protocol;
- (vi) Sampling for other sources of lead exposure; *
- (vii) Interpretation of lead-based paint and other lead sampling results, including all applicable State or ~~Federal~~ federal guidance or regulations pertaining to lead-based paint hazards; *

- (viii) Development of hazard control options, the role of interim controls, and operations and maintenance activities to reduce lead-based paint hazards; and *
- (ix) Preparation of a final risk assessment report.

3. Supervisor:

- (i) Role and responsibilities of a supervisor;
- (ii) Background information on lead and its adverse health effects;
- (iii) Background information on ~~Federal~~ federal, State, and local regulations and guidance that ~~pertains~~ pertain to lead-based paint abatement;
- (iv) Liability and insurance issues relating to lead-based paint abatement;
- (v) Risk assessment and inspection report interpretation; *
- (vi) Development and implementation of an occupant protection plan and abatement report;
- (vii) Lead-based paint hazard recognition and control; *
- (viii) Lead-based paint abatement and lead-based paint hazard reduction methods, including restricted practices; *
- (ix) Interior dust abatement ~~/ and~~ cleanup or and lead-based paint hazard control and reduction methods; *
- (x) Soil and exterior dust abatement or lead-based paint hazard control and reduction methods; *
- (xi) Clearance standards and testing;
- (xii) Cleanup and waste disposal; and
- (xiii) Recordkeeping.

4. Project designer:

- (i) Role and responsibilities of a project designer;
- (ii) Development and implementation of an occupant protection plan for large-scale abatement projects;
- (iii) Lead-based paint abatement and lead-based paint hazard reduction methods, including restricted practices for large-scale abatement projects;
- (iv) Interior dust abatement ~~/ and~~ cleanup or and lead hazard control and reduction methods for large-scale abatement projects;
- (v) Clearance standards and testing for large-scale abatement projects; and
- (vi) Integration of lead-based paint abatement methods with modernization and rehabilitation projects for large-scale abatement projects.

5. Abatement worker:

- (i) Role and responsibilities of an abatement worker;
- (ii) Background information on lead and its adverse health effects;

- (iii) Background information on ~~Federal federal~~, ~~State state~~ and local regulations and guidance that pertain to lead-based paint abatement;
- (iv) Lead-based paint hazard recognition and control; *
- (v) Lead-based paint abatement and lead-based paint hazard reduction methods, including restricted practices; *
- (vi) Interior dust abatement methods ~~/ and~~ cleanup ~~or and~~ lead-based paint hazard reduction; and *
- (vii) Soil and exterior dust abatement methods ~~or and~~ lead-based paint hazard reduction.*

(e) Requirements for the accreditation of refresher ~~training programs~~ training courses.

A training program may seek accreditation to offer ~~refresher training~~ refresher training courses in any of the following disciplines: inspector, risk assessor, supervisor, project designer, and abatement worker. To obtain State accreditation to offer ~~refresher training~~ refresher training, a training program shall allow the Commissioner to audit the training program to verify the contents of the application for accreditation as described in subparagraph (b) of this paragraph. ~~The refresher training~~ Any refresher training course offered by a training program shall also meet the following minimum requirements:

1. Each refresher course shall review the curriculum topics of the full-length courses listed under subparagraph (d) of this paragraph, as appropriate. In addition, to become accredited to offer ~~refresher training~~ refresher training courses, training programs shall ensure that their courses of study include, at a minimum, the following:
 - (i) An overview of current safety practices relating to lead-based paint activities in general, as well as specific information pertaining to the appropriate discipline;
 - (ii) Current laws and regulations relating to lead-based paint activities in general, as well as specific information pertaining to the appropriate discipline; and
 - (iii) Current technologies relating to lead-based paint activities in general, as well as specific information pertaining to the appropriate discipline.
2. ~~Each refresher course, except for the project designer course, Refresher courses for inspector, risk assessor, supervisor, and abatement worker shall~~ last a minimum of eight ~~(8)~~ training hours. The project designer refresher course shall last a minimum of four ~~(4)~~ training hours. Refresher courses for all disciplines except project designer must include a hands-on component.
3. ~~For each course offered, the training program shall conduct a hands-on assessment (if applicable), and at the completion of the course, a course test with minimum of twenty-five (25) questions~~ Except for project designer refresher courses, the training program shall conduct a hands-on skills assessment. All training programs shall conduct a course test with a minimum of 25 questions at the completion of the refresher course.
4. A training program may apply for accreditation of a refresher course concurrently with its application for accreditation of the corresponding training course as described in subparagraph (b) of this paragraph. If so, the Commissioner shall use the approval procedure described in subparagraph (b) of this paragraph. In addition, the minimum requirements contained in parts (c)1 through (c)5 of this paragraph and parts ~~(e)1, (e)2,~~ and ~~(e)3~~ of this subparagraph shall also apply.
5. A training program seeking accreditation to offer ~~refresher training~~ refresher training courses ~~only~~ shall submit a written application to the Division Commissioner containing the following information:

- (i) The ~~refresher-training~~ refresher training program's name, address, and telephone number, ~~(I) The including the~~ street address of the training site if different from the training program's address, ~~(II) The printed name of the principal instructor.~~
- (ii) A list of refresher courses for which ~~it~~ the refresher training program is applying for accreditation to offer.
- ~~(iii)~~ The name and documentation of the qualifications of the training program manager.
- ~~(iv)~~ The name(s) and documentation of the qualifications of the principal instructor(s).
- ~~(iii)(v)~~ A statement signed by the training program manager certifying that the ~~refresher-training~~ refresher training program meets the minimum requirements established in subparagraph (c) of this paragraph, except for the requirements in part (c)6 of this paragraph.
- ~~(iv)(vi)~~ If a refresher training program uses EPA-developed model training materials, or training materials approved by a State state or Indian Tribe tribe that has been authorized by EPA to develop its ~~refresher-training~~ refresher training course materials, the training manager shall include a statement certifying that fact.
- ~~(v)(vii)~~ If the ~~refresher-training~~ refresher training course materials are not based on EPA-developed model training materials or training materials approved by an authorized State state or Indian Tribe tribe, the training program's application for accreditation shall include:
 - (I) A copy of the student and instructor manuals to be used for each course; and
 - (II) A copy of the course agenda for each course.
- ~~(vi)(viii)~~ All ~~refresher-training~~ refresher training programs shall include in their application for accreditation the following:
 - (I) A description of the facilities and equipment to be used for lecture and hands-on training-;
 - (II) A copy of the course test blueprint for each course-;
 - (III) A description of the activities and procedures that will be used for conducting the ~~assessment of~~ hands-on skills assessment for each course (if applicable)-; and
 - (IV) A copy of the quality control plan as described in part (c)9 of this paragraph.
- ~~(vii)(ix)~~ The requirements in parts (c)1 through 5, and 7 through ~~14~~ 15 of this paragraph apply to ~~refresher-training~~ refresher training providers.
- ~~(viii)(x)~~ If a ~~refresher-training~~ refresher training program meets the requirements listed in of this part, then the Commissioner shall approve or disapprove the application for accreditation no more than 180 days after receiving a complete application from the refresher-training program. In the case of approval, a certificate of accreditation shall be sent to the applicant. In the case of disapproval, a letter describing the reasons for disapproval shall be sent to the applicant. Prior to disapproval, the Division Commissioner may, at ~~it's~~ the Commissioner's discretion, work with the applicant to address inadequacies in the application for accreditation. The Division Commissioner may also request additional materials retained by the ~~refresher-training~~ refresher training program under subparagraph ~~(g)(j)~~ of this paragraph. If

a ~~refresher-training~~ refresher training program's application is disapproved, the program may reapply for accreditation at any time.

~~(ix)~~(xi) The language in which the ~~refresher-training~~ refresher training course is taught, if other than English.

~~(x)~~(xii) The date the refresher course was accredited and the name of the agency issuing the accreditation.

(f) Requirements for the accreditation of online asynchronous and synchronous refresher training courses.

1. This subparagraph outlines procedures and requirements for the accreditation of online lead-based paint refresher course or courses. Initial lead-based paint training courses may not be offered online.

2. Only the following entities are authorized to offer online lead-based paint refresher courses:

(i) Training providers that are accredited by the State of Tennessee to conduct online refresher courses on the effective date of this rule, provided the course meets all the requirements of this rule;

(ii) Training providers that have been or are currently accredited by the State of Tennessee to conduct classroom-based lead-based training courses; and

(iii) Institutions of higher learning located in the State of Tennessee that have provided documentation of continuing education through online training courses.

3. A pre-existing approval for a standard classroom-based refresher training course does not extend to cover an online refresher training course, even if the course is based upon the same syllabus or instructional materials.

4. An online refresher course shall be specific to a discipline and shall be conducted as separate and distinct course and not combined with any other training during the period of the refresher course.

5. A training provider may seek accreditation to offer, and approval of, online refresher lead-based paint training courses in any of the following disciplines: inspector, risk assessor, supervisor, project designer, and abatement worker.

6. For the purposes of this subparagraph, online refresher courses taught in different languages, even if they are based on the same curriculum, are considered different courses, and each course must independently meet the accreditation and approval requirements and a separate fee must be paid for each such course.

7. Online refresher training courses shall be the same length as a classroom-based refresher training course as set out in part (e)2 of this paragraph.

8. To be accredited to provide and receive approval of an online refresher course, a training provider shall submit an application pursuant to subparagraph (b) of this paragraph, the appropriate fees, and documentation that the training provider meets each of the following criteria:

(i) Submits the instructor's credentials (including the credentials of those who conduct or develop the online refresher training course) and provides updates of any subsequent changes in course instructors;

(ii) Has systems in place that authenticate the identity of the students taking the online refresher training course and the student's eligibility to enroll in the course. Student authentication could be obtained by the student submitting personal and sensitive information to a training provider such as social security number, date of birth, state

lead-based paint certification number, and special question and answer combination. Verification of this authentication information shall be requested prior to beginning the online refresher training course and at intermittent, designated intervals during the training. A training provider shall use appropriate encryption technologies to protect the student's sensitive user information to deter fraud, including the falsification of student identity;

- (iii) Has systems in place that ensure students are focusing on the training material throughout the entire training period. Online refresher training courses shall provide a strong interactive component to ensure continued student focus, such as through threaded discussion between the student and the instructor and via interactive video clips;
- (iv) Has systems in place that prevent students from prematurely skipping ahead. A training provider shall make sure there are minimum time allotments for each section of the training, monitor and record the student's actual time online, including breaks, and retain these records;
- (v) Has a specific discipline course instructor available to answer questions that students have while they are taking the online refresher training course. This could be facilitated via online threaded discussion, message boards, chat, or a toll-free telephone number available during training periods for a student to call with questions for a specific discipline course instructor regarding the course material;
- (vi) Provides technical support via methods outlined in item (v) of this subpart to the student during training periods to address any technical problems that arise, such as with the student's computer or with the online application. If a student is inadvertently logged out of an online session due to technical difficulties, the student shall be given credit for the portion of the course already completed. Similarly, that student shall be required to make-up the portion of the training missed;
- (vii) Includes a comprehensive overview of the curriculum requirements contained in subparagraph (d) of this paragraph for the discipline covered;
- (viii) Verifies the identity of each student taking the examination for an online refresher course in some manner to prevent fraud. A training provider may have either a testing center or proctor-based exam for the examination portion of the online refresher training course. The examination questions shall be randomized from course to course so that the same examination is not given repeatedly. An item bank (or a pool of questions used to vary the questions asked) shall be used to ensure that examination questions are not used repeatedly. The training provider shall institute controls to ensure that the examination screen cannot be saved, copied, or printed;
- (ix) Includes a review and discussion of changes in federal, state, and local regulations that are applicable to Tennessee in each online refresher training course. A training provider shall clearly identify the state the online course is specifically applicable to and approved by when advertising the course or when registering a student for the course;
- (x) Ensures systems are in place that reduce opportunities for document fraud including a distinct, online training certificate that contains all the requirements of part (c)8 of this paragraph and that designates the course using the following language: Traditional Classroom, Asynchronous Online Course, or Synchronous Online Course; and
- (xi) Provides a detailed description of how the hands-on component required by part (e)2 of this paragraph for an inspector, risk assessor, supervisor, and abatement worker will be accomplished and how the hands-on skills assessment will be given for each discipline.

9. A training provider shall provide, and retain in the provider's records, a course evaluation of the online course to help determine the strengths and weaknesses of such course and to promote continuous improvement.

10. A training provider shall allow the Commissioner unrestricted access to conduct audits of an online course at any time that the course is being provided.

(f)(g) Re-accreditation of training programs.

1. Unless re-accredited, a training program's accreditation to offer a training course (including ~~refresher training~~ refresher training accreditation) shall expire two ~~(2)~~ years after the date of issuance. If a training program meets the requirements of this paragraph, the training program shall be re-accredited.

2. A training program seeking re-accreditation shall submit a complete application to the ~~Division~~ Commissioner no later than ~~forty-five (45)~~ days before its accreditation expires.

3. The training program's application for re-accreditation shall contain:

(i) The training program's name, address, and telephone number;

(ii) A list of courses for which ~~#~~ the training program is applying for re-accreditation;

(iii) The name and qualifications of the training program manager;

(iv) The name(s) and qualifications of the principal instructor(s);

~~(iii)~~(v) A description of any changes to the training facility, equipment or course materials since its last application was approved that adversely affects the students' ability to learn;

~~(iv)~~(vi) A statement signed by the program manager stating confirming:

(I) ~~That the~~ The training program complies at all times with all requirements ~~in of~~ subparagraphs (c), ~~and~~ (e), and (f) of this paragraph, as applicable; and

(II) The recordkeeping and reporting requirements of subparagraph ~~(g)~~(i) of this paragraph shall be followed.

~~(v)~~(vii) A payment of appropriate fees in accordance with paragraph ~~(48)~~(10) of this Rule rule.

4. Upon request, the training program shall allow the Commissioner to audit the training program and any course provided by the training program, including an online refresher training course. to verify that the contents of the application for re-accreditation are as described in part ~~(f)~~3 of this ~~paragraph~~ subparagraph. Upon the Commissioner anonymously auditing a training program by attending a training course, the training course fee paid by the State shall be refunded in its entirety to the ~~Tennessee~~ Department of Environment and Conservation.

(h) Refusal to renew, suspension, revocation, and modification of accredited training programs.

1. The Commissioner may, after notice and an opportunity for hearing, refuse to renew, suspend, revoke, or modify training program accreditation, including refresher training accreditation, if a training program, training manager, or other person with supervisory authority over the training program has:

(i) Misrepresented the contents or training hour requirements of a training course to the State or the student population;

- (ii) Failed to submit required information or notifications required under this rule in a timely manner;
- (iii) Failed to maintain required records;
- (iv) Falsified accreditation records, instructor qualifications, or other accreditation-related information or documentation;
- (v) Failed to comply with the training standards and requirements in this chapter;
- (vi) Failed to comply with federal, State, or local lead-based paint statutes or regulations;
- (vii) Made false or misleading statements in its application for accreditation or re-accreditation;
- (viii) An environmental compliance history that demonstrates an unwillingness or inability to maintain compliance with environmental statutes or regulations;
- (ix) A duly authorized representative, training manager, or principal instructor who has been convicted of a felony or found liable in a civil proceeding that involves violation of any state or federal regulation or law designed to protect human health or the environment; or
- (x) Failed to achieve and maintain active status as a business entity with the Tennessee Secretary of State if required.

2. In addition to an administrative or judicial finding of violation, execution of a consent agreement in settlement of an enforcement action constitutes, for purposes of this rule, evidence of a failure to comply with relevant statutes or regulations.

3. The Commissioner may deny any application for a training program accreditation, including refresher training accreditation, for any reason set out in part 1 of this subparagraph.

(i) Procedures for refusal to renew, suspension, revocation, or modification of training program accreditation.

Any revocation, suspension, refusal to renew, modification, or denial of an application to renew a training program accreditation shall be conducted in accordance with the Uniform Administrative and Procedures Act, T.C.A. Title 4, Chapter 5, Part 3.

~~(g)(i)~~ Training Program Recordkeeping Requirements.

1. Accredited training programs shall maintain and make available to the Commissioner, upon request, the following records:

- (i) All documents specified in part (c)4 of this paragraph that demonstrate the qualifications listed in parts (c)1 and 2 of this paragraph of the training manager and principal instructors;
- (ii) Current curriculum/course materials and documents reflecting any changes made to these materials;
- (iii) The course test blueprint;
- (iv) Information regarding how the hands-on skills assessment is conducted including, but not limited to:
 - (I) Who conducts the assessment;

- (II) How the skills are graded;
- (III) What facilities are used; and
- (IV) The pass/fail rate;
- (v) The quality control plan as described in part (c)9 of this paragraph;
- (vi) Results of the students' hands-on skills assessments and course tests; and a record of each student's course completion certificate; ~~and~~
- (vii) Any other material not listed above in subparts ~~(g) 1~~(i) through ~~(g) 1~~(vi) of this ~~paragraph part~~ that was submitted to the ~~Division Commissioner~~ as part of the program's application for accreditation; ~~and~~

(viii) For training courses delivered in an electronic format, a record of each student's log-ins, launches, progress, and completion, and a copy of the online learning completion certificate for each student.

2. The training program shall retain these records at the address specified on the training program accreditation application (or as modified in accordance with part ~~(g) 3~~ of this ~~paragraph subparagraph~~) for a minimum of three 3 years and six 6 months from course completion.
3. The training program shall notify the ~~Division Commissioner~~ in writing within ~~thirty (30)~~ days of changing the address specified on its training program accreditation application or transferring the records from that address.

~~(h) Type and Duration of Accreditation.~~

~~Unless the Commissioner revokes or suspends training program accreditation, the accreditation shall be valid for two (2) years. The expiration date shall be two (2) years from the last day of the month of issuance. To maintain accreditation, the training program shall be re-accredited every two (2) years.~~

(k) Amendment of accreditation.

1. A training program must amend its accreditation within 90 days of the date a change occurs to information included in the program's most recent application. If the training program fails to amend its accreditation within 90 days of the date the change occurs, the program may not provide lead-based paint activities training until its accreditation is amended.
2. To amend an accreditation, a training program must submit a completed "Accreditation Application for Training Providers," signed by an authorized agent of the training provider, noting on the form that it is submitted as an amendment and indicating the information that has changed.
3. If the amendment includes a new training program manager, any new or additional principal instructor(s), or any new permanent training location(s), the training program is not permitted to provide training under the new training manager or offer courses taught by any new principal instructor(s) or at the new training location(s) until the Commissioner either approves the amendment or 30 days have elapsed since an amendment has been submitted to the Commissioner, whichever occurs earlier, except:

(i) If the amendment includes a new training program manager or a new or additional principal instructor who was identified in a training provider accreditation application that the Commissioner has already approved under this paragraph, the training program may begin to provide training under the new training manager or offer courses taught by the new principal instructor on an interim basis as soon as the provider submits the amendment to the Commissioner. The training program may continue to provide training under the new training manager or offer courses

taught by the new principal instructor if the Commissioner approves the amendment or if the Commissioner does not disapprove the amendment within 30 days.

(ii) If the amendment includes a new permanent training location, the training program may begin to provide training at the new permanent training location on an interim basis as soon as the provider submits the amendment to the Commissioner. The training program may continue to provide training at the new permanent training location if the Commissioner approves the amendment or if the Commissioner does not disapprove the amendment within 30 days.

~~(7)(5)~~ Certification of Individuals and Firms Engaged in Lead-Based Paint Activities: Target Housing and Child-Occupied Facilities. ~~[40 CFR 745.226]~~

(a) Certification of Individuals.

1. Individuals seeking certification by the Commissioner to engage in lead-based paint activities must:

(i) Either:

~~(i)(I)~~ Submit to the ~~Division Commissioner~~ an application (on forms provided by the ~~Commissioner Division~~) demonstrating that they meet the requirements established in subparagraph (b) of this paragraph for the particular discipline(s) for which certification is sought along with the appropriate application fees in accordance with paragraph ~~(18)(10)~~ of this ~~Rule rule~~; or

~~(ii)(II)~~ Submit to the ~~Division Commissioner~~ an application (on forms provided by the ~~Commissioner Division~~) with a legible copy of a valid lead-based paint activities certification from EPA or an EPA-authorized ~~State state~~ or Indian ~~Tribe tribe~~ along with the appropriate application fees in accordance with paragraph ~~(18)(10)~~ of this rule. Completing the refresher training requirements in ~~subpart (a)1(vi) subparagraph (c)~~ of this paragraph and passing the ~~Commissioner's third party national certification~~ exam may be required prior to certification based upon the Commissioner's evaluation of submitted documents;

~~(iii)(ii)~~ Submit to the ~~Division Commissioner~~ a standard color passport photograph with each application for the lead-based paint activity discipline for which certification is sought, and

(iii) Submit an attestation and documentation complying with the requirements of the Eligibility Verification for Entitlements Act, codified at T.C.A. Title 4, Chapter 58, Part 1.

~~(iv) Unless the Commissioner revokes, suspends or deactivates the certification of an individual engaged in lead-based paint activities, certification shall be valid for three (3) years. The expiration date shall be three (3) years from the last day of the calendar month of issuance.~~

~~(Note: In order to practice in the area certified, a person must also have a valid registration card as provided in subparagraph (e) of this paragraph.)~~

~~(v) An individual shall pass the Commissioner's third party certification exam for all disciplines, except Project Designer and Worker, and receive certification from the Commissioner within six (6) months after completing an initial lead-based paint training course; otherwise, the individual must retake the appropriate initial training course from an accredited training program, before reapplying for certification from the Commissioner.~~

~~(vi) To become re-certified an individual must comply with the refresher training requirements outlined in subparagraph (c) of this paragraph and submit the appropriate renewal/recertification fees required by paragraph (18) of this rule.~~

~~2. Individuals must apply to the Commissioner for certification to engage in lead-based paint activities pursuant to this paragraph.~~

~~3.2.~~ Following the submission of a complete application demonstrating, to the Commissioner's satisfaction, that all the requirements of this paragraph have been met, the Commissioner shall certify an applicant as an inspector, risk assessor, supervisor, project designer, ~~or~~ abatement worker, or combination thereof, as appropriate applicable.

~~4.3.~~ Upon receiving the Commissioner's certification, individuals conducting lead-based paint activities shall comply with the work practice standards for performing the appropriate lead-based paint activities ~~as~~ established in paragraph ~~(8)(6)~~ of this rule.

~~5.4.~~ It shall be a violation of this Rule rule for an individual to conduct any of the lead-based paint activities described in paragraph ~~(8)(6)~~ of this Rule rule ninety (90) days after the effective date of this Rule, if that individual has not been certified to do so by the Commissioner, ~~pursuant to this paragraph. (See paragraph (21).)~~

~~5.~~ Unless the Commissioner revokes, suspends, or refuses to renew the certification of an individual engaged in lead-based paint activities, certification shall be valid for three years. The expiration date shall be three years from the last day of the calendar month of issuance.

(b) Inspector, Risk Assessor, Supervisor, Project Designer, or Abatement Worker.

1. To become certified by the Commissioner as an inspector, risk assessor, supervisor, project designer, or abatement worker, pursuant to subpart (a)1(i) of this paragraph, an individual must:

(i) Successfully complete an accredited course in the appropriate discipline, including passage of the course exam, and receive a course completion certificate from an EPA, or an EPA authorized state or Indian ~~Tribe~~ tribe accredited training program; ~~and~~

(ii) ~~Pass~~ Except for the abatement worker, pass the ~~third-party national~~ certification exam in the appropriate discipline offered by the Commissioner; ~~and,~~

(iii) Meet or exceed the following ~~experience and/or education~~ requirements:

(I) Inspectors: ~~I. No~~ no additional experience ~~and/or~~ education requirements.

~~II. (Reserved)~~

(II) Risk assessors:

I. Successful completion of an accredited training course for inspectors; and

II. Bachelor's degree and one ~~(1)~~ year of experience in a related field (e.g., lead, asbestos, environmental remediation work, or construction), or an ~~Associates~~ associate's degree and two ~~(2)~~ years of experience in a related field (e.g., lead, asbestos, environmental remediation work, or construction); or

III. Certification as an industrial hygienist, professional engineer, registered architect, ~~and/or~~ certification in a related engineering/health/environmental field (e.g., safety professional, environmental scientist); or

IV. A high school diploma (or equivalent), and at least three ~~(3)~~ years of experience in a related field (e.g., lead, asbestos, environmental remediation work or construction).

(III) Supervisors:

I. One ~~(1)~~ year of experience as a certified lead-based paint abatement worker; or

II. At least two ~~(2)~~ years of experience in a related field (e.g., lead, asbestos, or environmental remediation work) or in the building trades.

(IV) Project designers:

I. Successful completion of an accredited training course for supervisors-;

II. Bachelor's degree in engineering, architecture, or a related profession, and one ~~(1)~~ year of experience in building construction and design or a related field; or

III. Four ~~(4)~~ years of experience in building construction and design or a related field.

~~(IV)~~(V) Abatement workers: ~~I. No~~ no additional experience ~~and/or~~ education requirements.

~~II. ———~~ (Reserved)

2. ~~Proof, which may be required by the Applicants for certification shall submit proof satisfactory to the~~ Commissioner, of meeting the requirements of this subparagraph ~~may include, including~~ but ~~is~~ not limited to, the following documents:

(i) Official academic transcripts or diploma, as evidence of meeting the education requirements;

(ii) Resumes, letters of reference, or documentation of work experience, as evidence of meeting the work experience requirements; and

(iii) Course completion certificates from lead-specific or other related training courses, issued by accredited training programs, as evidence of meeting the training requirements.

3. In order to take the ~~Commissioner's third-party national~~ certification ~~examination exam~~ for a particular discipline, an individual must:

(i) Successfully complete an accredited course in the appropriate discipline, which includes passing the course exam, and receive a course completion certificate from an accredited training program; and

(ii) Meet or exceed the education and/or experience requirements in subpart ~~(b)1(iii)~~ 1(ii) of this ~~paragraph subparagraph~~.

4. After passing the appropriate ~~Commissioner's third-party national~~ certification exam and submitting an application demonstrating, to the Commissioner's satisfaction, that ~~he/she the individual~~ meets ~~the appropriate all applicable~~ training, education, and/or experience prerequisites ~~described established~~ in part ~~(b)1~~ of this ~~paragraph subparagraph~~, an individual shall be issued a certificate/identification card by the Commissioner the Division shall issue a photo identification certification card to the individual. To maintain certification,

an individual must be re-certified as described in subparagraph (c) of this paragraph.

(Note: In order to practice in the area certified, a person must also have a valid registration card as provided in subparagraph (e) of this paragraph.)

5. An individual may take the Commissioner's third-party national certification exam no more than three times within six ~~(6)~~ months of receiving a course completion certificate.
6. To become re-certified an individual must comply with the refresher training requirements outlined in subparagraph (7)(c) and submit the appropriate re-certification fees required by paragraph (18) of this rule. If an individual does not pass the certification exam and receive a certificate with six months of receiving the individual's course completion certificate, the individual must retake the appropriate course from an accredited training program before reapplying for certification from the state.

(c) Re-certification of individuals.

1. To maintain certification in a particular discipline, a certified individual shall apply to and be re-certified ~~by the Commissioner~~ in that discipline by the Commissioner every three ~~(3)~~ years ~~if the individual completed an accredited refresher training course with a course test and hands-on assessment.~~
2. An To obtain re-certification, an individual previously certified by the Commissioner shall:
 - ~~(i)~~ be re-certified if the individual successfully completes Successfully complete the appropriate accredited third-party refresher training course or courses within one year prior to the expiration date of their current certification;~~and~~
 - ~~3-(ii)~~ Submits Submit to the ~~Division~~ Commissioner a complete re-certification application with a legible copy of the lead-based paint ~~refresher training~~ refresher training course completion certificate at least ~~sixty (60)~~ days prior to the expiration of certification;~~and~~
 - ~~4-(iii)~~ Submits Submit to the ~~Division~~ Commissioner a standard color passport photograph with an application for each lead-based paint discipline for which re-certification is sought;~~and~~
 - ~~5-(iv)~~ Submits Submit the appropriate ~~fees~~ application fee in accordance with paragraph ~~(18)(10)~~ of this ~~Rule~~ rule.
3. A risk assessor must timely complete the refresher courses for both inspectors and risk assessors to be re-certified.
4. A project designer shall timely complete the refresher courses for both supervisors and project designers to be re-certified.

(d) Certification of firms.

1. ~~It shall be a violation of this rule for a firm to conduct any of the lead-based paint activities described in paragraph (8) of this rule ninety (90) days after the effective date of this rule, if that firm has not been certified to do so by the Commissioner, pursuant to this paragraph. (See paragraph (24)) All firms that perform or offer to perform any of the lead-based paint activities described in paragraph (6) of this rule shall be certified by the Commissioner.~~
2. A firm seeking certification shall submit to the ~~Division~~ Commissioner an application on forms provided by the ~~Commissioner~~ Division, the appropriate application fees in accordance with paragraph ~~(18)(10)~~ of this ~~Rule~~ rule, and a letter attesting that the firm ~~shall will~~ only employ appropriately certified employees to conduct lead-based paint activities; and that the firm and its employees ~~shall will~~ follow the work practice standards in paragraph ~~(8)(6)~~ of this ~~Rule~~ rule for conducting lead-based paint activities. The application shall include, but not be limited to:

- ~~(i) The name of the firm;~~
- ~~(ii) The firm's federal employer identification number, if applicable;~~
- ~~(iii) If the firm is an individual, a general partnership, or other business entity where individuals hold the right to all or part of the certification, the names and Social Security Numbers of each individual or general partner;~~
- ~~(iv) Contact information for the firm, including the firm's phone number, fax number, email address, and mailing address;~~
- ~~(v) A list of any environmental non-compliance actions taken against the firm, the date of such actions, and the state where such actions occurred;~~
- ~~(vi) If the firm is an individual, general partnership, or other business entity where individuals hold the right to all or part of the certification, an attestation and documentation for each such individual complying with the requirements of the Eligibility Verification for Entitlements Acts, codified at T.C.A. Title 4, Chapter 58, Part 1; and~~
- ~~(vii) All other documentation as may be reasonably requested by the Commissioner to determine whether such application shall be granted or denied.~~

3. From the date of receiving the firm's complete application requesting certification, the Commissioner shall have ~~ninety (90)~~ days to approve or disapprove the firm's request for certification. Within that time, the Commissioner shall respond with either a Certificate of Approval or a letter describing the reasons for disapproval.

~~(Note: In order to practice in the area certified, a firm must also have a valid registration card as provided in subparagraph (e) of this paragraph.)~~

- 4. The firm shall maintain all records pursuant to the requirements in paragraph ~~(8)(6)~~ of this Rule rule.
- 5. Firms applying for re-certification must submit the documents described in part 2 of this subparagraph and appropriate fees described in paragraph ~~(18)(10)~~ of this Rule rule.
- 6. Firms may first apply to the Commissioner for certification to engage in lead-based paint activities pursuant to this paragraph on or after the effective date of this Rule rule.
- 7. Unless the Commissioner revokes or suspends the certification of a firm engaged in lead-based paint activities, certification shall be valid for three ~~(3)~~ years. The certification expiration date shall be three ~~(3)~~ years from the last day of the month of issuance.

~~(e) Annual Renewal of Registration.~~

- ~~1. Individuals or firms shall apply for annual renewal of their Registration at least sixty (60) days prior to their Annual Registration expiration date, which shall be one (1) year from the last day of the month of issuance, and per the requirements in part (18)(d)3 of this rule; and~~
- ~~2. The Annual Registration Renewal Fee shall be included with the application.~~
- ~~3. Annual Registration Renewal is required for all certification categories provided the person intends to conduct lead-based paint abatement activities in the respective renewal period (year). Annual renewal for a given year within the effective three (3) year period of a person's "certification" may be skipped (no assessment of renewal fees or penalties) provided the person does not conduct any lead-based paint abatement activities in that period.~~

(e) Violations for individuals.

1. It shall be a violation of this chapter for any individual to have:

- (i) Obtained training documentation through fraudulent means;
- (ii) Gained admission to and completed an accredited training program through misrepresentation of qualifications for admission;
- (iii) Obtained certification through misrepresentation of the individual's education, training, professional registration, or experience;
- (iv) Performed work requiring certification at a job site without being in physical possession of a valid photo identification certification card;
- (v) Permitted the duplication or use of the individual's certificate by another person;
- (vi) Performed work for which certification is required, but for which the appropriate certification had not been received at that time;
- (vii) Failed to comply with the appropriate work practice standards for lead-based paint activities in paragraph (6) of this rule;
- (viii) Failed to comply with federal, State, or local lead-based paint statutes or regulations;
- (ix) Been convicted of an environmental felony or found liable in a civil proceeding that involves violations of any state or federal regulation or law designed to protect human health or the environment; or
- (x) An environmental history that demonstrates an unwillingness or inability to maintain compliance with environmental statutes or regulations.

2. In addition to an administrative or judicial finding of violation, for purposes of this chapter only, execution of a consent or settlement agreement in settlement of an enforcement action constitutes evidence of a failure to comply with relevant statutes or regulations.

(f) Violations for firms.

1. It shall be a violation of this chapter for any firm to have:

- (i) Performed work requiring certification at a job site with individuals who are not certified;
- (ii) Failed to comply with the work practice standards established in paragraph (6) of this rule;
- (iii) Misrepresented facts in its letter of application for certification to the state;
- (iv) Failed to maintain required records;
- (v) Failed to comply with federal, State, or local lead-based paint statutes or regulations;
- (vi) An environmental history that demonstrates an unwillingness or inability to maintain compliance with environmental statutes or regulations;
- (vii) Been convicted of an environmental felony or found liable in a civil proceeding that involves violations of any state or federal regulation designated to protect human health or the environment; or

(viii) Failed to be actively registered, if required, as a business entity with the Tennessee Secretary of State as required by law.

2. In addition to an administrative or judicial finding of violation, for purposes of this chapter only, execution of a consent agreement in settlement of an enforcement action constitutes evidence of a failure to comply with relevant statutes or regulations.

3. The Commissioner may deny any application for the certification of an individual for any reason set out in subparagraph (e) of this paragraph. The Commissioner may deny any application for the certification of a firm for any reason set out in subparagraph (f) of this paragraph.

(g) Procedures for suspension, revocation, or modification of the certification of individuals or firms.

Any revocation, suspension, or denial of an application to renew the certification of an individual or firm shall be conducted in accordance with the Uniform Administrative Procedures Act, T.C.A. Title 4, Chapter 5, Part 3.

(h) Unless otherwise specified in writing by the Commissioner:

1. An individual whose certification in a discipline has been suspended must complete any required refresher training courses to renew the suspended accreditation.

2. An individual whose certification in a discipline has been revoked must take any required initial training courses and reapply to become certified again.

3. A firm whose certification has been revoked must reapply for certification after the revocation period ends to become certified again.

4. A firm whose certification has been suspended and the suspension ends prior to the expiration of the firm's certification is not required to do anything to re-activate its certification. However, if the firm's certification expires during the suspension period, the firm must reapply for certification after the suspension ends.

~~(8)(6)~~ Work Practice Standards for Conducting Lead-Based Paint Activities: Target Housing and Child- Occupied Facilities; ~~[40 CFR 745.227]~~

~~(a) Effective Date, Applicability, and Terms.~~

~~1. Beginning on the effective date of this Rule, all All lead-based paint activities shall be performed pursuant to the work practice standards contained in this paragraph.~~

~~2. When performing any lead-based paint activity described by the certified individual as an inspection, lead-hazard screen, risk assessment, project design, or abatement, a certified individual must perform that activity in compliance with the appropriate requirements below of this paragraph.~~

~~3. Documented methodologies that are appropriate for this paragraph are found in the following:~~

~~(i) The U.S. Department of Housing and Urban Development (HUD) Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing;~~

~~(ii) The EPA Guidance on Residential Lead-Based Paint, Lead-Contaminated Dust, and Lead-Contaminated Soil;~~

~~(iii) The EPA Residential Sampling for Lead: Protocols for Dust and Soil Sampling (EPA report number 7474-R-95-001);~~

~~(iv) Regulations, guidance, methods or protocols issued by States states and Indian Tribes tribes that have been authorized by EPA;~~

~~(v)~~ National Institute of Building Sciences, “Guide Specifications for Reducing Lead-Based Paint Hazards”;

~~(vi)~~(v) The Enterprise Foundation, Housing Developer Pro specification computer software package; and

~~(vii)~~(vi) Other equivalent methods and guidelines.

4. Clearance levels that are appropriate for the purposes of this paragraph may be found in subpart ~~(e)~~(f)9(viii) of this paragraph.

(b) Inspection.

1. An inspection shall be conducted only by a person certified by the Commissioner as an inspector or risk assessor and, if conducted, must be conducted according to the procedures ~~in~~ of this subparagraph.

2. When conducting an inspection, the following locations shall be selected according to documented methodologies and tested for the presence of lead-based paint:

(i) In a residential dwelling and child-occupied facility, each component with a distinct painting history and each exterior component with a distinct painting history shall be tested for lead-based paint, except those components that the inspector or risk assessor determines to have been replaced after 1978, or to not contain lead-based paint; and

(ii) In a multi-family dwelling or child-occupied facility, each component with a distinct painting history in every common area, except those components that the inspector or risk assessor determines to have been replaced after 1978, or to not contain lead-based paint.

3. Paint shall be sampled in the following manner:

(i) The analysis of paint to determine the presence of lead shall be conducted using documented methodologies ~~which~~ that incorporate adequate quality control procedures; and ~~or~~

(ii) All collected paint chip samples shall be analyzed according to subparagraph ~~(f)~~(g) of this paragraph to determine if they contain detectable levels of lead that can be quantified numerically.

4. The certified inspector or risk assessor shall ~~submit to the Division, prepare~~ an inspection report and ~~the Notification of Commencement of Lead-Based Paint Abatement Activities comply with the project review acknowledgement~~ required in part ~~(e)~~4 (k)1 of this paragraph, ~~which~~ The inspection report shall include the following information:

(i) Date of each inspection;

(ii) Address of building;

(iii) Date of construction;

(iv) Apartment numbers (if applicable);

(v) Name, address, and telephone number of the owner or owners of each residential dwelling or child-occupied facility;

(vi) Name, signature, and certification number of each certified inspector and ~~or~~ risk assessor conducting testing;

- (vii) Name, address, and telephone number of the certified firm employing each inspector and ~~or~~ risk assessor, if applicable;
- (viii) Each testing method and device and/or sampling procedure employed for paint analysis, including quality control data and, if used, the serial number of any x-ray fluorescence (XRF) device;
- (ix) Specific locations of each painted component tested for the presence of lead-based paint; and
- (x) The results of the inspection expressed in terms appropriate to the sampling method used.

5. The inspection report required by part 4 of this subparagraph shall be made available to the Commissioner upon request.

(c) Lead Hazard Screen.

1. A lead hazard screen shall be conducted only by a person certified by the Commissioner as a risk assessor.
2. ~~If conducted,~~ a A lead hazard screen shall be conducted as follows:
 - (i) Background information regarding the physical characteristics of the residential dwelling or child-occupied facility and occupant use patterns that may cause lead-based paint exposure to one or more children age six 6 years and under shall be collected.
 - (ii) A visual inspection of the residential dwelling or child-occupied facility shall be conducted to:
 - (I) Determine if any deteriorated paint is present, and
 - (II) Locate at least two dust sampling locations.
 - (iii) If deteriorated paint is present, each surface with deteriorated paint, ~~which that~~ is determined, using documented methodologies, to be in poor condition and to have a distinct painting history, shall be tested for the presence of lead.
 - (iv) In residential dwellings, two composite dust samples shall be collected, one from the floors and the other from the windows, in rooms, hallways, or stairwells where one or more children, age six ~~(6)~~ and under, are most likely to come in contact with dust.
 - (v) In multi-family dwellings and child-occupied facilities, in addition to the floor and window samples required in subpart ~~(e)2~~(iv) of this ~~paragraph part~~, the risk assessor shall also collect composite dust samples from common areas where one or more children, age six ~~(6)~~ and under, are most likely to come into contact with dust.
3. Dust samples shall be collected and analyzed in the following manner:
 - (i) All dust samples shall be taken using documented methodologies that incorporate adequate quality control procedures; and
 - (ii) All collected dust samples shall be analyzed according to subparagraph ~~(f)(g)~~ of this paragraph to determine if they contain detectable levels of lead that can be quantified numerically.
4. Paint shall be sampled in the following manner:

- (i) The analysis of paint to determine the presence of lead shall be conducted using documented methodologies ~~which~~ that incorporate adequate quality control procedures; and~~or~~
 - (ii) All collected paint chip samples shall be analyzed according to subparagraph ~~(f)~~(g) of this paragraph to determine if they contain detectable levels of lead that can be quantified numerically.
5. The risk assessor shall prepare a lead hazard screen report, which shall include the following information:
- (i) The information required in a risk assessment report as specified in subparagraph (d) of this paragraph, including subparts (d)11(i) through ~~(d)14~~(xiv) of this paragraph, and excluding subparts (d)11(xv) through ~~(d)14~~(xviii) of this paragraph. Additionally, any background information collected pursuant to subpart ~~(e)2~~(i) of this ~~paragraph~~ subparagraph shall be included in the risk assessment report; and
 - (ii) Recommendations, if warranted, for a follow-up risk assessment, and as appropriate, any further actions.
- (d) Risk Assessment.
1. A risk assessment shall be conducted only by a person certified by the Commissioner as a risk assessor and, ~~if conducted, must be conducted according to~~ in accordance with the procedures ~~in~~ of this subparagraph.
 2. A visual inspection for risk assessment 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 access other potential lead-based paint hazards.
 3. Background information regarding the physical characteristics of the residential dwelling or child-occupied facility and occupant use patterns that may cause lead-based paint exposure to one or more children aged six ~~6~~ years and under shall be collected.
 4. The following surfaces ~~which~~ that are determined, using documented methodologies, to have a distinct painting history, shall be tested for the presence of lead:
 - (i) Each friction surface or impact surface with visibly deteriorated paint; and
 - (ii) All other surfaces with visibly deteriorated paint.
 5. In residential dwellings, dust samples (either composite or single surface samples) from the interior ~~window sill~~ window sill windowsill(s) and floor shall be collected and analyzed for lead concentration in all living areas where one or more children, aged six ~~6~~ and under, are most likely to come into contact with dust.
 6. For multi-family dwellings and child-occupied facilities, the samples required in part 4 of this subparagraph shall be taken. In addition, interior ~~window sill~~ window sill windowsill and floor~~-~~dust samples (either composite or single surface samples) shall be collected and analyzed for lead concentration in the following locations:
 - (i) Common areas adjacent to the sampled residential dwelling or child-occupied facility; and
 - (ii) Other common areas in the building where the risk assessor determines that one or more children aged six ~~(6)~~ and under are likely to come into contact with dust.
 7. For child-occupied facilities, interior ~~window sill~~ window sill windowsill and floor~~-~~dust samples (either composite or single surface samples) shall be collected and analyzed for lead concentration in each room, hallway, or stairwell utilized by one or more children, age six ~~6~~ and under, and in other common areas in the child-occupied facility where one or more

children, age six 6 and under, are likely to come into contact with dust.

8. Soil samples shall be collected and analyzed for lead concentrations in the following locations:
 - (i) Exterior play areas where bare soil is present; ~~and~~
 - (ii) The rest of the yard (i.e., non-play areas) where bare soil is present; and
 - (iii) Drip line/foundation areas where bare soil is present.
9. Any paint, dust, or soil sampling or testing shall be conducted using documented methodologies that incorporate adequate quality control procedures.
10. Any collected paint chip, dust, or soil samples shall be analyzed according to subparagraph ~~(f)~~(g) of this paragraph to determine if they contain detectable levels of lead that can be quantified numerically.
11. The certified risk assessor shall prepare a risk assessment report ~~which shall include that~~ includes the following information:
 - (i) Date of assessment;
 - (ii) Address of each building;
 - (iii) Date of construction of buildings;
 - (iv) Apartment number (if applicable);
 - (v) Name, address, and telephone number of each owner of each building;
 - (vi) Name, signature, and certification of the certified risk assessor conducting the assessment;
 - (vii) Name, address, and telephone number of the certified firm employing each certified risk assessor if applicable;
 - (viii) Name, address, and telephone number of each recognized laboratory conducting analysis of collected samples;
 - (ix) Results of the visual inspection;
 - (x) Testing method and sampling procedure for paint analysis employed;
 - (xi) Specific locations of each painted component tested for the presence of lead;
 - (xii) All data collected from on-site testing, including quality control data and, if used, the serial number of any XRF device;
 - (xiii) All results of laboratory analysis on collected paint, soil, and dust samples;
 - (xiv) Any other sampling results;
 - (xv) Any background information collected pursuant to part ~~(d)~~3 of this ~~paragraph~~ subparagraph;
 - (xvi) 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;
 - (xvii) A description of the location, type, and severity of identified lead-based paint

hazards and any other potential lead hazards; and

- (xviii) A description of interim controls and/or abatement options for each identified lead-based paint hazard and a 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.

(e) Lead Hazard Reduction Specifications.

1. The abatement and lead hazard reduction specifications shall be unique to each residential dwelling or child-occupied facility and shall be developed before the abatement and lead hazard reduction occurs.
2. The certified supervisor or project designer shall also provide to the project owner, for each specification package, a detailed cost estimate to complete the general requirements, project execution, and the lead hazard reduction and abatement.
3. The abatement and lead hazard reduction project specifications shall be written to include the following information:
 - (i) Date of each project specification;
 - (ii) Address of building;
 - (iii) Name, signature, and certification number of each certified supervisor and/or project designer writing the project specification;
 - (iv) Name, address, and telephone number of the certified firm employing each supervisor and/or project designer, if applicable;
 - (v) Building construction date;
 - (vi) Apartment numbers (if applicable);
 - (vii) General Requirements and Conditions:
 - (I) Description of work;
 - (II) Terminology/definitions;
 - (III) Applicable federal, state, and local regulations, standards and guidelines;
 - (IV) Contractor qualifications and responsibilities;
 - (V) Contractor's employee qualifications
 - (VI) Scheduling of lead hazard reduction;
 - (VII) Worker protection;
 - (VIII) Occupant protection plan; and
 - (IX) Site preparation and levels of protection pursuant to the containment erected;
 - (viii) Products;
 - (ix) Execution:
 - (I) Work area preparation; and

- (II) Work area containment;
- (x) Site-Specific Hazard Reduction Measures:
 - (I) Detailed specification and procedures for lead hazard reduction and abatement for each area;
 - (II) Detailed clean-up requirements and clearance testing;
 - (III) Disposal of lead-based paint materials and lead-based paint waste and debris;
 - (IV) Contractor's air monitoring and analysis;
 - (V) Medical monitoring;
 - (VI) Logbook; and
 - (VII) Submittals;
- (xi) Site Lead-based Paint Inspection/Risk Assessment Data Sheets;
- (xii) Site sketch depicting interior floors, rooms, windows, and exterior construction and structures; and
- (xiii) Contractor's bid proposal sheet.

~~(e)~~(f) Abatement and Lead Hazard Reductions.

1. An abatement or lead hazard reduction shall be conducted only by an individual firms and individuals certified by the Commissioner, ~~and if conducted, shall be conducted according to in accordance with~~ the procedures ~~in of~~ this subparagraph.
2. A certified supervisor is required for each abatement project and shall be onsite during all work site preparation and during the post-abatement cleanup of work areas. At all other times when abatement activities are being conducted, the certified supervisor shall be onsite or available by telephone, pager, or answering service and able to be present at the work site in no more than two ~~(2)~~ hours.
3. The certified supervisor and the certified firm employing that supervisor shall ensure that all abatement activities are conducted according to the requirements of this paragraph and all other ~~Federal federal, State state,~~ and local requirements.
4. The following shall be maintained on site during lead-based paint abatement and lead-hazard reduction activities and be immediately made available for review by the Commissioner:
 - (i) A copy of the project review notification, project review acknowledgement to proceed, and all revisions;
 - (ii) The occupant protection plan;
 - (iii) A copy of the applicable lead-based paint abatement design, risk assessment, and inspection reports;
 - (iv) Photo identification certification card issued by the Commissioner for all certified persons and firms performing lead-based paint activities; and
 - (v) A bound logbook that shall include, but not be limited to, copies of any accident and injury report, results of all air sampling, receipts from the landfill (trip tickets),

daily inspection notes concerning any deviation from the standard working procedures, sign-in/sign-out sheets of site visitors and workers, and any other pertinent documents, permits, notification, photographs, and records. The information required to be maintained by this part may be maintained electronically so long as it is available at all times on site and available for review by the Commissioner.

5. A written ~~Occupant Protection Plan (OPP)~~ occupant protection plan shall be developed for all abatement projects ~~and shall be prepared according to~~ in accordance with the following procedures:

(i) The ~~Occupant Protection Plan~~ occupant protection plan shall be submitted to the ~~Division Commissioner~~ at least five (5) days before the commencement of the lead-based paint activity lead hazard reduction.

~~(ii)~~ The occupant protection plan shall be signed by a principal of the certified firm that is under contract to perform the lead hazard control and abatement activities and the person who prepared the plan.

~~(ii)(iii)~~ The ~~Occupant Protection Plan~~ occupant protection plan shall be unique to each residential dwelling or child-occupied facility and shall be developed before the abatement. The ~~Occupant Protection Plan~~ occupant protection plan shall describe the measures and management procedures that will be taken during the abatement to protect the building occupants from exposure to any lead-based paint hazards. If exterior abatement is being conducted, the ~~Plan~~ plan should also include the protection of persons within ~~ten (10)~~ feet per building story of the building's exterior.

~~(iii)(iv)~~ A ~~Either a~~ certified supervisor or project designer ~~shall~~ may prepare the ~~Occupant Protection Plan~~ occupant protection plan for a single-family dwelling, ~~or~~ a multi-family dwelling with ~~ten 10~~ or fewer units, ~~or a child-occupied facility less than or equal to 1200 square feet or a conversion project less than or equal to 1200 square feet.~~

~~(iv)(v)~~ An ~~Occupant Protection Plan~~ Only a certified project designer may prepare the occupant protection plan for multi-family dwellings with ~~eleven 11~~ or more units, ~~shall be prepared by a certified project designer or a child-occupied facility equal to or greater than 1201 square feet or a conversion project equal to or greater than 1201 square feet.~~

~~(vi)~~ The occupant protection plan shall contain the work site preparation level of containment as specified in the following tables for interior, exterior, and window treatment lead hazard control activities:

<u>Interior Worksite Preparation Levels (Not Including Windows)</u>				
<u>Description</u>	<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>	<u>Level 4</u>
<u>Typical Application (Hazard Controls)</u>	<u>Dust removal and any abatement or interim control method disturbing no more than two square feet of painted surface per room</u>	<u>Any interim control or abatement method disturbing between two and 10 square feet of painted surface per room</u>	<u>Same as Level 2.</u>	<u>Any interim control or abatement method disturbing more than 10 square feet per room.</u>
<u>Time Limit Per Dwelling</u>	<u>One workday.</u>	<u>One workday.</u>	<u>Five workdays.</u>	<u>None.</u>
<u>Resident Location</u>	<u>Inside dwelling, but</u>	<u>Same as Level 1.</u>	<u>Outside the</u>	<u>Outside the</u>

	<p><u>outside work area. Resident must have lead-safe passage to bathroom, at least one living area, and entry/egress pathways. Alternatively, resident can leave the dwelling during the work day.</u></p>		<p><u>dwelling; but can return in evening after day's work and cleanup are completed. Resident must have safe passage to bathroom, at least one living area, and entry/egress pathways upon return. Alternatively, resident can leave the dwelling until all work is completed.</u></p>	<p><u>dwelling for duration of project; cannot return until clearance has been achieved.</u></p>
<p><u>Containment and Barrier System</u></p>	<p><u>Single layer of plastic sheeting on floor extending five feet beyond the perimeter of the treated area in all directions. No plastic sheeting on doorways is required, but a low physical barrier (furniture, wood planking) to prevent inadvertent access by resident is recommended. Children should not have access to plastic sheeting (suffocation hazard).</u></p>	<p><u>Two layers of plastic on entire floor. Plastic sheet with primitive airlock flap on all doorways. Doors secured from inside the work area need not be sealed. Children should not have access to plastic sheeting (suffocation hazard).</u></p>	<p><u>Two layers of plastic on entire floor. Plastic sheet with primitive airlock flap on all doorways to work areas. Doors secured from inside the work area need not be sealed. Overnight barrier should be locked or firmly secured. Children should not have access to plastic sheeting (suffocation hazard).</u></p>	<p><u>Two layers of plastic on entire floor. If entire unit is being treated, cleaned, and cleared, individual room doorways need not be sealed. If only a few rooms are being treated, seal all doorways with primitive airlock flap to avoid cleaning entire dwelling. Doors secured from inside the work area need not be sealed.</u></p>
<p><u>Warning Signs</u></p>	<p><u>Required at entry to room but not on building (unless exterior work is also under way).</u></p>	<p><u>Same as Level 1.</u></p>	<p><u>Posted at main and secondary entryways.</u></p>	<p><u>Posted at building exterior near main and secondary entryways.</u></p>
<p><u>Ventilation System</u></p>	<p><u>Dwelling ventilation system turned off, but vents need not be sealed with plastic if they are more than five feet away from the surface being treated. Negative pressure zones (with "negative air" machines) are not required, unless large supplies of fresh air must be admitted into the work area to control</u></p>	<p><u>Turned off and all vents in room sealed with plastic. Negative pressure zones (with "negative air" machines) are not required, unless large supplies of fresh air must be admitted into the work area to control exposures to other hazardous substances (for example, solvent vapors).</u></p>	<p><u>Same as Level 2.</u></p>	<p><u>Same as Level 2.</u></p>

	<u>exposures to other hazardous substances (for example, solvent vapors).</u>			
<u>Furniture</u>	<u>Left in place uncovered if furniture is more than five feet from working surface. If within five feet, furniture should be sealed with a single layer of plastic or moved for paint treatment. No covering is required for dust removal.</u>	<u>Removed from work area. Large items that cannot be moved can be sealed with a single layer of plastic sheeting and left in work area.</u>	<u>Same as Level 2.</u>	<u>Same as Level 2.</u>
<u>Cleanup (See Chapter 14 of the U.S. Department of Housing and Urban Development Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing for further discussion of cleanup methods)</u>	<u>HEPA vacuum, wet wash, and HEPA vacuum all surfaces and floors extending 5 feet in all directions from the treated surface. For dust removal work alone, a HEPA vacuum and wet wash cycle is adequate (i.e., no second pass with a HEPA vacuum is needed). Also, wet wash and HEPA vacuum floor in adjacent area (s) used as pathway to work area. Do not store debris inside dwelling overnight; transfer to a locked secure area at the end each day.</u>	<u>HEPA vacuum, wet wash, and HEPA vacuum all surfaces in room. Also, wet wash and HEPA vacuum floor in adjacent area(s) used as pathway to work area. Do not store debris inside dwelling overnight; use a secure locked area.</u>	<u>Remove top layer of plastic from floor and discard. Keep bottom layer of plastic on floor for use on the next day. HEPA vacuum, wet wash, and HEPA vacuum all surfaces in room. Also, wet wash and HEPA vacuum floor in adjacent area(s) used as pathway to work area. Do not store debris inside dwelling overnight; use a secure locked area.</u>	<u>Full HEPA vacuum, wet wash, and HEPA vacuum cycle, as detailed in Chapter 14 of the U.S. Department of Housing and Urban Development Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing.</u>
<u>Dust Sampling</u>	<u>Clearance only.</u>	<u>Clearance only.</u>	<u>One sample collected outside work area every few jobs plus clearance.</u>	<u>Clearance only.</u>

<u>Exterior Worksite Preparation Levels (Not Including Windows)</u>			
<u>Description</u>	<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>
<u>Typical Applications</u>	<u>Any interim control or abatement method disturbing less than 10 square feet of exterior painted surface per dwelling.</u>	<u>Any interim control or abatement method disturbing 10 to 50 square feet of exterior painted surface per dwelling. Also</u>	<u>Any interim control or abatement method disturbing more than 50 square feet of exterior painted surface per</u>

	<u>Also includes soil control work.</u>	<u>includes soil control work.</u>	<u>dwelling. Also includes soil control work.</u>
<u>Time Limit Per Dwelling</u>	<u>One day.</u>	<u>None.</u>	<u>None.</u>
<u>Resident Location</u>	<u>Inside dwelling but outside work area for duration of project until cleanup has been completed. Alternatively, resident can leave until all work has been completed. Resident must have lead-safe access to entry/egress pathways.</u>	<u>Relocated from dwelling during workday but may return after daily cleanup has been completed.</u>	<u>Relocation from dwelling for duration of project until final clearance is achieved.</u>
<u>Containment and Barrier System</u>	<u>One layer of plastic on ground extending 10 feet beyond the perimeter of working surfaces. Do not anchor ladder feet on top of plastic (puncture the plastic to anchor ladders securely to ground). For all other exterior plastic surfaces, protect plastic with boards to prevent puncture from falling debris, nails, etc., if necessary. Raise edges of plastic to create a basin to prevent of unexpected precipitation. Secure plastic to side of building with tape or other anchoring system (no gaps between plastic and building). Weight all plastic sheets down with two-by-fours or similar objects. Keep all windows within 20 feet of working surfaces closed, including windows of adjacent structures.</u>	<u>Same as Level 1.</u>	<u>Same as Level 1.</u>
<u>Playground Equipment, Toys, Sandbox</u>	<u>Remove all movable items to a 20-foot distance from working surfaces. Items that cannot be readily moved to a 20-foot distance can be sealed with taped plastic sheeting.</u>	<u>Same as Level 1.</u>	<u>Same as Level 1.</u>
<u>Signs</u>	<u>Post warning signs on the building and at a 20-foot perimeter around building (or less if distance to next building or sidewalk is less than 20 feet).</u>	<u>Same as Level 1.</u>	<u>Same as Level 1.</u>
<u>Weather</u>	<u>Do not conduct work if wind speeds are greater than 20</u>	<u>Same as Level 1.</u>	<u>Same as Level 1.</u>

	<u>miles per hour. Work must stop and cleanup must occur before rain begins.</u>		
<u>Porches</u>	<u>One lead-safe entryway must be made available to residents at all times. Do not treat front and rear porches at the same time if there is not a third doorway.</u>	<u>Front and rear porches cannot be treated at the same time if unprotected workers must use the entryway.</u>	<u>Same as Level 2.</u>
<u>Dust & Soil Sampling</u>	<u>Clearance only.</u>	<u>Clearance only.</u>	<u>Clearance only.</u>
<u>Porches</u>	<u>One lead-safe entryway must be made available to residents at all times. Do not treat front and rear porches at the same time if there is not a third doorway.</u>	<u>Front and rear porches cannot be treated at the same time if unprotected workers must use the entryway.</u>	<u>Same as Level 2.</u>

<u>Window Treatment or Replacement Work Preparation Levels</u>	
<u>Appropriate Applications</u>	<u>Any Window Treatment or Replacement.</u>
<u>Resident Location</u>	<u>Remain inside dwelling but outside work area until project has been completed. Alternatively, can leave until all work has been completed. Resident must have access to lead-safe entry/egress pathway.</u>
<u>Time Limit Per Dwelling</u>	<u>None.</u>
<u>Containment and Barrier System</u>	<u>One layer of plastic sheeting on ground or floor extending five feet beyond perimeter of window being treated/replaced. Two layers of plastic taped to interior wall if working on window from outside; if working from the inside, tape two layers of plastic to exterior wall. If working from inside; implement a minimum Interior Worksite Preparation Level 2. Children cannot be present in an interior room where plastic sheeting is located due to suffocation hazard. Do not anchor ladder feet on top of plastic (puncture the plastic to anchor ladders securely to ground). For all other exterior plastic surfaces, protect plastic with boards to prevent puncture from falling debris, nails, etc. (if necessary). Secure plastic to side of building with tape or other anchoring system (no gaps between plastic and building). Weigh all plastic sheets down with two-by-fours or similar objects. All windows in dwelling should be kept closed. All windows in adjacent dwelling that are closer than 20 feet to the work area should be kept closed.</u>
<u>Signs</u>	<u>Post warning signs on the building and at a 20-foot perimeter around building (or less if distance to next building or sidewalk is less than 20 feet). If window is to be removed from inside, no exterior sign is necessary.</u>
<u>Security</u>	<u>Erect temporary fencing or barrier tape at a 20-foot perimeter around building (or less if distance to next building or sidewalk is less than 20 feet). Use a locked dumpster, covered truck, or locked room to store debris before disposal.</u>
<u>Weather</u>	<u>Do not conduct work if wind speeds are greater than 20 miles per hour. Work must stop and cleanup must occur before rain begins, or work should proceed from the inside only.</u>
<u>Playground Equipment, Toys.</u>	<u>Removed from work area and adjacent areas. Remove all items to a 20-foot distance from dwelling. Large, unmovable items can be sealed with taped plastic sheeting.</u>

<u>Sandbox</u>	
<u>Cleaning</u>	<u>If working from inside, HEPA vacuum, wet wash, and HEPA vacuum all interior surfaces within 10 feet of work area in all directions. If working from the exterior, no cleaning of the interior is needed, unless the containment is breached. Similarly, no cleaning is needed on the exterior if all work is done on the interior and the containment is not breached. If containment is breached, then cleaning on both sides of the window should be performed. No debris or plastic should be left out overnight if work is not completed. All debris must be kept in a secure area until final disposal.</u>

6. After the commencement of an abatement project, all persons within a containment area shall be lead-based paint abatement personnel certified by the Commissioner ~~pursuant to subparagraph (18)(d) of this Rule.~~
7. The work practices listed below shall be restricted during an abatement as follows:
 - (i) Open-flame burning or torching of lead-based paint is prohibited;
 - (ii) Machine sanding or grinding or abrasive blasting or sandblasting of lead-based paint is prohibited unless used with High Efficiency Particulate Air (HEPA) exhaust control ~~which that~~ removes particles of 0.3 microns or larger from the air at 99.97 percent or greater efficiency;
 - (iii) Dry scraping of lead-based paint is permitted only in conjunction with heat guns or around electrical outlets or when treating defective paint spots totaling no more than two ~~(2)~~ square feet in any one room, hallway, or stairwell or totaling no more than ~~twenty (20)~~ square feet on exterior surfaces; and
 - (iv) Operating a heat gun on lead-based paint is permitted only at temperatures below 1100 degrees Fahrenheit.
8. ~~If conducted, soil~~ Soil abatement shall be conducted ~~in one of the following ways as follows:~~
 - (i) If ~~the~~ soil is removed:
 - (I) ~~The Removed~~ soil shall be replaced by soil with a lead concentration as close to local background as practicable, but no greater than 400 ppm.
 - (II) ~~The Removed~~ soil ~~that is removed~~ shall not be used as topsoil at another residential property or child-occupied facility.
 - (ii) If soil is not removed, the soil shall be rendered permanently covered ~~soil, as defined in paragraph (4) of this rule.~~
9. The following post-abatement clearance procedures shall be performed only by a certified inspector or risk assessor:
 - (i) Following an abatement, a visual inspection shall be performed by a lead-based paint certified inspector or risk assessor to determine if deteriorated painted surfaces ~~and/or~~ visible amounts of dust, debris, or residue are still present. If deteriorated painted surfaces or visible amounts of dust, debris, or residue are present, these conditions must be eliminated prior to ~~the~~ continuation of the clearance procedures.
 - (ii) Following the visual inspection and any post-abatement cleanup required by subpart (i) of this part, clearance sampling for lead in dust shall be conducted. Clearance sampling may be conducted by employing single-surface sampling or composite sampling techniques.

- (iii) Dust samples for clearance purposes shall be taken using documented methodologies that incorporate adequate quality control procedures.
 - (iv) Dust samples for clearance purposes shall be taken a minimum of ~~4~~ one hour after completion of final post-abatement cleanup activities.
 - (v) The following post-abatement clearance activities shall be conducted as appropriate based upon the extent or manner of abatement activities conducted in or to the residential dwelling or child-occupied facility:
 - (I) After conducting an abatement with containment between abated and unabated areas, one dust sample shall be taken from one interior ~~window sill~~ windowsill and from one window trough (if present) and one dust sample shall be taken from the floors of each of no less than four rooms, hallways, or stairwells within the containment area. In addition, one dust sample shall be taken from the floor outside the containment area. If there are less than four rooms, hallways, or stairwells within the containment area, then all rooms, hallways, or stairwells shall be sampled.
 - (II) After conducting an abatement with no containment, two dust samples shall be taken from each of no less than four rooms, hallways, or stairwells in the residential dwelling or child-occupied facility. One dust sample shall be taken from one interior ~~window sill~~ windowsill and window trough (if present) of each room, and one dust sample shall be taken from the floor of each room, hallway, or stairwell selected. If there are less than four rooms, hallways, or stairwells within the residential dwelling or child-occupied facility then all rooms, hallways, or stairwells shall be sampled.
 - (III) Following an exterior paint abatement, a visible inspection shall be conducted. All horizontal surfaces in the outdoor living area closest to the abated surface shall be found to be cleaned of visible dust and debris. In addition, a visual inspection shall be conducted to determine the presence of paint chips on the drip line or next to the foundation below any exterior surface abated. If paint chips are present, they must be removed from the site and properly disposed of, according to all applicable ~~Federal~~ federal, State, and local requirements.
 - (vi) The rooms, hallways, or stairwells selected for sampling shall be selected according to documented methodologies.
 - (vii) The certified inspector or risk assessor shall compare the residual lead level (as determined by the laboratory analysis) from each single surface dust sample with clearance levels in subpart (viii) of this part for lead in dust on floors, interior ~~window sills~~ windowsills, and window troughs or from each composite dust sample with the applicable clearance levels for lead in dust on floors, interior ~~window sills~~ windowsills, and window troughs divided by half the number of subsamples in the composite sample. If the residual lead level in a single surface dust sample equals or exceeds the applicable clearance level or if the residual lead level in a composite dust sample equals or exceeds the applicable clearance level divided by half the number of subsamples in the composite sample, the components represented by the failed sample shall be re-cleaned and retested.
 - (viii) The clearance levels for lead in dust are ~~40~~ 10 $\mu\text{g}/\text{ft}^2$ for floors, 100 $\mu\text{g}/\text{ft}^2$ for interior windowsills, and 400 ~~μg~~ μg / ft^2 for window troughs.
10. In a multi-family dwelling with similarly constructed and maintained residential dwellings, random sampling for the ~~purposes~~ purpose of clearance may be conducted provided:
- (i) The certified individuals who abate or clean the residential dwellings do not know which residential dwelling will be selected for the random sample.

- (ii) A sufficient number of residential dwellings are selected for dust sampling to provide a ~~95 percent~~ 95% level of confidence that no more than ~~5 percent~~ 5% or 50 of the residential dwellings (whichever is smaller) in the randomly sampled population exceed the appropriate clearance levels.
- (iii) The randomly selected residential dwellings shall be sampled and evaluated for clearance according to the procedures found in part ~~(e)~~ 9 of this ~~paragraph~~ subparagraph.

11. An abatement report and project specifications shall be prepared by a certified supervisor or project designer for single family dwellings or multi-family dwellings with 10 ~~of or~~ fewer units. A certified project designer shall prepare an abatement report and project specifications for child-occupied facilities and multi-family dwellings having ~~eleven (11)~~ or more units. The completed ~~Abatement Report~~ abatement report shall be submitted to the ~~Division Commissioner~~ no more than 15 days following the completion of the abatement project. Any project specifications shall meet the requirements in part (e)3 of this paragraph. The abatement report shall include the following information:

- (i) Start and completion dates of abatement and a copy of the Project Review Acknowledgement to Proceed obtained from the Commissioner;
- (ii) The name and address of each certified firm conducting the abatement and the name of each supervisor assigned to the abatement project;
- (iii) The occupant protection plan prepared pursuant to part ~~(e)~~ 5 of this ~~paragraph~~ subparagraph;
- ~~(iv) — A copy of the risk assessment report signed by a State of Tennessee certified lead-based paint risk assessor and prepared pursuant to subpart (d)11 of this paragraph;~~
- ~~(iv)~~ (iv) The name, address, and signature of each certified risk assessor or inspector conducting clearance sampling and the date of clearance testing;
- ~~(v)~~ (v) The results of clearance testing and all soil analyses (if applicable) and the name of each recognized laboratory that conducted the analyses; and
- ~~(vii)~~ (vi) A detailed written description of the abatement, including abatement methods used, locations of rooms ~~and/or~~ and components where abatement occurred, the reason for selecting particular abatement methods for each component, and any suggested monitoring of encapsulants or enclosures.

~~(f)~~ (g) Collection and Laboratory Analysis of Samples.

Any paint chip, dust, or soil sample collected pursuant to the work practice standards contained in this paragraph shall be:

1. Collected by persons certified by the Commissioner as an inspector or risk assessor; and
2. Analyzed by a laboratory recognized by the ~~EPA or the Commissioner as being~~ National Lead Laboratory Accreditation Program or equivalent and capable of performing analyses for lead compounds in paint chip, dust, and soil samples pursuant to TSCA ~~section 405 15~~ U.S.C. § 2685(b) laboratory requirements.

~~(g)~~ (h) Composite Dust Sampling.

Composite dust sampling may only be conducted in the situations specified in subparagraphs (c), ~~(d), and through (e)~~ (f) of this paragraph. If such sampling is conducted, the following conditions ~~shall~~ apply:

1. Composite dust samples shall consist of at least two subsamples;

2. Every component that is being tested shall be included in the sampling; and
3. Composite dust samples shall not consist of subsamples from more than one type of component.

~~(A)~~(i) Determinations.

1. Lead-based paint is present:
 - (i) On any surface that is tested and found to contain lead equal to or in excess of 1.0 milligrams per square centimeter or equal to or in excess of 0.5% by weight; or
 - (ii) On any surface like a surface tested in the same room equivalent that has a similar painting history and that is found to be lead-based paint.
2. A paint-lead hazard is present:
 - (i) On any friction surface that is subject to abrasion and where the lead dust levels on the nearest horizontal surface underneath the friction surface (e.g., the ~~window sill~~ windowsill or floor) are equal to or greater than the dust hazard levels identified in ~~subparagraph (b) of this subparagraph~~ subpart (f)9(viii) of this paragraph; or
 - (ii) On any chewable lead-based paint surface on which there is evidence of teeth marks; or
 - (iii) Where there is any damaged or otherwise deteriorated lead-based paint on an impact surface that is caused by impact from a related building component (such as a doorknob that knocks into a wall or a door that knocks against its door frame); or
 - (iv) If there is any other deteriorated lead-based paint in any residential building or child-occupied facility or on the exterior of any residential building or child-occupied facility.
3. A dust-lead hazard is present in a residential dwelling or child occupied facility:
 - (i) In a residential dwelling on floors and interior ~~window sills~~ windowsills when the weighted arithmetic mean lead loading for all single surface or composite samples of floors and interior ~~window sills~~ windowsills window sills are equal to or greater than ~~40~~ 10 $\mu\text{g}/\text{ft}^2$ for floors and ~~250~~ 100 $\mu\text{g}/\text{ft}^2$ for interior windowsills, respectively; ~~or~~
 - (ii) On floors or interior ~~window sills~~ windowsills in an unsampled residential dwelling in a multi-family dwelling, if a dust-lead hazard is present on floors or interior ~~window sills~~ windowsills, respectively, in at least one sampled residential unit on the property; ~~or~~ and
 - (iii) On floors or interior ~~window sills~~ windowsills in an unsampled common area in a multi-family dwelling, if a dust-lead hazard is present on floors or interior ~~window sills~~ windowsills, respectively, in at least one sampled common area in the same common area group on the property.
4. A soil-lead hazard is present:
 - (i) In a play area when the soil-lead concentration from a composite play area sample of bare soil is equal to or greater than 400 parts per million; or
 - (ii) In the rest of the yard when the arithmetic mean lead concentration from a composite sample (or arithmetic mean of composite samples) of bare soil from the rest of the yard (i.e., non-play areas) for each residential building on a property is

equal to or greater than 1,200 parts per million.

~~(i)~~ Recordkeeping.

All reports or plans required in this paragraph shall be maintained on site by the certified ~~Supervisor~~ supervisor during abatement activities and by the certified firm or individual that prepared the report for no fewer than three ~~(3)~~ years. The certified firm or individual also shall provide copies of these reports to the building owner who contracted for its services.

~~4.~~(k) Notification:

A certified firm must notify the ~~Division~~ Commissioner of lead-based paint activities as follows:

~~(i)~~1. Except as provided in ~~subpart (ii) part 2~~ of this ~~part subparagraph~~, the ~~Division~~ Commissioner must be notified prior to conducting lead-based paint activities. The original notification must be received by the ~~Division~~ Commissioner at least five business days before the start date of any lead-based paint activities.

~~(ii)~~2. Notification for lead-based paint activities required in response to an elevated blood lead level (~~EBL~~) (EBLL) determination, or federal, State, ~~Tribal~~ or local emergency abatement order, should be received by the ~~Division~~ Commissioner as early as possible before, but must be received no later than, the start date of the lead-based paint activities. Should the start date or location provided to the ~~Division~~ Commissioner change, an updated notification must be received by the ~~Division~~ Commissioner on or before the start date provided to the ~~Division~~ Commissioner. Documentation showing evidence of an ~~EBL~~ EBLL determination or a copy of the federal, ~~State~~ state, ~~Tribal~~ or local emergency abatement order must be included in the written notification to take advantage of this abbreviated notification period.

~~(iii)~~3. Except as provided in ~~subpart (ii) part 2~~ of this ~~part subparagraph~~, updated notification must be provided to the ~~Division~~ Commissioner for lead-based paint activities that will begin on a date other than the start date specified in the original notification as follows:

~~(i)~~ For lead-based paint activities beginning prior to the start date provided to the ~~Division~~ Commissioner, an updated notification must be received by the ~~Division~~ Commissioner at least five business days before the new start date included in the notification.

~~(ii)~~ For lead-based paint activities beginning after the start date provided to the ~~Division~~ Commissioner, an updated notification must be received by the ~~Division~~ Commissioner on or before the start date provided to the ~~Division~~ Commissioner.

~~(iv)~~4. Except as provided in ~~subpart (ii) part 2~~ of this ~~part subparagraph~~, updated notification must be provided to the ~~Division~~ Commissioner for any change in location of lead-based paint activities at least five business days prior to the start date provided to the ~~Division~~ Commissioner.

~~(v)~~5. Updated notification must be provided to the ~~Division~~ Commissioner when lead-based paint activities are canceled, or when there are other significant changes including, but not limited to, when the square footage or acreage to be abated changes by more than 20%. This updated notification must be received by the ~~Division~~ Commissioner on or before the start date provided to the ~~Division~~ Commissioner, or if work has already begun, within 24 hours of the change.

~~(vi)~~6. The following must be included in each notification:

~~(i)~~ Notification type (original, updated, cancellation):

~~(ii)~~ Date when lead-based paint activities will start:

~~(iii)~~ Date when lead-based paint activities will end (approximation using best

professional judgment);

- ~~(IV)(iv)~~ Firm's name, ~~Division~~ certification number, address, and telephone number;
- ~~(V)(v)~~ Type of building (e.g., single family dwelling, multi-family dwelling, child-occupied facilities) on/in which abatement work will be performed;
- ~~(VI)(vi)~~ Property name (if applicable);
- ~~(VII)(vii)~~ Property address including apartment or unit number(s) (if applicable) for abatement work;
- ~~(VIII)(viii)~~ If using the abbreviated time period as described in ~~subpart (ii) part 2~~ of this ~~part subparagraph~~, documentation showing evidence of an ~~EBL EBL~~ determination or a copy of the federal, State, Tribal, or local emergency abatement order;
- ~~(IX)(ix)~~ Name and ~~Division~~ certification number of the project supervisor;
- ~~(X)(x)~~ Approximate square footage or acreage to be abated;
- ~~(XI)(xi)~~ Brief description of abatement, risk assessment, inspection, lead hazard screen, lead hazard reduction, and clearance activities to be performed; and
- ~~(XII)(xii)~~ Name, title, and signature of the representative of the certified firm who prepared the notification.

~~(vii)7.~~ Notification must be made by written notification or electronically by such means approved by the Commissioner. Written notification can be accomplished using the Division form titled "Lead-Based Paint Activity Notification," or a successor to that form approved by the ~~Division Commissioner~~. All written notification must be delivered by U.S. Postal Service, fax, commercial delivery service, or hand delivery ~~(persons submitting notification by U.S. Postal Service are reminded that they should allow three additional business days for delivery in order to ensure that the Division receives the notification by the required date).~~

~~(viii)8.~~ In the event of changes to the original notification, lead-based paint activities shall not begin on a date or at location other than that specified in either an original or updated notification.

~~(ix)9.~~ No firm or individual shall engage in lead-based paint activities prior to notifying the ~~Division Commissioner~~ of such activities according to the requirements of this ~~part subparagraph~~.

~~(9) — Accreditation of Training Programs: Public and Commercial Buildings, Bridges and Superstructures. (RESERVED) [40 CFR 745.228]~~

~~(10) — Certification of Individuals and Firms Engaged in Lead-Based Paint Activities: Public and Commercial Buildings, Bridges and Superstructures. (RESERVED) [40 CFR 745.229]~~

~~(11) — Work Practice Standards for Conducting Lead-Based Paint Activities: Public and Commercial Buildings, Bridges and Superstructures. (RESERVED) [40 CFR 745.230]~~

~~(12)-(13) (RESERVED)~~

~~(14)(7)~~ Lead-Based Paint Activities Requirements. ~~[40 CFR 745.233]~~

Lead-based paint activities, ~~as defined in the Act~~, shall only be conducted according to the procedures and work practice standards contained in paragraph ~~(8)(6)~~ of this ~~Rule rule~~. No individual or firm may offer to perform or perform any lead-based paint activity, unless properly certified and properly registered by the Commissioner to perform that activity according to the procedures in paragraph ~~(7)(5)~~ of this ~~Rule rule~~.

~~(15) — (RESERVED)~~

~~(16)(8)~~ Enforcement and Penalties. ~~[40 CFR 745.235]~~

Enforcement of the provisions of these Rules rules and Penalties penalties for violations shall be as set forth in these rules and Tennessee Code Annotated (T.C.A.) §§ 68-131-404 and § 68-131-405 of the Act.

~~(17)(9)~~ (RESERVED) Inspections.

The Commissioner and the Commissioner's designated staff have the authority to enter any structure, including residences, where lead-based paint activities have occurred, or are being conducted, for the purpose of determining compliance with lead-based paint abatement requirements, provided they either:

- (a) Obtain the consent of the owner or an adult occupant of the premises after presenting credentials identifying themselves as employees of the Department; or
- (b) Apply for and obtain a warrant from a court with jurisdiction, which shall be issued by the court upon a showing of probable cause that the inhabitants of the dwelling are likely to suffer adverse health effects from continued exposure to a lead-based paint hazard.

~~(18)(10)~~ Fees for Accreditation, Certification, and Registration of Lead-Based Paint Activities. [40 CFR 745.238]

(a) Purpose.

~~To~~ The purpose of this paragraph is to establish and impose fees for certified individuals and firms engaged in lead-based paint activities and persons operating accredited training programs and lead-based paint project review notifications.

(b) Persons who must pay fees.

Fee amounts in accordance with this paragraph must be paid by:

1. Training programs.

All training programs applying to the Commissioner for the accreditation and re-accreditation of training programs in one or more of the following disciplines: inspector, risk assessor, supervisor, project designer, and abatement worker.

2. Firms and Individuals.

All firms and individuals seeking certification and re-certification from the Commissioner to engage in lead-based paint activities in one or more of the following disciplines: inspector, risk assessor, supervisor, project designer, and abatement worker.

(c) Fee Amounts.

~~1. Certification and Accreditation Fees.~~

~~Initial and renewal certification and accreditation fees are specified in the following table:~~

1. Application, project review notification, and other fees under this rule shall be as follows until June 30, 2024:

Training Program	<u>Accreditation Initial Application Fees</u>	Re-accreditation [Every <u>2 two</u> years, see Rule 4200-1-18-01(6)(f)4 <u>0400-13-01-01(4)(g)1.</u>]
Initial Course		
Inspector	\$2,500	\$800
Risk Assessor	\$1,760	\$575
Supervisor	\$3,250	\$1,025
Worker	\$1,760	\$575
Project designer	\$1,010	\$355

Refresher Course			
Inspector	\$1,010		\$355
Risk Assessor	\$1,010		\$355
Supervisor	\$1,010		\$355
Worker	\$1,010		\$355
Project designer	\$640		\$245
Lead-based Paint Activities-Individual	Certification	Annual Registration Renewal	Re-certification [every 3 <u>three</u> years, see Rule 4200-1-18-.01(7)(c)1 <u>0400-13-01-.01(5)(c)1</u> for details.]
Inspector	\$ 200	\$ 100	\$ 200
Risk assessor	\$ 250	\$ 125	\$ 250
Supervisor	\$ 200	\$ 100	\$ 200
Worker	\$ 60	\$ 30	\$ 60
Project designer	\$ 300	\$ 150	\$ 300
Lead-based Paint Activities-Firm	Certification	Annual Registration Renewal	Certification Renewal [every 3 <u>three</u> years, see Rule 4200-1-18-.01(7)(d) <u>0400-13-01-.01(5)(d)7.</u>]
Firm	\$ 500	\$ 300	\$ 500

2. Application, project review notification, and other fees under this rule shall be as follows beginning July 1, 2024:

<u>Training Program</u>	<u>Initial Application Fees</u>	<u>Re-accreditation</u> [Every two years, see Rule <u>0400-13-01-.01(4)(g)1.</u>]
<u>Initial Course</u>		
<u>Inspector</u>	<u>\$4,150</u>	<u>\$1,350</u>
<u>Risk Assessor</u>	<u>\$2,900</u>	<u>\$1,350</u>
<u>Supervisor</u>	<u>\$5,400</u>	<u>\$1,675</u>
<u>Worker</u>	<u>\$2,900</u>	<u>\$1,350</u>
<u>Project designer</u>	<u>\$1,600</u>	<u>\$580</u>
<u>Refresher Course</u>		
<u>Inspector</u>	<u>\$1,300</u>	<u>\$800</u>
<u>Risk Assessor</u>	<u>\$1,300</u>	<u>\$800</u>
<u>Supervisor</u>	<u>\$1,300</u>	<u>\$800</u>
<u>Worker</u>	<u>\$1,300</u>	<u>\$800</u>
<u>Project designer</u>	<u>\$1,000</u>	<u>\$400</u>
<u>To Change or Add an individual as the Training Manager or Principal Instructor(s)</u>	<u>\$250</u>	
<u>Lead-Based Paint Activities – Individuals</u>	<u>Application Fees</u>	<u>Re-certification [every three years, see Rule <u>0400-13-01-.01(5)(c)1</u> for details.]</u>
<u>Inspector</u>	<u>\$675</u>	<u>\$675</u>
<u>Risk assessor</u>	<u>\$850</u>	<u>\$850</u>
<u>Supervisor</u>	<u>\$675</u>	<u>\$675</u>
<u>Worker</u>	<u>\$200</u>	<u>\$200</u>
<u>Project designer</u>	<u>\$1,000</u>	<u>\$1,000</u>
<u>Certification ID Card Replacement</u>	<u>\$50</u>	

<u>Lead-Based Paint Activities Certification – Firm</u>	<u>Application Fees</u>	<u>Certification Application Fees for Firms</u> <u>[Every three years in accordance with Rule 0400-13-01-.01(5)(d)7.]</u>
<u>Lead-Based Paint Activity Firm</u>	<u>\$1,850</u>	<u>\$1,850</u>
<u>Replacement Firm Certificate</u>	<u>\$150</u>	

<u>Lead-Based Paint Activities – Project Review Notification Fee</u>		
<u>Abatement Type</u>	<u>Project Contract Cost</u>	<u>Project Review Notification Fee</u>
<u>All types of abatement in single family, multi-family, and child-occupied facilities</u>	<u>All abatement project costs</u>	<u>0.02 times project contract cost</u>
<u>Amended/revise project notification for all types of abatement in single family, multi-family and child-occupied facilities</u>	<u>All abatement project costs</u>	<u>\$50</u>
<u>All Lead-Based Paint inspections, risk assessments, occupant protection, plans, clearance sampling, and project specifications</u>	<u>Not applicable</u>	<u>No Fee</u>

2.3. National Certification Examination Exam Fee.

Individuals required to take a national certification exam in accordance with paragraph (7)(5) of this Rule rule will be assessed a fee of \$70 for each exam attempt.

~~3. (Reserved)~~

4. Lost ~~Registration Card or~~ Certification Identification Card or Certificate.

A ~~\$25~~ \$50 fee shall be charged for replacement of a registration card or a photo identification certification card or certificate. ~~(See replacement procedure in subparagraph (e) of this paragraph).~~

~~(d) Application/Payment Procedure.~~

~~1. Certification and Re-certification.~~

~~(i) Individuals.~~

~~Submit a completed application (titled “Application to Conduct Lead-based Paint Abatement Activities”), the materials described in paragraph (7) of this rule, and the appropriate application fee(s) described in this paragraph.~~

~~(ii) Firms.~~

~~Submit a completed application (titled “Application to Conduct Lead-based Paint Abatement Activities”), the materials described in paragraph (7) of this rule, and the appropriate application fee(s) described in this paragraph.~~

~~2. Accreditation and Re-accreditation.~~

~~Submit a completed application (titled "Accreditation Application for Training Programs"), the materials described in paragraph (6) of this rule, and the appropriate application fee(s) described in this paragraph.~~

~~3. Annual Registration.~~

~~Submit a Registration Renewal Application (supplied by the Division) complete with a photocopy of the current valid State of Tennessee issued Registration and Certification Cards along with the appropriate renewal fee(s) described in this paragraph. Registration fees are not required when a person is applying for certification or re-certification.~~

~~4. Application Forms.~~

~~Application forms and instructions can be obtained from the Tennessee Lead-Based Paint Abatement Program at 1-888-771-5323.~~

~~5. All certified individuals shall maintain on their person at any abatement site, a valid State of Tennessee issued Certification Card and Registration Card.~~

~~(e)(d) Photo Identification Certification Card and Registration Card or Certificate Replacement.~~

1. Parties seeking a ~~Registration Card or a Certification Card~~ photo identification certification card or a Certificate replacement shall complete the applicable portions of the appropriate application in accordance with the instructions provided. The appropriate applications are:
 - (i) Individuals. "Application to Conduct Lead-based Paint Abatement Activities."
 - (ii) Firms. "Application to Conduct Lead-based Paint Abatement Activities."
 - (iii) Training Programs. "Accreditation Application for Training Programs."
2. Submit application and payment in the amount specified in ~~part (e)4~~ subparagraph (c) of this paragraph in accordance with the instructions provided with the application package.

~~(19) Violations.~~

~~(a) It is a violation for an accredited training program to:~~

- ~~1. Misrepresent the contents of a training course to the Commissioner and/or the student population;~~
- ~~2. Fail to submit required information or notifications in a timely manner;~~
- ~~3. Fail to maintain required records;~~
- ~~4. Falsify accreditation records, instructor qualifications, or other accreditation related information or documentation;~~
- ~~5. Fail to comply with the training standards and requirements in this paragraph;~~
- ~~6. Fail to comply with Federal, State, or local lead-based paint statutes or regulations;~~
- ~~7. Make false or misleading statements to the Commissioner in its application for accreditation or re-accreditation, which the Commissioner relied upon in approving the application; or~~
- ~~8. Fail to comply with any other provision of these regulations or the Act.~~

~~(b) It is a violation for certified individuals to:~~

- ~~1. Obtain training documentation through fraudulent means;~~

- ~~2. Gain admission to and complete an accredited training program through misrepresentation of admission requirements;~~
- ~~3. Obtain certification through misrepresentation of certification requirements or related documents dealing with education, training, professional registration, or experience;~~
- ~~4. Perform work requiring certification at a job site without having proof of certification;~~
- ~~5. Permit the duplication or use of the individual's own certificate by another;~~
- ~~6. Perform work for which certification is required, but for which appropriate certification has not been received;~~
- ~~7. Fail to comply with the appropriate work practice standards for lead-based paint activities at paragraph (8) of this rule; or~~
- ~~8. Fail to comply with any other provision of these regulations or the Act.~~

~~(c) It is a violation for certified firms to:~~

- ~~1. Perform work requiring certification at a job site with individuals who are not certified;~~
- ~~2. Fail to comply with the work practice standards established in paragraph (8) of this rule;~~
- ~~3. Misrepresent facts in its letter of application for certification to the Commissioner;~~
- ~~4. Fail to maintain required records; or~~
- ~~5. Fail to comply with any other provision of these regulations or the Act.~~

~~(20) Suspension or Revocation of Certification and Accreditation~~

~~(a) The Commissioner may suspend or revoke a certification of a firm, any person or the accreditation for any person or accredited training program violating any provision of Tennessee Code Annotated (T.C.A.) §§ 68-131-403 through 68-131-405 of the Act or of these rules, in accordance with the procedures set forth in T.C.A. § 4-5-320.~~

~~(b) In addition to an administrative or judicial finding of violation, for purposes of this paragraph only, execution of a consent agreement in settlement of an enforcement action constitutes evidence of a failure to comply with relevant statutes or regulations.~~

~~(21) Implementation of Rule 0400-13-01-.01 Lead-Based Paint Abatement.~~

~~This rule shall apply in Tennessee on the effective date of this rule. Persons, including accredited training providers, shall be in compliance with this rule within ninety (90) days of on its effective date. Such persons certified or accredited by EPA to conduct lead-based paint abatement activities in Tennessee may convert their EPA Certification to Tennessee Certification by applying for initial certification and registration or accreditation by the Commissioner at no cost. Such initial certification and registration or accreditation shall have the same expiration date as their former EPA Certification or Accreditation. Submittal of new Tennessee Certification and Registration or Accreditation Applications, which may include a request for other documents, may be required by the Commissioner to accomplish the transition of responsibility for the Lead-Based Paint Abatement Program from EPA to the State of Tennessee.~~

(11) Reciprocity.

The Commissioner will seek to establish written reciprocal arrangements with other EPA-authorized states and Indian tribes that have established training program accreditation and individual certification requirements that meet or exceed the requirements of EPA outlined in 40 C.F.R. Part 745 Subpart L –Lead-Based Paint Activities and these rules. A training program reciprocity agreement may address cooperation in the approval determination, the review (inclusive of conducting record and course audits and compliance

monitoring) of training programs, instructors, student testing, and examination administration, curriculum development, policy formulation, and the exchange of information and data. The Commissioner may grant accreditation of training programs and certification of individuals based on a reciprocity agreement provided the training program and individual completes the application process and payment of corresponding fees outlined in paragraph (10) of this rule. In addition, eligible servicemembers and spouses of servicemembers may secure accreditation in accordance with the provisions of T.C.A. § 4-3-1304(d) and 50 U.S.C. § 4025a (January 5, 2023).

Authority: T.C.A. §§ 11-1-101, 68-131-401 et seq., and 4-5-201 et seq.

~~1200-01-18-.02 Reserved.~~

Authority: T.C.A. §§ 11-1-101, 68-131-401 et seq., and 4-5-201 et seq.

~~1200-01-18-.03 Reserved.~~

Authority: T.C.A. §§ 11-1-101, 68-131-401 et seq., and 4-5-201 et seq.

~~1200-01-18-.04 Reserved.~~

Authority: T.C.A. §§ 11-1-101, 68-131-401 et seq., and 4-5-201 et seq.

~~1200-01-18-.05~~ 0400-13-01-.02 Lead-Based Paint Hazards ~~[Subpart D].~~

(1) Scope and Applicability. ~~[40 CFR 745.61]~~

- (a) This ~~subpart rule~~ identifies lead-based paint hazards.
- (b) The standards for lead-based paint hazards in this rule apply to target housing and child-occupied facilities.
- (c) Nothing in this ~~Rule rule~~ requires the owner of ~~property/~~ one or more properties subject to these standards to evaluate the property ~~(ties) or properties~~ for the presence of lead-based paint hazards or to take any action to control these conditions if one or more ~~of them~~ hazards is identified.
- (d) Identification of the lead hazards as defined on and after the effective date of this ~~Rule, rule~~ shall be disclosed to the property owner and occupants of the target housing and child-occupied facility.

~~(2) — (RESERVED) [40 CFR 745.62]~~

~~(3)(2)~~ Definitions. ~~[40 CFR 745.63]~~

~~The~~ In addition to the definitions in Rule 0400-13-01-.01, the following definitions apply to this ~~Rule Chapter rule 1200-1-18,~~ unless otherwise specified:

~~“Arithmetic mean” means the algebraic sum of data values divided by the number of data values (e.g., the sum of the concentration of lead in several soil samples divided by the number of samples).~~

~~“Chewable surface” means an interior or exterior surface painted with lead-based paint that a young child can mouth or chew. A chewable surface is the same as an “accessible surface” as defined in 42 U.S.C. 4851b(2). Hard metal substrates and other materials that cannot be dented by the bite of a young child are not considered chewable.~~

~~“Common area group” means a group of common areas that are similar in design, construction, and function. Common area groups include, but are not limited to hallways, stairwells, and laundry rooms.~~

~~“Concentration” means the relative content of a specific substance contained within a larger mass, such as the amount of lead (in micrograms per gram or parts per million by weight) in a sample of dust or soil.~~

~~“Deteriorated paint” means any interior or exterior paint or other coating that is peeling, chipping, chalking, or cracking, or any paint or coating located on an interior or exterior surface or fixture that is otherwise~~

~~damaged or separated from the substrate.~~

~~"Drip line" means the area within 3 feet surrounding the perimeter of a building.~~

~~"Friction surface" means an interior or exterior surface that is subject to abrasion or friction, including, but not limited to, certain window, floor, and stair surfaces.~~

~~"Impact surface" means an interior or exterior surface that is subject to damage by repeated sudden force such as certain parts of doorframes.~~

~~"Interior window sill" means the portion of the horizontal window ledge that protrudes into the interior of the room.~~

~~"Lead-based paint hazard" means hazardous lead-based paint, dust-lead hazard, or soil-lead hazard as identified in Rule 1200-1-18-.05(5).~~

~~"Loading" means the quantity of a specific substance present per unit of surface area, such as the amount of lead in micrograms contained in the dust collected from a certain surface area divided by the surface area in square feet or square meters.~~

~~"Mid-yard" means an area of a residential yard approximately midway between the drip line of a residential building and the nearest property boundary or between the drip lines of a residential building and another building on the same property.~~

~~"Play area" means an area of frequent soil contact by children of less than six (6) years of age as indicated by, but not limited to, such factors including the following: the presence of play equipment (e.g., sandboxes, swing sets, and sliding boards), toys, or other children's possessions, observations of play patterns, or information provided by parents, residents, care givers, or property owners.~~

~~"Residential building" means a building containing one or more residential dwellings.~~

~~"Room" means a separate part of the inside of a building, such as a bedroom, living room, dining room, kitchen, bathroom, laundry room, or utility room. To be considered a separate room, the room must be separated from adjoining rooms by built-in walls or archways that extend at least six (6) inches from an intersecting wall. Half walls or bookcases count as room separators if built in. Movable or collapsible partitions or partitions consisting solely of shelves or cabinets are not considered built-in walls. A screened in porch that is used as a living area is a room.~~

~~"Soil sample" means a sample collected in a representative location using ASTM E1727, "Standard Practice for Field Collection of Soil Samples for Lead Determination by Atomic Spectrometry Techniques," or equivalent method.~~

~~"Weighted arithmetic mean", means the arithmetic mean of sample results weighted by the number of subsamples in each sample. Its purpose is to give influence to a sample relative to the surface area it represents. A single surface sample is comprised of a single subsample. A composite sample may contain from two to four subsamples of the same area as each other and of each single surface sample in the composite. The weighted arithmetic mean is obtained by summing, for all samples, the product of the sample's result multiplied by the number of subsamples in the sample, and dividing the sum by the total number of subsamples contained in all samples. For example, the weighted arithmetic mean of a single surface sample containing 60 µg/ft², a composite sample (three subsamples) containing 100 µg/ft², and a composite sample (4 subsamples) containing 110 µg/ft² is 100 µg/ft². This result is based on the equation $[60+(3*100)+(4*110)]/(1+3+4)$.~~

~~"Window trough" means, for a typical double-hung window, the portion of the exterior windowsill between the interior window sill (or stool) and the frame of the storm window. If there is no storm window, the window trough is the area that receives both the upper and lower window sashes when they are both lowered. The window trough is sometimes referred to as the window "well."~~

~~"Wipe sample" means a sample collected by wiping a representative surface of known area, as determined by ASTM E1728, "Standard Practice for Field Collection of Settled Dust Samples Using Wipe Sampling Methods for Lead Determination by Atomic Spectrometry Techniques, or equivalent method, with an~~

acceptable wipe material as defined in ASTM E 1792, "Standard Specification for Wipe Sampling Materials for Lead in Surface Dust", or equivalent method.

~~(4) (RESERVED) [40 CFR 745.64]~~

~~(5)(3)~~ Lead-Based Paint Hazards. ~~[40 CFR 745.65]~~

- (a) ~~Paint Lead Hazard~~— A paint-lead hazard is any of the following:
1. Any lead-based paint on a friction surface that is subject to abrasion and where the lead dust levels on the nearest horizontal surface underneath the friction surface (e.g., the ~~window sill, windowsill~~ or floor) are equal to or greater than the dust-lead hazard levels identified in subparagraph (b) of this paragraph.
 2. Any damaged or otherwise deteriorated lead-based paint on an impact surface that is caused by impact from a related building component, ~~(such as a doorknob that knocks into a wall or a door that knocks against its door frame.~~
 3. Any chewable lead-based painted surface on which there is evidence of teeth marks.
 4. Any other deteriorated lead-based paint in any residential building or child-occupied facility or on the exterior of any residential building or child-occupied facility.
- (b) ~~Dust Lead Hazard~~— A dust-lead hazard is surface dust in a residential dwelling or child-occupied facility that contains a mass-per-area concentration of lead equal to or exceeding ~~40 10~~ $\mu\text{g}/\text{ft}^2$ on floors or ~~250 100~~ $\mu\text{g}/\text{ft}^2$ on interior ~~window sills windowsills~~ based on wipe samples.
- (c) ~~Soil Lead Hazard~~— A soil-lead hazard is bare soil on residential real property or on the property of a child-occupied facility that contains total lead equal to or exceeding 400 parts per million ($\mu\text{g}/\text{g}$) in a play area or average of 1,200 parts per million of bare soil in the rest of the yard based on soil samples.
- (d) ~~Work Practice Requirements~~— Applicable ~~work practice standards and~~ certification, occupant protection, and clearance requirements ~~and work practice standards~~ are found in Rule ~~1200-1-18-.01 0400-13-01-.01~~. The work practice standards in that ~~Rule rule~~ do not apply when treating paint-lead hazards of less than:
1. Two square feet of deteriorated lead-based paint per room or equivalent,
 2. Twenty square feet of deteriorated paint on the exterior building, or
 3. Ten percent of the total surface area of deteriorated paint on an interior or exterior type of component with a small surface area.

Authority: T.C.A. §§ 11-1-101, 68-131-401 et seq., and 4-5-201 et seq.

~~1200-1-18-.06 0400-13-01-.03 Residential Property Renovation [Subpart E].~~

- (1) Purpose and Applicability. ~~[40 CFR 745.80 and 40 CFR 745.82]~~
- (a) The purpose of this ~~Rule rule~~ is to require each person who performs a renovation of target housing for compensation to provide a lead hazard information pamphlet to the owner and occupant of such housing prior to commencing the renovation.
- (b) Except as provided in subparagraph (c) of this paragraph, this ~~Rule rule~~ applies to all renovations of target housing performed for compensation.
- (c) This rule does not apply to renovation activities that are limited to the following:
1. Minor repair and maintenance activities ~~(including minor electrical work and plumbing) that disrupt 2 square feet or less of painted surface per component.~~

2. Emergency renovation operations.
3. Renovations in target housing in which a written determination has been made by an inspector (certified by the ~~State of Tennessee Commissioner pursuant Rule 1200-1-18-.01(7) to paragraph (5) of Rule 0400-13-01-.01~~) that the components affected by the renovation are free of 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, where the renovator has obtained a copy of the determination.

(2) Definitions ~~[40 CFR 745.83 and 40 CFR 745.103]~~

~~The In addition to the definitions in Rule 0400-13-01-.01, the~~ following definitions apply to ~~Rule Chapter 1200-1-18 this rule~~, unless otherwise specified:

“The Act” means ~~Tennessee Code Annotated 68-131-401, et seq.~~ T.C.A. Title 68, Chapter 131, Part 4, Tennessee Lead-Based Paint Abatement Certification Act.

~~“Child-occupied facility” means a building or portion of a building, constructed prior to 1978, visited regularly by the same child, under six years of age, on at least two different days within any week (Sunday through Saturday period), provided that each day’s visit lasts at least three hours and the combined weekly visits last at least six hours, and the combined annual visits last at least 60 hours. Child-occupied facilities may include, but are not limited to, day care centers, preschools, and kindergarten classrooms. Child-occupied facilities may be located in target housing or in public or commercial buildings. With respect to common areas in public or commercial buildings that contain child-occupied facilities, the child-occupied facility encompasses only those common areas that are routinely used by children under age six, such as restrooms and cafeterias. Common areas that children under age six only pass through, such as hallways, stairways, and garages are not included. In addition, with respect to exteriors of public or commercial buildings that contain child-occupied facilities, the child-occupied facility encompasses only the exterior sides of the building that are immediately adjacent to the child-occupied facility or the common areas routinely used by children under age six.~~

~~“Commissioner” means the Commissioner of the Tennessee Department of Environment and Conservation or his authorized representative.~~

~~“Common area” means 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.~~

“Compensation” means payment for services rendered in the form of money, goods, or services and bartering.

“Emergency renovation operation” means renovation activities, such as operations necessitated by non-routine failures of equipment, that were not planned but result from a sudden, unexpected event that, if not immediately attended to, presents a safety or public health hazard, or threatens equipment and/or property with significant damage.

~~“EPA” means the U. S. Environmental Protection Agency.~~

~~“Evaluation” means a risk assessment and/or inspection.~~

~~“Housing for the elderly” means retirement communities or similar types of housing reserved for households composed of one or more persons 62 years of age or more at the time of initial occupancy.~~

“Inspection” means:

(a) ~~— A surface by surface investigation to determine the presence of lead-based paint as provided in subparagraph (8)(b) of Rule Chapter 1200-01-18-.01 Lead-Based Paint Abatement, and~~

(b) ~~— An investigation conducted by a person who is certified by the Commissioner as a lead-based paint inspector or lead-based paint risk assessor, and~~

~~(c) — The provision of a report explaining the results of the investigation.~~

~~“Lead-based paint” means 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.~~

~~“Lead-based paint free housing” means target housing that has been found to be free of 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.~~

~~“Lead-based paint hazard” means hazardous lead-based paint, dust lead hazard or soil lead hazard as identified in Rule Chapter 1200-1-18-05(5).~~

“Lessee” means any entity that enters into an agreement to lease, rent, or sublease target housing, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes, and nonprofit organizations.

“Minor repair and maintenance activities” are activities, including minor heating, ventilation or air conditioning work, electrical work, and plumbing, that disrupt six square feet or less of painted surface per room for interior activities or 20 square feet or less of painted surface for exterior activities where none of the work practices prohibited or restricted by subparagraph (6)(f) of Rule 0400-13-01-.01 are used and where the work does not involve window replacement or demolition of painted surface areas. When removing painted components, or portions of painted components, the entire surface area removed is the amount of painted surface disturbed. Jobs, other than emergency renovations, performed in the same room within the same 30 days must be considered the same job for the purpose of determining whether the job is a minor repair and maintenance activity.

“Multi-family housing” means a housing property consisting of more than four dwelling units.

~~“Occupant” means any entity that has entered into an agreement as a lessee or purchaser of target housing, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes and nonprofit organizations.~~

~~“Owner” means any entity that has legal title to target housing, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes, and nonprofit organizations, except where a mortgagee holds legal title to property serving as collateral for a mortgage loan, in which case the owner would be the mortgagee.~~

“Pamphlet” means the EPA pamphlet developed under ~~section 406(a) of TSCA~~ 15 U.S.C. § 2686(a) for use in complying with this and other rulemakings under ~~Title IV of TSCA~~ 15 U.S.C. § 2686(b) and the Residential Lead-Based Paint Hazard Reduction Act, or any ~~State state~~ or Tribal pamphlet approved by EPA pursuant to 40 ~~CFR C.F.R. §~~ 745.326 that is developed for the same purpose. This includes reproductions of the pamphlet when copied in full and without revision or deletion of material from the pamphlet (except for the addition or revision of ~~State state~~ or local sources of information.)

~~“Person” means any natural or judicial person including any individual, corporation, partnership, or association; any Indian Tribe, State, or political subdivision thereof; any interstate body; and any department, agency, or instrumentality of the Federal Government.~~

~~“Renovation” means the modification of any existing structure, or portion thereof, that results in the disturbance of painted surfaces, unless that activity is performed as part of an abatement as defined in Rule Chapter 1200-1-18-.01(8). The term renovation includes (but is not limited to): The removal, or modification to painted surfaces or painted components (e.g., modification of painted doors or surface preparation activity (such as sanding, scraping, or other such activities that may generate paint dust)); the removal of large structures (e.g., walls, ceiling, large surface replastering, major re-plumbing, and window replacement.~~

~~“Renovator” means any person who performs for compensation a renovation~~ an individual who either performs or directs workers who perform renovations. A certified renovator is a renovator who has successfully completed a renovator course accredited by EPA or an EPA-authorized state or Tribal program.

“Residential dwelling” means:

- (a) A single-family dwelling, including attached structures such as porches and stoops; or
- (b) A single-family dwelling unit in a structure that contains more than one separate residential dwelling unit, and in which each such unit is used or occupied, or intended to be used or occupied, in whole or in part, as the residence of one or more persons.

~~“Risk assessment” means an on-site investigation, conducted by a person certified by the Commissioner as a risk assessor, to determine and report the existence, nature, severity, and location of lead-based paint hazards in residential dwellings, including:~~

- ~~(a) Information gathering regarding the age and history of the housing and occupancy by children under age 6;~~
- ~~(b) Visual inspection;~~
- ~~(c) Limited wipe sampling or other environmental sampling techniques;~~
- ~~(d) Other activity as may be appropriate; and~~
- ~~(e) Provision of a report explaining the results of the investigation.~~

~~“Target housing” means any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any child who is less than six (6) years of age resides or is expected to reside in such housing) or any 0-bedroom dwelling.~~

~~“TSCA” means the Toxic Substances Control Act, 15 U.S.C. 2601.~~

~~“0-bedroom dwelling” means 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.~~

~~(3) (RESERVED)~~

~~(4) (RESERVED)~~

~~(5)(3) Information Distribution Requirements, [40 CFR 745.85]~~

(a) Renovations in Renovation of Dwelling Units.

No more than 60 days before beginning renovation activities in any residential dwelling unit of target housing, the renovator shall:

1. Provide the owner of the unit with the pamphlet, and comply with one of the following:
 - (i) Obtain, from the owner, a written acknowledgment that the owner has received the pamphlet; or
 - (ii) Obtain a certificate of mailing at least 7 seven days prior to the renovation.
2. In addition to the requirements in part ~~(a)~~1 of this ~~paragraph subparagraph~~, if the owner does not occupy the dwelling unit, provide an adult occupant of the unit with the pamphlet, and comply with one of the following:
 - (i) Obtain, from the adult occupant, a written acknowledgment that the occupant has received the pamphlet; or certify in writing that a pamphlet has been delivered to the dwelling and that the renovator has been unsuccessful in obtaining a written acknowledgment from an adult occupant. Such certification must include the address of the unit undergoing renovation, the date and method of delivery of the

pamphlet, names of the persons delivering the pamphlet, reason for lack of acknowledgment (e.g., occupant refuses to sign, no adult occupant available), the signature the renovator, and the date of signature-; or

(ii) Obtain a certificate of mailing at least ~~7~~ seven days prior to the renovation.

(b) Renovations in Common Areas.

No more than 60 days before beginning renovation activities in common areas of multi-family housing, the renovator shall:

1. Provide the owner with the pamphlet, and comply with one of the following:

(i) Obtain, from the owner, a written acknowledgment that the owner has received the pamphlet-; or

(ii) Obtain a certificate of mailing at least ~~7~~ seven days prior to the renovation.

2. Notify in writing, or ensure written notification of, each unit of the multi-family housing and make the pamphlet available upon request prior to the start of renovation. Such notification shall be accomplished by distributing written notice to each affected unit. The notice shall describe the general nature and locations of the planned renovation activities; the expected starting and ending dates; and a statement of how the occupant can obtain the pamphlet, at no charge, from the renovator.

3. Prepare, sign, and date a statement describing the steps performed to notify all occupants of the intended renovation activities and to provide the pamphlet.

4. If the scope, locations, or expected starting and ending dates of the planned renovation activities change after the initial notification, the renovator must provide further written notification to the owners and occupants providing revised information on the ongoing or planned activities. This subsequent notification must be provided before the renovator initiates work beyond that ~~which was~~ described in the original notice.

(c) Written Acknowledgment.

Sample language for ~~such~~ acknowledgment is provided in paragraph ~~(7)(6)~~ of this ~~Rule~~ rule. The written acknowledgments required in subparts (a)1(i), (a)2(i), and (b)1(i) of this paragraph shall:

1. Include a statement recording the owner or occupant's name and acknowledging receipt of the pamphlet prior to the start of renovation, the address of the unit undergoing renovation, the signature of the owner or occupant as applicable, and the date of signature-; and

2. Be either a separate sheet or part of any written contract or service agreement for the renovation-; and

3. Be written in the same language as the text of the contract or agreement for the renovation or, in the case of non-owner-occupied target housing, in the same language as the lease or rental agreement or the pamphlet.

~~(6)(4)~~ Recordkeeping Requirements.

(a) Renovators shall retain and, if requested, make available to the Commissioner all records necessary to demonstrate compliance with this ~~Rule~~ rule for a period of ~~3~~ three years following completion of the renovation activities in target housing.

(b) Records that must be retained pursuant to subparagraph (a) of this paragraph ~~shall~~ include (where applicable):

1. Reports certifying that a determination had been made by an inspector, certified pursuant

to ~~paragraph (5) of Rule 1200-1-18-01(7)~~ 0400-13-01-.01, that lead-based paint is not present in the area affected by the renovation, as described in paragraph (1) of this ~~Rule rule~~;

2. Signed and dated acknowledgments of receipt as described in subparts ~~(5)(a)1(i), (5)(a)2(i), (5)(b)1(i), of paragraph (4)~~ of this ~~Rule rule~~;
3. Certifications of attempted delivery, as described in subpart ~~(5)(a)2(i) of paragraph (4)~~ of this ~~Rule rule~~;
4. Certificates of mailing as described in subparts ~~(5)(a)1(ii), (5)(a)2(ii), and (5)(b)1(ii) of paragraph (4)~~ of this rule; ~~and~~
5. Records of notification activities performed regarding common area renovations, as described in parts ~~(5)(b)3 and (5)(b)4 of paragraph 4~~ of this ~~Rule rule~~.

~~(7)(5)~~ Enforcement and Penalties.

Enforcement of ~~the provisions of~~ these ~~Rules rules~~ and penalties for violations ~~shall be as are~~ set forth in ~~Tennessee Code Annotated (T.C.A.) §§ 68-131-404 and § 68-131-405 of the Act.~~

~~(8)(6)~~ Acknowledgment and Certification Statements. ~~[40 CFR 745.88]~~

(a) Acknowledgment Statement.

1. As required under part ~~(c) 1 of paragraph (4)~~ (5)(c)1 of this ~~Rule rule~~, acknowledgments shall include a statement of receipt of the pamphlet prior to the start of renovation, the address of the unit undergoing renovation, the signature of the owner or occupant as applicable, and the date of signature.
2. ~~Sample acknowledgment language~~—The following is a sample of language that could be used for such acknowledgments:

I have received a copy of the pamphlet, *Protect Your Family From Lead In Your Home*, informing me of the potential risk of lead hazard exposure from renovation activity to be performed in my dwelling unit. I received this pamphlet before the work began.

Signature _____

Printed Name _____

Date _____

Unit Address _____

(b) Certification of Attempted Delivery.

1. When an occupant is unavailable for signature or refuses to sign the acknowledgment of receipt of the pamphlet, the renovator is permitted (per subpart ~~(a)(2)(i) of paragraph (4)~~ (5)(a)2(i) of this rule) to certify delivery for each instance. The certification shall include the address of the unit undergoing renovation, the date and method of delivery of the pamphlet, names of the persons delivering the pamphlet, reason for lack of acknowledgment (e.g., occupant refuses to sign, no adult occupant available), the signature of the renovator, and the date of signature.
2. ~~Sample certification language~~—The following is a sample of language that could be used under those circumstances:

(i) Refusal To Sign.

I certify that I have made a good faith effort to deliver the pamphlet, *Protect Your Family From Lead In Your Home*, to the unit listed below at the dates and times indicated, and that the occupant refused to sign the acknowledgment. I further certify that I have left a copy of the pamphlet at the unit with the occupant.

Signature _____

Printed Name _____

Date _____

Unit Address _____

Attempted delivery dates and times: _____

(ii) Unavailable For Signature.

I certify that I have made a good faith effort to deliver the pamphlet, *Protect Your Family From Lead In Your Home*, to the unit listed below, and that the occupant was unavailable to sign the acknowledgment. I further certify that I have left a copy of the pamphlet at the unit with the occupant.

Signature _____

Printed Name _____

Date _____

Unit Address _____

Attempted delivery dates and times: _____

~~(9)(7)~~ Violations.

(a) It is a violation for a renovator to:

1. Fail or refuse to comply with any provision of this Rule rule.
2. Fail or refuse to establish and maintain records required by paragraph ~~(6)(4)~~ of this Rule rule.
3. Fail to or refuse to make available to the Commissioner, records as required by this Rule rule.
4. Fail to or refuse to permit the Commissioner, access to records as required by this Rule rule.
5. Fail to or refuse to permit the Commissioner or the Commissioner's authorized representatives entry or inspection of the business premises of persons and firms engaged in renovation during business hours upon presenting credentials identifying themselves as employees of the department.

Authority: T.C.A. §§ 11-1-101, 68-131-401 et seq., and 4-5-201 et seq.

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Commissioner on 11/14/2023, and in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 05/18/2023

Rulemaking Hearing(s) Conducted on: (add more dates). 07/11/2023

Date: November 14, 2023

Signature: _____

Name of Officer: David W. Salyers, P.E.

Title of Officer: Commissioner

Agency/Board/Commission: Commissioner of the Department of Environment and Conservation

Rule Chapter Number(s): 0400-13-01 and 1200-01-18

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Jonathan Skrmetti
Attorney General and Reporter

Date

Department of State Use Only

Filed with the Department of State on: _____

Effective on: _____

Tre Hargett
Secretary of State

Public Hearing Comments

One copy of a document that satisfies T.C.A. § 4-5-222 must accompany the filing.

1. Comment: A commenter believes that investing in more hands-on community outreach and education or training opportunities in the community is critical to developing successful accredited firms. The commenter recommends providing extensive outreach and education to accredited firms when increasing existing fees and implementing new fees, and to explain in more detail the reasons for disciplinary action and penalties before enforcement to ensure buy-in from everyone so that all firms are on the same page.

Response: The Department's Lead Hazard Program readily provides compliance assistance to the regulated community. In addition, the Lead Hazard Program intends to provide several opportunities for interested parties to attend a virtual meeting before and after the amendments become effective to explain the need for the new and increased fees and to answer questions about compliance and enforcement.

2. Comment: The U.S. Department of Justice provided a notification to state licensing authorities regarding professional license portability for servicemembers and their spouses. The Servicemembers Civil Relief Act (SCRA) was signed into law on January 5, 2023, and codified at 50 U.S.C. § 4025a, which applies to states.

Response: We appreciate the notification, and are happy to support our servicemembers and their spouses. The rule contemplates reciprocity agreements with other states. The Tennessee General Assembly previously adopted a similar provision, codified at T.C.A. § 4-3-1304(d), so substantively this does not change the law in Tennessee. However, in the interest of providing clarity and transparency, the final rule is amended to cross-reference both the state requirement and SCRA.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

- (1) The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, or directly benefit from, the proposed rule.

Specifically, the rule impacts 763 lead-based paint certified firms, individuals, and training programs in Tennessee. These entities are small businesses and persons that primarily support the U.S. Department of Housing and Urban Development (HUD) lead hazard control grants managed by Memphis, Knoxville, Chattanooga, and Shelby County.

- (2) The projected reporting, recordkeeping, and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record.

The rules do not add additional reporting, recordkeeping, or other administrative costs.

- (3) A statement of the probable effect on impacted small businesses and consumers.

These amendments update state law to comply with current EPA requirements. Adopting these amendments will allow small businesses in Tennessee to continue working directly with the Department on lead abatement certification and training, instead of going through EPA. These amendments increase existing fees and add new fees to cover added administrative costs and to support the Department's establishment of new on-line capabilities to allow these entities to submit documentation, apply for certification, pay fees, and receive project approvals.

- (4) A description of any less burdensome, less intrusive, or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business.

The purpose and objectives of these rules could not be met through less restrictive means. The Tennessee lead-based paint certification and abatement program is authorized by EPA to administer the program in lieu of EPA. To maintain program authorization, the federal regulations require the state to adopt the revised dust-lead hazard standards and dust-lead clearance levels.

- (5) A comparison of the proposed rule with any federal or state counterparts.

Tennessee is authorized to run the lead-based paint certification and abatement program in the state in lieu of EPA. Other states in the southeast have similar authorized programs. All authorized states are required to adopt the same federal amendments to retain program authorization.

- (6) Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

All businesses, regardless of size, are required by federal law to comply with the certification and work practice standards outlined in federal and state lead-based paint abatement certification regulations and statutes. Thus, an exemption from state law would subject the small businesses to working directly with EPA.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228, "On any rule and regulation proposed to be promulgated, the proposing agency shall state in a simple declarative sentence, without additional comments on the merits for the policy of the rule or regulation, whether the rule or regulation may have a projected financial impact on local governments." The statement shall describe the financial impact in terms of increase in expenditures or decrease in revenues."

These rules will not result in an increase in expenditures or a decrease in revenues for local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A)** A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The Department of Environment and Conservation (TDEC) is transferring Chapter 1200-01-18 Lead-based Paint Abatement to Chapter 0400-13-01, updating some of the existing language to comply with current EPA requirements, and making programmatic changes. The major changes made by these rules are:

- (a) Allowing training programs to offer online refresher training courses, if appropriately accredited;
- (b) Lowering the level at which residential lead contaminated dust must be identified as a hazard, as required to comply with current federal requirements;
- (c) Containing a more thorough listing of reasons for disciplinary action;
- (d) Setting out notification requirements for lead-based paint training courses;
- (e) Creating a requirement that a training program notify the Commissioner of changes, such as designating a new training manager;
- (f) Setting the written requirements for the Occupant Protection Plan; and
- (g) Increasing existing fees and implementing new fees.

- (B)** A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

Two major amendments made by these rules are required to comply with the new federal Dust-Lead Hazard Standards (DHLS) at 40 C.F.R. § 745.227(h)(3)(i) that were effective January 6, 2020, and the new dust-lead clearance levels at 40 C.F.R. § 745.227(e)(8)(viii) that were effective March 8, 2021. The Tennessee lead-based paint certification and abatement program is authorized by EPA to administer the program in lieu of EPA. As an authorized program, Tennessee is required to adopt the federal DHLS and dust-lead clearance levels.

- (C)** Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

The proposed rule changes affect:

- (a) Individuals who conduct lead-based-paint (LBP) activities in accordance with the current work-practice standards;
- (b) Individuals who operate LBP training programs;
- (c) Firms and individuals who must be certified to conduct LBP activities in accordance with the rule;
- (d) Firms and individuals who conduct rehabilitations in pre-1978 target housing receiving federal assistance;
- (e) Entities that operate a laboratory accredited by EPA's National Lead Laboratory Accreditation Program (NLLAP) to analyze samples collected pursuant to these rules;
- (f) Child daycare services located in pre-1978 structures; and
- (g) Elementary and secondary schools with kindergarten classrooms.

TDEC has not received any indication from these entities that they object to the rule amendments.

- (D)** Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

TDEC is not aware of any opinions of the Attorney General and Reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule.

- (E)** An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

The rule is unlikely to lead to an increase or decrease local revenues and expenditures. The increase in certification fees is anticipated to result in an increase of \$40,000 per year in state revenue.

(F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Adrienne White
William R. Snodgrass TN Tower
312 Rosa L. Parks Avenue, 14th Floor,
Nashville, Tennessee 37243;
(615) 532-0885
Adrienne.White@tn.gov.

(G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Blair Beaty
Legislative Director
Office of General Counsel

(H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Office of General Counsel
Tennessee Department of Environment and Conservation
William R. Snodgrass Tennessee Tower
312 Rosa L. Parks Avenue, 2nd Floor
Nashville, Tennessee 37243
(615) 253-1965
Blair.Beaty@tn.gov

(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

- (1) A description of the action proposed, the purpose of the action, the legal authority for the action and the plan for implementing the action.

TDEC is transferring Chapter 1200-01-18 Lead-based Paint Abatement to Chapter 0400-13-01 (where most current environmental rules are located), updating some of the existing language to comply with new EPA requirements, making programmatic changes.

These rules are implemented pursuant to Tennessee Code Annotated Title 11, Chapter 1, Part 1; Title 68, Chapter 131, Part 4; and Title 4, Chapter 5, Part 2.
- (2) A determination that the action is the least-cost method for achieving the stated purpose.

These rules are the least-cost method to adopt the federal dust-lead hazard standards, the federal dust-lead clearance levels, and the other changes in the rule. As an authorized program, the federal regulations require the state to adopt the revised dust-lead hazard standards and dust-lead clearance levels.
- (3) A comparison of the cost-benefit relation of the action to nonaction.

Tennessee is authorized to run the lead-based paint certification and abatement program in the state on behalf of EPA and as a result receives from EPA a \$500,000 grant annually for program operations. Not amending these rules to incorporate the more stringent lead clearance standards will result in Tennessee losing its federal authorization and annual grant. Without program authorization, training providers, firms, and individuals seeking certification for LBP activities would have to seek certification and oversight from EPA directly.
- (4) A determination that the action represents the most efficient allocation of public and private resources.

This action represents the most efficient allocation of public and private resources because these amended rules will enable the regulated entities to continue to receive oversight and the required annual certifications from TDEC.

- (5) A determination of the effect of the action on competition.

These amendments will not adversely impact competition in the marketplace because all persons directly impacted by these rules must comply with EPA's new dust lead hazard standards and clearance levels as incorporated in these rules.

- (6) A determination of the effect of the action on the cost of living in the geographical area in which the action would occur.

The cost of living in Tennessee will not be affected by these amendments.

- (7) A determination of the effect of the action on employment in the geographical area in which the action would occur.

These amendments will not impact employment in the state.

- (8) The source of revenue to be used for the action.

The action can be accommodated with existing resources and the contemplated fee increase.

- (9) A conclusion as to the economic impact upon all persons substantially affected by the action, including an analysis containing a description as to which persons will bear the costs of the action and which persons will benefit directly and indirectly from the action.

This action will result in a health benefit to children aged six and under and women of child-bearing age because it reduces the level at which a residential lead-based paint hazard is identified and the amount of contamination that must be removed following abatement in pre-1978 housing and child-care facilities.

The 763 lead-based paint certified individuals, firms, and training providers will bear the costs of this action, but they also economically benefit from grants made possible pursuant to the certification program. The lead-based paint activities performed by these entities are primarily funded by HUD housing programs, such as:

- Community Development Block Grant (CDBG) administered by the Tennessee Department of Economic and Community Development (ECD), allocation: \$27,760,023.
- HOME Investment Partnerships Program (HOME) administered by Tennessee Housing Development Agency (THDA), allocation: \$12,960,298.
- HUD Lead-Hazard Reduction Program \$16,000,000 in grants to Memphis, Knoxville, Shelby county and Chattanooga.