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Sequence Number: 08-17-09
Notice ID(s): 1110
File Date: 08/13/2009

Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204. For questions and copies of the notice, contact the person listed below.

Agency/Board/Commission:	Department of Environment and Conservation
Division:	Solid Waste Management
Contact Person:	Adrienne White
Address:	5 th Floor, L&C Tower 401 Church Street Nashville, Tennessee
Phone:	37243-1535
Email:	Adrienne.White@tn.gov

Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

ADA Contact:	ADA Coordinator
Address:	12 th Floor L&C Tower 401 Church Street Nashville, Tennessee 37243
Phone:	1-866-253-5827 (toll free) or (615) 532-0200 Hearing impaired callers may use the TN Relay Service at 1-800-848-0298.
Email:	Beverly.Evans@tn.gov

Hearing Location(s) (for additional locations, copy and paste table)

Address 1:	17 th Floor Conference Room		
Address 2:	401 Church Street		
City:	Nashville, Tennessee		
Zip:	37243		
Hearing Date :	10/09/2009		
Hearing Time:	9:30 a.m.	<input checked="" type="checkbox"/> CST	<input type="checkbox"/> EST

Additional Hearing Information:

The Division prepared an initial set of draft rules for public review and comment. Copies of these initial draft rules are available for review at the Tennessee Department of Environment and Conservation's (TDEC's) Environmental Field Offices located as follows:

Memphis Environmental Field Office
Suite E-645, Perimeter Park
2510 Mount. Moriah Road
Memphis, TN 38115-1520
(901) 368-7939/ 1-888-891-8332

Cookeville Environmental Field Office
1221 South Willow Avenue
Cookeville, TN 38506
(931) 432-4015/ 1-888-891-8332

Jackson Environmental Field Office
1625 Hollywood Drive

Chattanooga Environmental Field Office
Suite 550- State Office Building

Jackson, TN 38305
(731) 512-1300/ 1-888-891-8332

540 McCallie Avenue
Chattanooga, TN 37402-2013
(423) 634-5745/ 1-888-891-8332

Columbia Environmental Field Office
2484 Park Plus Drive
Columbia, TN 38401
(931) 380-3371/ 1-888-891-8332

Knoxville Environmental Field Office
3711 Middlebrook Pike
Knoxville, TN 37921-5602
(865)594-6035/ 1-888-891-8332

Nashville Environmental Field Office
711 R. S. Gass Blvd.
Nashville, TN 37243-1550
(615) 687-7000/1-888-891-8332

Johnson City Environmental Field Office
2305 Silverdale Road
Johnson City, TN 37601-2162
(423) 854-5400/1-888-891-8332

The "Draft" rules may also be accessed for review using <http://state.tn.us/environment/swm/ppo>.

Draft copies may also be available for review at the Nashville Central Office (see address below).

Tennessee Department of Environment and Conservation
Division of Solid Waste Management
5th Floor, L&C Tower
401 Church Street
Nashville, Tennessee 37243-1535
(615) 532-0780

Office hours for the Division's offices are from 8:00 AM to 4:30 PM, Monday through Friday (excluding holidays).

Oral or written comments are invited at the hearing. In addition, written comments may be submitted prior to or after the public hearing to: Division of Solid Waste Management; Tennessee Department of Environment and Conservation; Attention: Ms. Adrienne White; 5th Floor, L & C Tower; 401 Church Street; Nashville, Tennessee 37243-1535; telephone 615-532-0885 or FAX 615-532-0886. However, such written comments must be received by the Division by 4:30 PM CST, October 15, 2009 in order to assure consideration. For further information, please contact Ms. Adrienne White at the above address or telephone number or by e-mail at Adrienne.White@tn.gov.

Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables. Please enter only **ONE** Rule Number/RuleTitle per row.)

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]
1200-00-18-.06	Residential Property Renovation [Subpart E]

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	Reserved
0400-13-01-.03	Reserved
0400-13-01-.04	Reserved
0400-13-01-.05	Lead-Based Paint Hazards [Subpart D]
0400-13-01-.06	Residential Property Renovation [Subpart E]

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

Chapter 1200-01-18
Lead-Based Paint Abatement

Repeal and New Rules

1200-01-18 Lead-Based Abatement is repealed in its entirety and replaced with the following:

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

New Rules

Chapter 0400-13-01
Lead-Based Paint Abatement

Table of Contents

0400-13-01-.01 Lead-Based Paint Activities	0400-13-01-.04 Reserved
0400-13-01-.02 Reserved	0400-13-01-.05 Lead-Based Paint Hazards [Subpart D]
0400-13-01-.03 Reserved	0400-13-01-.06 Residential Property Renovation [Subpart E]

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

(1) Scope and applicability. [40 CFR 745.220]

- (a) This Rule contains procedures and requirements for the accreditation of lead-based paint activities and renovation training programs. This Rule outlines the procedures and requirements for the certification of individuals and firms engaged in lead-based paint activities, and work practice standards for performing lead-based paint activities. It also requires, except as otherwise stated, that all lead-based paint activities, as defined in this Rule, shall be performed by certified individuals and firms.
- (b) This Rule is applicable to all individuals and firms who are engaged in lead-based paint activities, as defined in paragraph (4) 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 (4) of this Rule.
- (c)
 - 1. Except as exempted in part 2 of this subparagraph, each department, agency, and instrumentality of the executive, legislative, and judicial branches of the Federal Government, and State of Tennessee having jurisdiction over any property or facility, or engaged in any activity resulting, or which 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.
 - 2. Local Education Agencies (hereinafter, "LEAs") (county/city Boards of Education) and their employees are exempt from the financial obligation of fees for certification and re-certification outlined in this Rule when persons conducting the lead-based paint activity(ies) are employed directly by LEAs and their school systems to ensure their compliance with the regulatory requirements detailed in these Rules.

(Note: This exemption includes custodial, maintenance employees and designated persons responsible to ensure that LEAs comply with this Rule Chapter 0400-13-01 Lead-Based Paint Abatement. This exemption from the fee requirements does not extend to persons, even though employed by the LEA, are involved with non-LEA lead-based

paint activities. This exemption from the fee requirements does not extend to persons or firms contracted by the LEA to conduct lead-based paint activities.)

- (d) While this Rule establishes specific requirements for performing lead-based paint activities should they be undertaken, 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. submit
 - A. section
 - (A) subsection
- (2) Reserved
- (3) Reserved
- (4) Definitions [40 CFR 745.223]

When used in this Rule, 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. Such term 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 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) 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, when such activities are not designed to permanently eliminate lead-based paint hazards, but 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 six (6) years of age or younger.

"Accredited training program" means a training program that has been accredited by the Commissioner pursuant to paragraph (6) of this Rule to provide training for individuals engaged in lead-based paint activities.

"Act" means Tennessee Code Annotated Section 68-131-401 et seq.

"Adequate quality control" means a plan or design which 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 subpart (8)(a)3(iii) of this Rule.

"Audit" means a State or Indian Tribe authorized by EPA or EPA representative who attends a lead-based paint activities, renovation or dust sampling technician course for the purpose of examining records and verifying that the course is presented using an approved curriculum to meet the training objectives established in the national EPA course requirements. State of Tennessee representatives that audit training courses without the payment of fees do not receive an attendance certificate or receive academic credit.

"Authorized State or Indian Tribe" means a State or Indian Tribe authorized by EPA pursuant to 40 CFR 745.324 to administer the Lead-Based Paint Abatement Program (TSCA Section 404(a)) in lieu of EPA.

"Available" means being present or reasonably capable of being at a work-site within two-hours of request, during all abatement, cleaning, renovation, remodeling, painting (RRP) 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 EPA or any EPA authorized state or Indian Tribe accredited training program, and is certified by the Commissioner to perform lead-based paint abatements.

"Certified dust sampling technician" means an individual who has been trained as a dust sampling technician by EPA or any EPA authorized State or Indian Tribe accredited training program and is certified by the Commissioner to sample for the presence of lead in dust and soil for the purposes of

determining whether clearance levels have been achieved following a renovation, repair and painting activity in pre-1978 housing and child-occupied facilities.

"Certified firm" means a company, partnership, corporation, sole proprietorship, or individual doing business, association, or other business entity; a Federal, State, Tribal or local government agency; or a nonprofit organization that performs lead-based paint activities or renovation, repair and painting activities, to which the Commissioner has issued a certificate of approval pursuant to subparagraph (7)(d) of this Rule and paragraph (10) of Rule 0400-13-01-.06.

"Certified inspector" means an individual who has been trained as a lead-based paint inspector by an EPA or any EPA 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 determining whether clearance levels have been achieved following an abatement or renovation, repair and painting activity.

"Certified project designer" means an individual who has been trained as a lead-based paint project designer by an EPA or any EPA 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 renovator" means an individual who has been trained as a renovator by EPA or any EPA authorized state or Indian Tribe accredited training program and is certified by the Commissioner to use lead-safe work practices to prevent the creation of lead hazards during renovation, repair and painting work in pre-1978 housing and child-occupied facilities. Certified renovators also train and supervise non-certified renovation workers.

"Certified risk assessor" means an individual who has been trained as a lead-based paint risk assessor by an 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 determining whether clearance levels are achieved following an abatement or renovation, repair and painting activity.

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

"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) hours. Child-occupied facilities may include, but are not limited to, day-care centers, pre-schools 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 6, such as restrooms and cafeterias. Common areas that children under age 6 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 6.

"Clearance levels" are values that indicate the maximum amount of lead permitted in dust on a surface following completion of an abatement activity.

"Commissioner" means the Commissioner of the Tennessee Department of Environment and Conservation or his authorized representative.

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

"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 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, or stools and troughs, casings, sashes and wells and air conditioners.

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

"Conversion renovation" means a renovation performed for the purpose of converting a building, or part of a building, into target housing or a child-occupied facility.

"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 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 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 soil.

"Dripline" means the area within 3-feet surrounding the perimeter of a building.

"EBL investigation" means an environmental investigation and risk assessment conducted to identify all sources of lead exposure to a child, six years of age or under, who has a confirmed elevated blood lead level.

"Elevated blood lead level (EBL)" 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 3 to 4 months apart.

"Emergency lead-based paint abatement project" means a lead-based paint abatement project designed and required to remove imminent lead-based paint hazards from target housing or child-occupied facility,

as determined by a certified lead risk assessor and the Division.

"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 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, floors and stair surfaces.

"Guest instructor" means an individual designated by the training program manager or principle 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 tests the trainees' ability to satisfactorily perform the work practices and procedures identified in subparagraph (6)(d) of this Rule, as well as any other skill taught in a training course.

"Hazardous waste" means any waste as defined in Rule 1200-01-11-.02(1)(c)[0400-12-01-.02(1)(c)].

"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 that include parents, grandparents, children, grandchildren or legal guardian.

"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 certified 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.

"Last Day of the Month" means the last business day (Monday through Friday) excluding legal State holidays of the calendar month.

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

"Lead-based paint activities" means, in the case of target housing and child-occupied facilities, inspection, risk assessment, project design, clearance testing and abatement as defined in this Rule.

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

"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 submitted under a common project notification.

“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 health effects as identified below pursuant to Rule 0400-13-01-.05:

- (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 $\mu\text{g}/\text{ft}^2$ on floors or 250 $\mu\text{g}/\text{ft}^2$ 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 ($\mu\text{g}/\text{g}$) 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 certification, occupant protection, and clearance requirements and work practice standards are found in Rule 0400-13-01-.01. The work practice standards in Rule 0400-13-01-.01 do not include minor repairs and maintenance activities as defined in this paragraph.

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

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

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

“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.

“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.

“Minor repair and maintenance activities” means activities, including minor heating, ventilation or air conditioning work, electrical work, and plumbing, that disrupt six (6) 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 part (8)(e)7 of this Rule 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 area removed is the amount of

painted surface disturbed. Jobs, other than emergency renovations, performed in the same room within the same thirty (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 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.

"Nonprofit" means an entity which has demonstrated to any branch of the Federal government or to the State that no part of its net earnings inures to the benefit of any private shareholder or individual.

"Occupant Protection Plan" means a written plan, which 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 units, the plan shall be prepared by a lead supervisor or project designer. For projects with 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.

"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, baseboards, soffits, trim).

"Permanently covered soil," means soil, which 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 judicial branches of the federal government.

"Play area" means an area of frequent soil contact by children or 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.

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

"Reciprocity" means a cooperative interchange of privileges between consenting EPA authorized states.

"Recognized laboratory," means an environmental laboratory recognized by EPA or the State pursuant to TSCA section 405(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 by 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 Rule. The term renovation does not include minor repair

and maintenance activities.

"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 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.

"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.

"Start date" means the first day of any lead-based paint activities, renovator or dust sampling technician training course or lead-based paint abatement, renovation, repair, painting or dust sampling clearance activity.

"Start date provided to the State" means the date included in the original notification or the most recent start date provided to and approved by the State in an updated notification.

"State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Canal Zone, American Samoa, the Northern Mariana Islands, or any other territory or possession of the United States.

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

"Third party certification exam" means a third party examination in a particular discipline, which 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.

"Train-the-trainer course" means a classroom of 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. A train-the-trainer course that is approved by the Commissioner may be offered by a training provider accredited by the Commissioner pursuant to paragraph (6) of this Rule.

"Training provider" means any organization or entity accredited under paragraph (6) of this Rule to offer lead-based paint activities courses.

"TSCA" means the Toxic Substances Control Act, 15 U.S.C. 2601.

"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 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.

"Zero (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.

(5) (Reserved)

(6) Accreditation of Training Programs: Target Housing and Child-Occupied Facilities. [40 CFR 745.225]

(a) Scope.

1. A training program may seek accreditation to offer courses in any of the following disciplines: Inspector, risk assessor, supervisor, project designer, abatement worker, renovator, and dust sampling technician. A training program may also seek accreditation to offer 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, renovation and dust sampling technician initial 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, renovation and dust sampling technician courses without 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.

(b) Application process.

The following are procedures a training program must follow to receive State accreditation to offer lead-based paint activities courses, renovator courses, or dust sampling technician courses:

1. A training program seeking accreditation shall submit a written application, along with the appropriate application fees in accordance with paragraph (18) of this Rule, to the Division 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 are considered different courses, and each course must independently meet the accreditation requirements.
 - (iii) 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 or Indian Tribe that has been authorized by EPA, the training program manager shall include a statement certifying that, as well.
 - (iv) 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, submit a signed statement from a qualified, independent translator that they had compared the course to the English language version and found the translation to be accurate.
 - (v) 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 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.
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 may, at its discretion, work with the applicant to address inadequacies in the application for accreditation. The Division may also request additional materials retained by the training program under subparagraph (g) of this paragraph.
 3. The Commissioner will not approve a training program's application if the Commissioner determines that the environmental compliance history of the training program, its principals, or its key employees demonstrates an unwillingness or inability to maintain compliance with environmental statutes or regulations. The Commissioner will send the firm a letter giving the reason for not approving the application. The Commissioner will not refund the application fees.
 4. 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 amount of fees.
 5. 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.
 6. A training program applying for accreditation must submit the appropriate fees in accordance with paragraph (18) of this Rule.

(c) Requirements for the accreditation of training programs.

For a training program to obtain accreditation from the Commissioner to offer lead-based paint activities courses, renovator courses, or dust sampling technician courses, 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 course who has:

- (i) Demonstrated experience, education, or training in teaching workers or adults; and
 - (ii) Successfully completed any EPA-accredited or EPA-authorized State or Tribal-accredited lead-specific training course(s) and pre-requisites for which they plan to be the principle instructor; 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 principal instructor shall be responsible for the organization of the 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.
4. The following documents listed below shall 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 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 the recordkeeping requirements contained in subparagraph (g) of this paragraph. These documents include the following:
- (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 as defined in paragraph (4) of this Rule 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.
 - (vi) The renovator course shall last a minimum of 8 training hours, with a minimum of 2 hours devoted to hands-on training activities. The minimum curriculum requirements for the renovator course are contained in part (d)6 of this paragraph. Hands-on training activities must cover renovation methods that minimize the creation of dust and lead-based paint hazards, interior and exterior containment and cleanup methods, and post-renovation cleaning verification.
 - (vii) The dust sampling technician course must last a minimum of 8 training hours, with a minimum of 2 hours devoted to hands-on training activities. The minimum curriculum requirements for the dust sampling technician course are contained in part (d)7 of this paragraph. Hands-on training activities must cover dust sampling methodologies.
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 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 be developed in accordance with the test blueprint submitted with the training accreditation application.
 - (iv) Course tests should 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;
 - (viii) The date the course was accredited and the name of the agency issuing the accreditation; and
 - (ix) For renovator and dust sampling technician course completion certificates, affix a 2-inch by 2-inch passport photograph of the individual.
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. Courses offered by the training program must teach the work practice standards contained in Rule 0400-13-01-.06(6) or paragraph (8) of this Rule, as applicable, in such a manner that trainees are provided with the knowledge needed to perform the renovations or lead-based paint activities they will be responsible for conducting.
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 the contents of the application for accreditation as described in subparagraph (b) of this paragraph and monitor compliance with the requirements outlined by this Rule.
13. The training manager shall provide the Commissioner notification of renovator, dust sampling technician, or lead-based paint activities courses offered.
- (i) The training manager must provide the Commissioner with notification of all lead-based paint activities, renovator, and dust sampling technician courses offered. The original course notification must be received by the Department at least seven (7) business days prior to the start date of any lead-based paint and renovation activities course.
 - (ii) The training manager must provide the Commissioner updated notification when lead-based paint activities, renovator, and dust sampling technician 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, renovator, and dust sampling technician courses beginning prior to the start date provided to the Commissioner, an updated course notification must be received by the Department at least seven (7) business days before the new start date.
 - (II) For lead-based paint activities, renovator, and dust sampling technician courses beginning after the start date provided to the Commissioner, an updated course notification must be received by Department at least two (2) business days before the start date provided to Department.
 - (iii) The training manager must update the Department of any change in location of lead-based paint activities, renovator, and dust sampling technician courses at least seven (7) business days prior to the start date provided to the Department.

- (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 Division at least two (2) business days prior to the start date provided to the Department.
 - (v) Each course notification, including updates, must include the following:
 - (I) Notification type (original, update, cancellation);
 - (II) Training program name, the Commissioner 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) Course notification must be accomplished using any of the following methods. Written notification of lead-based paint activities course schedules can be accomplished by using either the sample form titled "Lead-Based Paint Activities Training Course Schedule", "Renovator and Dust Sampling Technician Training Course Schedule" or a similar form containing the information required in subpart (v) of this part. All written notifications 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 (3) additional business days for delivery in order to ensure that the Department receives the notification by the required date). Instructions and sample forms can be obtained from the Division at 1-888-771-LEAD (5323) or on the Internet at www.state.tn.us/environment/swm/leadpaint.
 - (vii) Lead-based paint activities, renovator, and dust sampling technician 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, renovator, and dust sampling technician courses without first notifying the Commissioner of such activities in accordance with the requirements of this paragraph.
14. The training manager must provide notification following completion of lead-based paint activities, renovator, and dust sampling technician courses.
- (i) The training manager must provide the Commissioner notification after the completion of any lead-based paint activities, renovator or dust sampling technician course. This notice must be received by the Commissioner no later than ten (10) business days following course completion.
 - (ii) The notification must include the following:
 - (I) Training program name, the Commissioner's 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; and
 - VI. A digital photograph of the student; and
- (V) Training manager's name and signature.

(iii) Notification must be accomplished using any of the following methods: Written notification for lead-based paint activities training courses can be accomplished by using either the sample form titled "Lead-Based Paint Activities Training Course Follow-up"; following renovator and sampling technician training courses using either the sample form titled "Renovator and Sampling Technician Training Course Follow-up" or a similar form containing the information required in subpart (ii) of this part. All written notifications 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 (3) additional business days for delivery in order to ensure that the Division receives the notification by the required date). Instructions and sample forms can be obtained from the Commission at 1-888-771-LEAD (5323) or on the Internet at www.state.tn.us/environment/swm/leadpaint/.

15. Training provider audits

- (i) The Commissioner may conduct unannounced audits of a training provider's records and an initial or refresher lead-based paint, renovator or dust sampling technician training course in any discipline to ensure compliance with the requirements of this Rule.
- (ii) For audit purposes, a training provider shall, at no charge, allow the commissioner to attend all or any part of an initial or refresher training course in any discipline to determine compliance with the requirements of this Rule. A training provider shall not restrict the Commissioner's access to any part of a training program and, upon request, shall make records required to be maintained by this Rule available for review, inspection and/or copying.
- (iii) Unless a training provider notifies the Commissioner of changes in a training course site and/or course cancellation at least five (5) days prior to the date of the course, the Commissioner may assess travel cost to that training provider for reimbursement. The estimated travel costs will be assessed using the State of Tennessee Finance and Administration's "General Reimbursement Rate Schedule" policy.

(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. 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 pertains 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/cleanup or 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/cleanup or 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/cleanup or lead-based paint hazard reduction; and *
- (vii) Soil and exterior dust abatement methods or lead-based paint hazard reduction.*

6. Renovator:

- (i) Role and responsibility of a renovator;

- (ii) Background information on lead and its adverse health effects;
- (iii) Background information on EPA, HUD, OSHA, and other Federal, State, and local regulations and guidance that pertains to lead-based paint and renovation activities;
- (iv) Procedures for using acceptable test kits to determine whether paint is lead-based paint;
- (v) Renovation methods to minimize the creation of dust and lead-based paint hazards;
- (vi) Interior and exterior containment and cleanup methods;
- (vii) Methods to ensure that the renovation has been properly completed, including cleaning verification, and clearance testing;
- (viii) Waste handling and disposal;
- (ix) Providing on-the-job training to other workers; and
- (x) Record preparation.

7. Dust sampling technician:

- (i) Role and responsibility of a dust sampling technician;
- (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 renovation activities;
- (iv) Dust sampling methodologies;
- (v) Clearance standards and testing; and
- (vi) Report preparation.

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

A training program may seek accreditation to offer refresher-training courses in any of the following disciplines: inspector, risk assessor, supervisor, project designer, abatement worker, renovator and dust sampling technician. 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. The refresher-training course 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 must last a minimum of eight (8) training hours. Refresher courses for project designer, renovator, and dust sampling technician must last a minimum of four (4) training hours.
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.
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 5 of this paragraph and the requirements in parts (e)1 through 3 of this paragraph shall also apply.
5. A training program seeking accreditation to offer refresher-training courses only shall submit a written application to the Division containing the following information:
 - (i) The refresher-training program's name, address, and telephone number,
 - (I) The street address of the training site if different from the training program's address, and
 - (II) The printed name of the principal instructor.
 - (ii) A list of courses for which the training program is applying for accreditation.
 - (iii) 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.
 - (iv) If a 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.
 - (v) 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.
 - (vi) 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 assessment of hands-on skills for each course (if applicable); and
 - (IV) A copy of the quality control plan as described in part (c)9 of this paragraph.

- (vii) The requirements in parts (c)1 through 5, and 7 through 14 of this paragraph apply to refresher-training providers.
 - (viii) If a refresher-training program meets the requirements listed in 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 may, at its discretion, work with the applicant to address inadequacies in the application for accreditation. The Division may also request additional materials retained by the refresher-training program under subparagraph (g) of this paragraph.
 - (ix) The Commissioner will not approve a training program's application if the Commissioner determines that the environmental compliance history of the firm, its principals, or its key employees demonstrates an unwillingness or inability to maintain compliance with environmental statutes or regulations. The Commissioner will send the firm a letter giving the reason for not approving the application. The Commissioner will not refund the application fees. If a refresher-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 amount of fees.
 - (ix) The language in which the refresher-training course is taught, if other than English.
 - (x) The date the refresher course was accredited and the name of the agency issuing the accreditation.
- (f) Re-accreditation of training programs.
1. Unless re-accredited, a training program's accreditation (including 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 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 it is applying for re-accreditation;
 - (iii) 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) A statement signed by the program manager stating:
 - (I) That the training program complies at all times with all requirements in subparagraphs (c) and (e) of this paragraph, as applicable; and
 - (II) The recordkeeping and reporting requirements of subparagraph (g) of this paragraph shall be followed.
 - (v) A payment of appropriate fees in accordance with paragraph (18) of this Rule.

4. Upon request, the training program shall allow the Commissioner to audit the training program to verify the contents of the application for re-accreditation as described in part 3 of this subparagraph. Upon the Commissioner anonymously auditing a training program by attending a course, the training course fee paid by the State shall be refunded in its entirety to the Tennessee Department of Environment and Conservation.

(g) 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 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 skill assessments and course tests, and a record of each student's course completion certificate; and
 - (vii) Any other material not listed above in subparts (i) through (vi) of this part that was submitted to the Division as part of the program's application for accreditation.
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 (3) years and six (6) months.
3. The training program shall notify the Division 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 calendar month of issuance. To maintain accreditation, the training program shall be re-accredited every two (2) years.

(7) 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) Submit to the Division 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 for which certification is sought along with the appropriate application fees in accordance with paragraph (18) of this Rule; or
 - (ii) Submit to the Division 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 (18) of this rule. Completing the refresher training requirements in subpart (vi) of this part and passing the Commissioner's third party exam may be required prior to certification based upon the Commissioner's evaluation of submitted documents.
 - (iii) Submit to the Division a standard color passport photograph with each application for the lead-based paint activity discipline for which certification is sought.
 - (iv) Indicate on the application whether the applicant is in possession of a valid:
 - (I) State issued photo identification card or driver's license;
 - (II) A U. S. passport, foreign passport stamped by the U.S. Government;
 - (III) Military active duty/retiree/reservist identification card; or
 - (IV) If the applicant possesses other document(s) currently listed by the Department of Homeland Security U.S. Citizenship and Immigration Services, to establish identity and employment authorization. List the specific document by name.
 - (v) 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 certification photo identification card as provided in subparagraph (e) of this paragraph.)
 - (vi) 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.
 - (vii) 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. 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, as appropriate.

4. 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) of this Rule.
 5. It shall be a violation of this Rule for an individual 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 individual has not been certified to do so by the Commissioner, pursuant to this paragraph. (See paragraph (21) of this Rule.)
- (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 and receive a course completion certificate from an EPA, or an EPA authorized state or Indian Tribe accredited training program;
 - (ii) Pass the third party 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 additional experience and/or education requirements.
 - II. (Reserved)
 - III. Pass the third party certification exam offered by the Commissioner for inspector.
 - (II) Risk assessors.
 - I. Successful completion of an accredited training course for inspectors; and
 - II. Pass the third party certification exam offered by the Commissioner for inspector and risk assessor; and
 - III.
 - A. Bachelor's degree and one (1) year of experience in a related field (e.g., lead, asbestos, environmental remediation work, or construction), or an Associate's degree and two (2) years experience in a related field (e.g., lead, asbestos, environmental remediation work, or construction); or
 - B. 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
 - C. 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. Successful completion of an accredited training course for supervisor; and
 - II. Pass the third party certification exam offered by the Commissioner for supervisor; and
 - III.
 - A. One (1) year of experience as a certified lead-based paint abatement worker; or
 - B. 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; and
 - II. Pass the third party certification exam offered by the Commissioner for supervisor; and
 - III.
 - A. 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
 - B. Four (4) years of experience in building construction and design or a related field.
 - (V) Abatement workers:
 - I. No additional experience and/or education requirements.
 - II. (Reserved)
- 2. Proof, which may be required by the Commissioner, of meeting the requirements of this subparagraph may include, 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 certification examination for a particular discipline an individual must:
 - (i) Successfully complete an accredited course in the appropriate discipline 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(iii) of this subparagraph.
- 4. After passing the appropriate Commissioner's third party certification exam and submitting an application demonstrating, to the Commissioner's satisfaction, that he/she meets the appropriate training, education, and/or experience prerequisites described in

part 1 of this subparagraph, an individual shall be issued a certificate/identification card by the Commissioner.

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

5. An individual may take the Commissioner's third party 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 (c) of this paragraph and submit the appropriate re-certification fees required by paragraph (18) of this Rule.

(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 every three (3) years if the individual completed an accredited refresher-training course with a course test and hands-on assessment.
2. An individual previously certified by the Commissioner as a lead-based paint risk assessor must complete the refresher course for both lead-based paint inspector and lead-based paint risk assessor to maintain certification.
3. An individual previously certified by the Commissioner as a lead-based project designed shall complete the refresher course for both lead-based paint supervisor and lead-based paint project designed to maintain certification.
4. An individual previously certified by the Commissioner shall be re-certified if the individual:
 - (i) Successfully completes the appropriate accredited refresher-training course within one year prior to the expiration date of their current certification;
 - (ii) Submits to the Division a re-certification application with a legible copy of the lead-based paint refresher-training course completion certificate at least sixty (60) days prior to the expiration of certification;
 - (iii) Submits to the Division a standard color passport photograph with an application for each lead-based paint discipline for which re-certification is sought; and
 - (iv) Submits the appropriate fees in accordance with paragraph (18) of this Rule.

(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 (21) of this Rule).
2. A firm seeking certification shall submit to the Division an application on forms provided by the Commissioner, the appropriate application fees in accordance with paragraph (18) of this Rule, and a letter attesting that the firm shall only employ appropriately certified employees to conduct lead-based paint activities, and that the firm and its employees shall follow the work practice standards in paragraph (8) of this Rule for conducting lead-based paint activities.
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.

4. The Commissioner will not approve a firm's application if the Commissioner determines that the environmental compliance history of the firm, its principals, or its key employees demonstrates an unwillingness or inability to maintain compliance with environmental statutes or regulations. The Commissioner will send the firm a letter giving the reason for not approving the application. The Commissioner will not refund the application fees. A firm may reapply for certification at any time by filing a new, complete application that includes the correct amount of fees.
5. The firm shall maintain all records pursuant to the requirements in paragraph (8) of this Rule.
6. Firms applying for re-certification must submit the documents described in part 2 of this subparagraph and appropriate fees described in paragraph (18) of this Rule.
7. 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.
8. 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.

(8) 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 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) National Institute of Building Sciences, "Guide Specifications for Reducing Lead-Based Paint Hazards";
 - (vi) The Enterprise Foundation, Housing Developer Pro specification computer software package; and
 - (vii) Other equivalent methods and guidelines.
4. Clearance levels that are appropriate for the purposes of this paragraph may be found in

subpart (e)11(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 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 incorporate adequate quality control procedures; and/or
 - (ii) All collected paint chip samples shall be analyzed according to subparagraph (f) 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, an inspection report and the Notification of Commencement of Lead-Based Paint Abatement Activities required in part (e)4 of this paragraph, which 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.
- (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 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 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 (iv) of this 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) 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 incorporate adequate quality control procedures; and/or
 - (ii) All collected paint chip samples shall be analyzed according to subparagraph (f) 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, if conducted, must be conducted according to the procedures in 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 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 age six (6) years and under shall be collected.
4. The following surfaces which 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(s) and floor shall be collected and analyzed for lead concentration in all living areas where one or more children, age 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 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 age six (6) and under are likely to come into contact with dust.
7. For child-occupied facilities, interior window sill 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) 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 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) Abatement.

1. An abatement shall be conducted only by an individual certified by the Commissioner,

and if conducted, shall be conducted according to the procedures in this subparagraph.

2. Abatement Project Notification Permit.

No person shall conduct an abatement prior to submitting an abatement notification to the Division, except as provided in subpart 6(ii) of this subparagraph. All permit notifications, both regular and emergency, for lead-based paint abatement, shall be accompanied by a permit project fee in accordance with paragraph (18) of this Rule. Abatement shall not commence until the Division has provided a permit to proceed in accordance with subparagraph 6(ix) of this subparagraph.

3. 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.

4. The following shall be maintained on site during abatement activities and be immediately made available for review by the Division:

- (i) A copy of the project notification permit, permit 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; and
- (iv) Certification identification cards issued by the Commissioner for all certified persons and firms performing lead-based paint activities.

5. 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.

6. A certified firm must notify the Division, on forms provided by the Division, of lead-based paint abatement activities as follows:

- (i) Except as provided in subpart (ii) of this part, the Division must be notified prior to conducting lead-based paint abatement activities. The original project notification permit must be received by the Division at least five (5) business days before the start date of any lead-based paint abatement activities.
- (ii) Project notification permit for lead-based paint abatement activities required in response to an elevated blood lead level (EBL) determination, or Federal, State, Tribal, or local emergency abatement order should be received by the Division as early as possible before, but must be received no later than the start date of the lead-based paint abatement activities. Should the start date and/or location provided to the Division change, an updated notification must be received by the Division on or before the start date provided to the Division. Documentation showing evidence of an EBL determination or a copy of the Federal/State/Tribal/local emergency abatement order must be included in the written notification to take advantage of this abbreviated project notification permit period.
- (iii) Except as provided in subpart (ii) of this part, updated project notification permit must be provided to the Division for lead-based paint abatement activities that will begin on a date other than the start date specified in the original notification, as follows:

- (l) For lead-based paint abatement activities beginning prior to the start

date provided to the Division, an updated notification must be received by Division at least five (5) business days before the new start date included in the notification.

- (II) For lead-based paint abatement activities beginning after the start date provided to the Division, an updated notification must be received by the Division on or before the start date provided to the Division.
- (iv) Except as provided in subpart (ii) of this part, updated notification must be provided to the Division for any change in location of lead-based paint abatement activities at least five (5) business days prior to the start date provided to the Division.
- (v) Updated project notification permits must be provided to the Division when lead-based paint abatement 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 project notification permit must be received by the Division on or before the start date provided to the Division, or if work has already begun, within 24 hours of the change.
- (vi) The following must be included in each project notification permit:
 - (I) Project notification permit type (original, updated, cancellation).
 - (II) Date when lead-based paint abatement activities will start.
 - (III) Date when lead-based paint abatement activities will end (approximation using best professional judgment).
 - (IV) Firm's name, Tennessee certification number, address, telephone number.
 - (V) Type of building (e.g., single family dwelling, multi-family dwelling, and 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) Documentation showing evidence of an EBL determination or a copy of the Federal/State/Tribal/local emergency abatement order, if using the abbreviated time period as described in subpart (ii) of this part.
 - (IX) Name and Tennessee certification number of the project supervisor.
 - (X) Approximate square footage/acreage to be abated.
 - (XI) Brief description of abatement activities to be performed.
 - (XII) Name, title, and signature of the representative of the certified firm who prepared the project notification permit.
- (vii) Notification must be accomplished using any of the following methods: Written notification can be accomplished using the sample form titled "Project Notification Permit of Lead-Based Paint Abatement Activities" containing the information required in subpart (vi) of this part. All written notification permits must be delivered by U.S. Postal Service, fax, commercial delivery service, or hand delivery (persons submitting notification permits by U.S. Postal Service are reminded that they should allow three (3) additional business days for delivery in

order to ensure that the Division receives the notification by the required date. Instructions and sample forms can be obtained from the Division at 1-888-771-LEAD (5323) or on the Internet at www.state.tn.us/environment/swm/leadpaint.

- (viii) Lead-based paint abatement activities shall not begin on a date, longer than the duration or at a location other than that specified in either an original or updated project notification permit, in the event of changes to the original project notification permit.
 - (ix) No firm or individual shall engage in lead-based paint abatement activities, as defined in paragraph (4) of this Rule, prior to notifying the Division of such activities according to the requirements of this paragraph and receiving a permit to proceed from the Division. The Division shall provide a written permit to proceed using any of the following methods:
 - (I) Written permit notice delivered by U.S. Postal Service, fax or electronic mail.
 - (II) Written permit notice picked up from the Division's central office by private carrier or a representative of the certified firm.
7. A written Occupant Protection Plan (OPP) shall be developed for all abatement projects and shall be prepared according to the following procedures:
- (i) The Occupant Protection Plan shall be submitted to the Division at least five (5) days before the commencement of the lead-based paint activity.
 - (ii) 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 ten (10) feet per building story of the building's exterior.
 - (iii) A certified supervisor or project designer shall prepare the Occupant Protection Plan for a single-family dwelling, or a multi-family dwelling with ten or fewer units, 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) An Occupant Protection Plan for multi-family dwellings with eleven or more units, a child-occupied facility equal to or greater than 1201 square feet or a conversion project equal to or greater than 1201 square feet, shall be prepared by a certified project designer.
8. 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.
9. 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 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.

10. If conducted, soil abatement shall be conducted in one of the following ways:

- (i) If the soil is removed:
 - (I) The 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 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 permanently covered, as defined in paragraph (4) of this Rule.

11. 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 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 1 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 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 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 window sills, and window troughs or from each composite dust sample with the applicable clearance levels for lead in dust on floors, interior window sills, 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 $\mu\text{g}/\text{ft}^2$ for floors, 250 $\mu\text{g}/\text{ft}^2$ for interior windowsills, and 400 $\mu\text{g}/\text{ft}^2$ for window troughs.
12. In a multi-family dwelling with similarly constructed and maintained residential dwellings, random sampling for the purposes 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 level of confidence that no more than 5 percent 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 11 of this subparagraph.
13. An abatement report shall be prepared by a certified supervisor or project designer for single family dwellings or multi-family dwellings with ten (10) or fewer units, a child-occupied facility less than or equal to 1200 square feet or a conversion project less than or equal to 1200 square feet.
- A certified project designer shall prepare an abatement report and project specifications for child-occupied facilities equal to or greater than 1201 square feet or a conversion project equal to or greater than 1201 square and multi-family dwellings having eleven (11) or more units. The completed Abatement Report shall be submitted to the Division no more than fifteen (15) days following the completion of the abatement project. The abatement report shall include the following information:
- (i) Start and completion dates of abatement and a copy of the 'Permit to Proceed' obtained from the Division;
 - (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 7 of this 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 part (d)11 of this paragraph;
- (v) The name, address, and signature of each certified risk assessor or inspector conducting clearance sampling and the date of clearance testing;
- (vi) The results of clearance testing and all soil analyses (if applicable) and the name of each recognized laboratory that conducted the analyses; and
- (vii) A detailed written description of the abatement, including abatement methods used, locations of rooms and/or components where abatement occurred, reason for selecting particular abatement methods for each component, and any suggested monitoring of encapsulants or enclosures.

(f) 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 capable of performing analyses for lead compounds in paint chip, dust, and soil samples pursuant to TSCA section 405 laboratory requirements.

(g) Composite Dust Sampling.

Composite dust sampling may only be conducted in the situations specified in subparagraphs (c) through (e) 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.

(h) 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 or floor) are equal to or greater than the dust hazard levels identified in subparagraph (d) 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 door knob 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 when the weighted arithmetic mean lead loading for all single surface or composite samples of floors and interior window sills are equal to or greater than 40 $\mu\text{g}/\text{ft}^2$ for floors and 250 $\mu\text{g}/\text{ft}^2$ for interior window sills, respectively; or
- (ii) On floors or interior window sills in an unsampled residential dwelling in a multi-family dwelling, if a dust-lead hazard is present on floors or interior window sills, respectively, in at least one sampled residential unit on the property; or
- (iii) On floors or interior window sills in an unsampled common area in a multi-family dwelling, if a dust-lead hazard is present on floors or interior window sills, 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.

5. 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 (3) years. The certified firm or individual also shall provide copies of these reports to the building owner who contracted for its services.

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

(Reserved)

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

(Reserved)

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

(Reserved)

- (12) (Reserved)

(13) (Reserved)

(14) 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) of this Rule. No individual or firm may offer to perform or perform any lead-based paint activity, unless certified by the Commissioner to perform that activity according to the procedures in paragraph (7) of this Rule.

(15) (Reserved)

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

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

(17) (Reserved)

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

(a) Purpose.

To establish and impose fees for certified individuals and firms engaged in lead-based paint activities and persons operating accredited training programs.

(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, 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, abatement worker.

(c) Fee Amounts.

1. Certification and Accreditation Fees. Initial and renewal certification and accreditation fees are specified in the following table:

Lead-Based Paint Activities – Training Program	Accreditation	Re-accreditation [Every two (2) years in accordance with Rule 0400-13-01-.01(6)(f)1.]
Initial Course		
Inspector	\$1,250	\$800
Risk Assessor	\$880	\$650
Supervisor	\$1,625	\$1,250
Worker	\$880	\$650
Project designer	\$690	\$400
Refresher Course		
Inspector	\$690	\$650

Risk Assessor	\$690	\$650
Supervisor	\$690	\$650
Worker	\$690	\$650
Project designer	\$400	\$400
To Change or Add a person, as the Training Manager, Principal Instructor(s)	\$250	
Renovation, Repair and Painting Activities – Training Program	Accreditation	Re-accreditation [Every two (2) years in accordance with Rule 0400-13-01-.01(6)(f)1.]
Initial Course		
Dust Sampling Technician	\$1,250	\$880
Renovator	\$1,650	\$1,025
Refresher Course		
Dust Sampling Technician	\$1,250	\$800
Renovator	\$1,625	\$1,025

Lead-Based Paint Activities – Individual	Initial Certification	Re-certification [Every three (3) years in accordance with Rule 0400-13-01-.01(7)(c)1.]
Inspector	\$410	\$410
Risk assessor	\$410	\$410
Supervisor	\$410	\$410
Worker	\$200	\$200
Project designer	\$410	\$410

Lead-Based Paint Activities – Firm	Initial Certification	Re-certification [Every three (3) years in accordance with Rule 0400-13-01-.01(7)(d).]
Firm	\$600	\$600
Replacement Certificate	\$25	

Lead-Based Paint Activities – Project Notification Permit Fee		
Abatement Type	Project Contract Cost	Notification Permit Fee
All types abatement in single family, multi-family and child-occupied facilities	All abatement project cost	0.02 times project contract cost
All LBP inspections, risk assessments, occupant protection, clearance, specifications	Not applicable	No Fee

2. Certification Examination Fee.

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

3. (Reserved)

4. Lost Registration Card or Certification Card or Certificate.

A \$25 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. Application Forms.

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

4. All certified individuals shall maintain on their person at any abatement site, a valid State of Tennessee issued Certification Identification Card.

(e) Certification Identification Card or Certificate Replacement.

1. Parties seeking a Certification Identification 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 (c)4 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.
 6. Fail to obtain a permit to proceed from the Division prior to commencing lead-based paint abatement.

(20) Suspension or Revocation of Certification and Accreditation

- (a) The Commissioner may suspend or revoke a certification or 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.

(c) Unless the decision and order issued under subparagraph (b) of this paragraph specify otherwise:

1. An individual whose certification has been suspended must take a refresher training course in order to make his or her certification current.
2. An individual whose certification has been revoked must take an initial course in order to become certified again.
3. A firm whose certification has been revoked must reapply for certification after the revocation ends in order to become certified again.
4. A firm whose certification has been suspended and the suspension ends less than three (3) years after the firm was initially certified or re-certified, need not to do anything to re-activate its certification.

(21) Implementation of Rule 0400-13-01-.01 Lead-Based Paint Abatement.

(a) Lead-based paint abatement activities

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 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.

(b) Training programs for renovators and dust sampling technicians courses.

1. On the effective day of these Rules, no training program may provide, offer, or claim to provide initial or refresher training for Tennessee certification as a renovator or a dust sampling technician without accreditation from the Commissioner.
2. These Rules shall apply in Tennessee on their effective date. Except as allowed in subparagraph (a) of this paragraph, a training provider, person or firm shall not conduct renovation, repair or painting (RRP) activities in Tennessee after the effective date of these Rules unless accredited by the Commissioner.
3. A training program may continue to conduct RRP activities in Tennessee, and whose training certificate the Commissioner may accept after the effective date of these Rules, until an accreditation decision is made by the Commissioner, provided:
 - (i) The training provider accredited by an EPA authorized state or EPA on the effective date of these rules; and
 - (ii) The training program applies for accreditation in Tennessee pursuant to paragraph (6) of this Rule as applicable, within ninety (90) days after the effective date of these Rules, accompanied with payment of the corresponding application fees.

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

0400-13-01-.02 Reserved.

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

SS-7037 (January, 2009)

0400-13-01-.03 Reserved.

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

0400-13-01-.04 Reserved.

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

0400-13-01-.05 Lead-Based Paint Hazards [Subpart D].

(1) Scope and Applicability. [40 CFR 745.61]

(a) This Rule identifies lead-based paint hazards.

(b) The standards for lead-based paint hazards apply to target housing and child-occupied facilities.

(c) Nothing in this Rule requires the owner of property/properties subject to these standards to evaluate the property/properties for the presence of lead-based paint hazards or take any action to control these conditions if one or more of them 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) Reserved [40 CFR 745.62]

(3) Definitions [40 CFR 745.63]

The following definitions apply to this Rule, 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. 4851(b)(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 three (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 0400-13-01-.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) 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, 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 $\mu\text{g}/\text{ft}^2$ on floors or 250 $\mu\text{g}/\text{ft}^2$ 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 ($\mu\text{g}/\text{g}$) 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 certification, occupant protection, and clearance requirements and work practice standards 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 and 68-131-401 et seq.

0400-13-01-.06 Residential Property Renovation [Subpart E].

(1) Purpose and Applicability [40 CFR 745.80 and 40 CFR 745.82]

- (a) This Rule applies to all renovations, repair and painting activities performed for compensation in target housing and child-occupied facilities.
- (b) The purpose of this Rule is to require the following:
1. Owners and occupants of target housing and child-occupied facilities receive information on lead-based paint hazards before these renovations begin; and
 2. Individuals performing renovations regulated in accordance with subparagraph (c) of this paragraph are properly trained; renovators and firms performing these renovations are certified; clearance technicians performing clearance for these renovations are certified; and the work practices in Paragraph (6) of this Rule are followed during these renovations.
 3. Exemptions:
 - (i) LEAs (county/city Boards of Education) and its employees are exempt from the financial obligation of fees for certification and re-certification outlined in this Rule when persons conducting the renovation, repair and painting activity(ies) are employed directly by LEAs and their school systems to ensure their compliance with the regulatory requirements detailed in these Rules.

(Note: This exemption includes custodial, maintenance employees and designated persons responsible to ensure that LEAs comply with this Rule. This

exemption from the fee requirements does not extend to persons, even though employed by the LEA, who are involved with non-LEA renovation, repair and painting activities. This exemption from the fee requirements does not extend to persons or firms contracted by the LEA to conduct renovation, repair and painting activities.)

- (c) This Rule applies to all renovations, repair and painting activities (RRP) performed for compensation in target housing and child-occupied facilities, except for the following:
 - 1. Renovations in target housing or child-occupied facilities in which a written determination has been made by an inspector or risk assessor (certified pursuant to the requirements outlined in paragraph (7) 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 milligrams/per square centimeter (mg/cm^2) or 0.5% by weight, where the firm performing the renovation has obtained a copy of the determination.
 - 2. Renovations in target housing or child-occupied facilities in which a certified renovator, using a recognized test kit as defined in paragraph (2) of this Rule and following the kit manufacturer's instructions, has tested each component affected by the renovation and determined that the components are free of paint or other surface coatings that contain lead equal to or in excess of 1.0 mg/cm^2 or 0.5% by weight. If the components make up an integrated whole, such as the individual stair treads and risers of a single staircase, the renovator is required to test only one of the individual components, unless the individual components appear to have been repainted or refinished separately.
- (d) The information distribution requirements in Paragraph (5) of this Rule do not apply to emergency renovations, which are renovation activities that were not planned but result from a sudden, unexpected event (such as non-routine failures of equipment) that, if not immediately attended to, presents a safety or public health hazard, or threatens equipment and/or property with significant damage. Interim controls performed in response to an elevated blood lead level in a resident child are also emergency renovations.
- (e) Emergency renovations other than interim controls are also exempt from the warning sign, containment, waste handling, training, and certification requirements in Paragraphs (6), (10), and (11) of this Rule to the extent necessary to respond to the emergency.
- (f) Emergency renovations are not exempt from:
 - 1. The cleaning requirements of part (6)(c)6 of this Rule, which must be performed by certified renovators or individuals trained in accordance with subparagraph (11)(a) of this Rule;
 - 2. The cleaning verification requirements of subparagraph (6)(d), which must be performed by certified renovators; and
 - 3. The recordkeeping requirements of parts (7)(b)6 and 7.
- (g) The training requirements in Paragraph (11) and the work practice standards for renovation activities in Paragraph (6) and the certification requirements in Paragraphs (10) and (11) of this Rule apply to all renovations covered by this Rule, except for:
 - 1. Renovations in target housing for which the firm performing the renovation has obtained a statement signed by the owner that the renovation will occur in the owner's residence;
 - 2. An owner-occupied resident where no child under age 6 resides there;
 - 3. An owner-occupied resident and no pregnant woman resides there;
 - 4. The housing is not a child-occupied facility; and

5. The owner acknowledges that the renovation firm will not be required to use the work practices contained in Paragraph (6) of this renovation, repair, and painting rule.

(NOTE: For the purposes of this paragraph, a child resides in the primary residence of his or her custodial parents, legal guardians, and foster parents. A child also resides in the primary residence of an informal caretaker if the child lives and sleeps most of the time at the caretaker's residence.)

(2) Definitions [40 CFR 745.83 and 40 CFR 745.103]

The following definitions apply to this Rule, unless otherwise specified:

"The Act" means Tennessee Code Annotated 68-131-401, et seq., Tennessee Lead-Based Paint Abatement Certification Act.

"Certified dust sampling technician" means a person who has successfully completed a dust sampling technician course accredited by Tennessee, or EPA or an EPA-authorized State or Tribal program and is certified by the Commissioner.

"Certified renovator" means a renovator who has successfully completed a renovator course accredited by Tennessee or EPA or an EPA-authorized State or Tribal program and is certified by the Commissioner.

"Certified renovator firm" means a company, partnership, corporation, sole proprietorship, association, or other business entity that performs renovation, repair or painting activities, to which the Commissioner has issued a certificate of approval pursuant to paragraph (10) of this Rule.

"Child-occupied facility" means a building, or portion of a building, constructed prior to 1978, visited regularly by the same child, under six (6) 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 (3) hours and the combined weekly visits last at least six (6) hours, and the combined annual visits last at least sixty (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 (6), such as restrooms and cafeterias. Common areas that children under age six (6) 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 (6).

"Cleaning verification card," means a card developed and distributed, or otherwise approved, by EPA for the purpose of determining, through comparison of wet and dry disposable cleaning cloths with the card, whether post-renovation cleaning has been properly completed.

"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.

"Component or building component" means specific design or structural elements or fixtures of a building or residential dwelling 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 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, windowsills or stools and troughs, casings, sashes and wells, and air conditioners.

“Dry disposable cleaning cloth” means a commercially available dry, electrostatically charged, white disposable cloth designed to be used for cleaning hard surfaces such as uncarpeted floors or counter tops.

“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. Interim controls performed in response to an elevated blood lead level in a resident child are also emergency renovations.

“EPA” means the U. S. Environmental Protection Agency.

“Evaluation” means a lead-based paint risk assessment and/or inspection.

“Firm” means a company, partnership, corporation, sole proprietorship or individual doing business, association, or other business entity; a Federal, State, Tribal, or local government agency; or a nonprofit organization.

“HEPA vacuum” means a vacuum cleaner which has been designed with a high-efficiency particulate air (HEPA) filter as the last filtration stage. A HEPA filter is a filter that is capable of capturing particles of 0.3 microns with 99.97% efficiency. The vacuum cleaner must be designed so that all the air drawn into the machine is expelled through the HEPA filter with none of the air leaking past it.

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

“Interim controls” means a set of measures designed to temporarily reduce human exposure or likely exposure to lead-based paint hazards, including specialized cleaning, repairs, maintenance, painting, temporary containment, ongoing monitoring of lead-based paint hazards or potential hazards, and the establishment and operation of management and resident education programs.

“Inspection” means:

- (a) A surface-by-surface investigation to determine the presence of lead-based paint as provided in subparagraph (8)(b) of Rule 0400-13-01-.01 Lead-Based Paint Abatement,
- (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 paragraph (5) of Rule 0400-13-01-.05.

“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.

"Local Education Agency" or "LEA" means:

- (a) Any local educational agency as defined in section 198 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. § 3381).
- (b) The owner of any non-public, non-profit elementary or secondary school building which consists of a single building, multiple buildings on a campus, or several schools making up a school system.
- (c) The governing authority of any school operated under the defense dependents' education system provided for under the Defense Dependents' Education Act of 1978 (20 U.S.C. § 921 et seq.).

"Minor repair and maintenance activities" are activities, including minor heating, ventilation or air conditioning work, electrical work, and plumbing, that disrupt six (6) square feet or less of painted surface per room for interior activities or twenty (20) square feet or less of painted surface for exterior activities where none of the work practices prohibited or restricted by part (6)(c)4 of Rule 0400-13-01-.06 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 thirty (30) days must be considered the same job for the purpose of determining whether the job is a minor repair and maintenance activity.

"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 mortgagor.

"Pamphlet" means the EPA pamphlet titled *Renovate Right: Important Lead Hazard Information for Families, Child Care Providers and Schools* developed under section 406(a) of TSCA for use in complying with section 406(b) of TSCA, or any State or Tribal pamphlet approved by EPA pursuant to 40 CFR 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.)

"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.

"Recognized test kit" means a commercially available kit recognized by EPA under 40 CFR 745.88 as being capable of allowing a user to determine the presence of lead at levels equal to or in excess of 1.0 milligrams per square centimeter, or more than 0.5% lead by weight, in a paint chip, paint powder, or painted surface.

"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 subparagraph (8)(e) of Rule 0400-13-01-.01. 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 Rule. The term renovation does not include minor repair and maintenance activities.

"Renovator" means an individual who either performs or directs workers who perform renovations.

"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 six (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 zero (0)-bedroom dwelling.

"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 hands-on experience.

"TSCA" means the Toxic Substances Control Act, 15 U.S.C. 2601.

"Wet disposable cleaning cloth" means a commercially available, pre-moistened white disposable cloth designed to be used for cleaning hard surfaces such as uncarpeted floors or counter tops.

"Wet mopping system" means a device with the following characteristics: A long handle, a mop head designed to be used with disposable absorbent cleaning pads, a reservoir for cleaning solution, and a built-in mechanism for distributing or spraying the cleaning solution onto a floor, or a method of equivalent efficacy.

"Work area" means the area that the certified renovator establishes to contain the dust and debris generated by a renovation.

"Zero (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) Information Distribution Requirements [40 CFR 745.84]
 - (a) Renovations in Dwelling Units

No more than sixty (60) days before beginning renovation activities in any residential dwelling unit

of target housing, the firm performing the renovation must:

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.
 - (ii) Obtain a certificate of mailing at least seven (7) 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 firm performing the renovation 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 of a representative of the firm performing the renovation, and the date of signature; or
 - (ii) Obtain a certificate of mailing at least seven (7) days prior to the renovation.

(b) Renovations in Common Areas

No more than sixty (60) days before beginning renovation activities in common areas of multi-unit target housing, the firm performing the renovation must:

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 (7) days prior to the renovation.
2. Comply with one of the following:
 - (i) Notify in writing, or ensure written notification of, each affected unit 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 firm performing the renovation, or
 - (ii) While the renovation is ongoing, post informational signs describing the general nature and locations of the renovation and the anticipated completion date. These signs must be posted in areas where they are likely to be seen by the occupants of all of the affected units. The signs must be accompanied by a posted copy of the pamphlet or information on how interested occupants can review a copy of the pamphlet or obtain a copy from the renovation firm at no cost to occupants.
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, and the firm provided written initial

notification to each affected unit, the firm performing the renovation 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 firm performing the renovation initiates work beyond that which was described in the original notice.

(c) Renovations in Child-Occupied Facilities

No more than sixty (60) days before beginning renovation activities in any child-occupied facility, the firm performing the renovation must:

1. Provide the owner of the building 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.
 - (ii) Obtain a certificate of mailing at least seven (7) days prior to the renovation.
2. If the child-occupied facility is not the owner of the building, provide an adult representative of the child-occupied facility with the pamphlet, and comply with one of the following:
 - (i) Obtain, from the adult representative, a written acknowledgment that the adult representative has received the pamphlet; or certify in writing that a pamphlet has been delivered to the facility and that the firm performing the renovation has been unsuccessful in obtaining a written acknowledgment from an adult representative. Such certification must include the address of the child-occupied facility 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., representative refuses to sign), the signature of a representative of the firm performing the renovation, and the date of signature.
 - (ii) Obtain a certificate of mailing at least 7 days prior to the renovation.
3. Provide the parents and guardians of children using the child-occupied facility with the pamphlet and information describing the general nature and locations of the renovation and the anticipated completion date by complying with one of the following:
 - (i) Mail or hand-deliver the pamphlet and the renovation information to each parent or guardian of a child using the child-occupied facility.
 - (ii) While the renovation is ongoing, post informational signs describing the general nature and locations of the renovation and the anticipated completion date. These signs must be posted in areas where they can be seen by the parents or guardians of the children frequenting the child-occupied facility. The signs must be accompanied by a posted copy of the pamphlet or information on how interested parents or guardians can review a copy of the pamphlet or obtain a copy from the renovation firm at no cost to the parents or guardians.
4. The renovation firm must prepare, sign, and date a statement describing the steps performed to notify all parents and guardians of the intended renovation activities and to provide the pamphlet.

(d) Written Acknowledgment

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.
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) Work Practice Standards [40 CFR 745.85]

(a) Effective Date, Applicability, and Terms

1. Beginning on the effective date of this Rule, all renovation, repair and painting activities in target housing and child-occupied facilities shall be performed pursuant to the work practice standards contained in this paragraph.
2. When performing any renovation, repair and painting activity in target housing and child-occupied facilities, an individual certified by the Commissioner, working for a firm certified by the Commissioner, must perform that activity in compliance with the applicable requirements of this paragraph.

(b) Renovation, Repair and Painting Project Notification Permit.

1. No person shall conduct renovation, repair or painting (RRP) prior to submitting an RRP notification permit to the Commissioner, on forms provided by the Division, at least five (5) business days before the start date of any RRP activities.
2. Except as provided in part 4 of this subparagraph, a certified firm must notify the Commissioner of RRP activities, on forms provided by the Division, when the RRP project requires the submission of a notification permit fee as outlined in paragraph (13) of this Rule.
3. The RRP project notification permit fee required in accordance with paragraph (13) of this Rule shall accompany all notification permits, both regular and emergency RRP activities.
4. Notification permits for RRP activities performed in response to emergency renovations or interim controls performed in response to an elevated blood lead level (EBL) determination, or Federal, State, Tribal, or local emergency order should be received by the Division as early as possible before, but must be received no later than the start date of the RRP activities. Should the start date and/or location provided to the Division change, an updated notification permit must be received by the Division on or before the start date provided to the Division. Documentation showing evidence of an EBL determination or a copy of the Federal, State, Tribal or local emergency renovation order must be included with the written notification permit to take advantage of this abbreviated notification permit period.
5. Except as provided in part 4 of this subparagraph, updated notification permit must be provided to the Division for RRP activities that will begin on a date other than the start date specified in the original notification permit.
6. Notification permits must be accomplished using any of the following methods: Written notification shall be accomplished using the Division form titled ("Project Notification Permit for Renovation, Repair and Painting Activities"). All written notifications must be delivered by U.S. Postal Service, commercial delivery service, or hand delivery. RRP notification permit forms can be obtained from the Division at 1-888-771-LEAD (5323) or on the Internet at www.state.tn.us/environment/swm/leadpaint.
7. The following must be included in each project notification permit:

- (i) Project notification permit type (original, updated, cancellation).
- (ii) Date when RRP activities will start.
- (iii) Date when RRP activities will end (approximation using best professional judgment).
- (iv) Firm's name, Tennessee certification number, address, telephone number.
- (v) Type of building (e.g., single family dwelling, multi-family dwelling, and 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) Documentation showing evidence of an EBL determination or a copy of the Federal/State/Tribal/local emergency abatement order, if using the abbreviated time period as described in part 4 of this subparagraph.
- (ix) Name and Tennessee certification number of the RRP renovator.
- (x) Approximate square footage/acreage to be abated.
- (xi) Brief description of activities to be performed.
- (xii) Name, title, and signature of the representative of the certified firm who prepared the notification.

8. RRP activities shall not begin on a date, longer than the duration or at a location other than that specified in either an original or updated project notification permit, in the event of changes to the original project notification permit.

9. No firm or individual shall engage in RRP activities, as defined in paragraph (2) of this Rule, prior to notifying the Division of such activities according to the requirements of this paragraph and receiving a permit to proceed from the Division. The Division shall provide a written permit to proceed using any of the following methods:

- (I) Written permit notice delivered by U.S. Postal Service, fax or electronic mail.
- (II) Written permit notice picked up from the Division's central office by private carrier or a representative of the certified firm.

(c) Standards for renovation activities.

1. Renovations must be performed by certified firms using certified renovators as directed in paragraph (10) of this Rule. The responsibilities of certified firms are set forth in subparagraph (10)(d) of this paragraph and the responsibilities of certified renovators are set forth in subparagraph (11)(d) of this Rule.

2. Occupant protection. Firms must post signs clearly defining the work area and warning occupants and other persons not involved in renovation activities to remain outside of the work area. To the extent practicable, these signs must be in the primary language of the occupants. These signs must be posted before beginning the renovation and must remain in place and readable until the renovation and the post-renovation cleaning verification has been completed.

3. Containing the work area. Before beginning the renovation, the firm must isolate the work area so that no dust or debris leaves the work area while the renovation is being performed. In addition, the firm must maintain the integrity of the containment by ensuring that any plastic or other impermeable materials are not torn or displaced, and taking any other steps necessary to ensure that no dust or debris leaves the work area while the renovation is being performed. The firm must also ensure that containment is installed in such a manner that it does not interfere with occupant and worker egress in an emergency.

(i) Interior renovations. The firm must:

- (I) Remove all objects from the work area, including furniture, rugs, and window coverings, or cover them with plastic sheeting or other impermeable material with all seams and edges taped or otherwise sealed.
- (II) Close and cover all ducts opening in the work area with taped-down plastic sheeting or other impermeable material.
- (III) Close windows and doors in the work area. Doors must be covered with plastic sheeting or other impermeable material. Doors used as an entrance to the work area must be covered with plastic sheeting or other impermeable material in a manner that allows workers to pass through while confining dust and debris to the work area.
- (IV) Cover the floor surface, including installed carpet, with taped-down plastic sheeting or other impermeable material in the work area six (6) feet beyond the perimeter of surfaces undergoing renovation or a sufficient distance to contain the dust, whichever is greater.
- (V) Use precautions to ensure that all personnel, tools, and other items, including the exteriors of containers of waste, are free of dust and debris before leaving the work area.

(ii) Exterior renovations. The firm must:

- (I) Close all doors and windows within twenty (20) feet of the renovation. On multi-story buildings, close all doors and windows within twenty (20) feet of the renovation on the same floor as the renovation, and close all doors and windows on all floors below that are the same horizontal distance from the renovation.
- (II) Ensure that doors within the work area that will be used while the job is being performed are covered with plastic sheeting or other impermeable material in a manner that allows workers to pass through while confining dust and debris to the work area.
- (III) Cover the ground with plastic sheeting or other disposable impermeable material extending ten (10) feet beyond the perimeter of surfaces undergoing renovation or a sufficient distance to collect falling paint debris, whichever is greater, unless the property line prevents ten (10) feet of such ground covering.
- (IV) In certain situations, the renovation firm must take extra precautions in containing the work area to ensure that dust and debris from the renovation does not contaminate other buildings or other areas of the property or migrate to adjacent properties.

4. Prohibited and restricted practices. The work practices listed below shall be prohibited or

restricted during a renovation as follows:

- (i) Open-flame burning or torching of lead-based paint is prohibited.
- (ii) The use of machines that remove lead-based paint through high speed operation such as sanding, grinding, power planing, needle gun, abrasive blasting, or sandblasting, is prohibited unless such machines are used with HEPA exhaust control.
- (iii) Operating a heat gun on lead-based paint is permitted only at temperatures below 1100 degrees Fahrenheit.

5. Waste from renovations.

- (i) Waste from renovation activities must be contained to prevent releases of dust and debris before the waste is removed from the work area for storage or disposal. If a chute is used to remove waste from the work area, it must be covered.
- (ii) At the conclusion of each work day and at the conclusion of the renovation, waste that has been collected from renovation activities must be stored under containment, in an enclosure, or behind a barrier that prevents release of dust and debris out of the work area and prevents access to dust and debris.
- (iii) When the firm transports waste from renovation activities, the firm must contain the waste to prevent release of dust and debris.

6. Cleaning the work area. After the renovation has been completed, the firm must clean the work area until no dust, debris or residue remains.

- (i) Interior and exterior renovations. The firm must:
 - (I) Collect all paint chips and debris and, without dispersing any of it, seal this material in a heavy-duty bag.
 - (II) Remove the protective sheeting. Mist the sheeting before folding it, fold the dirty side inward, and either tape shut to seal or seal in heavy-duty bags. Sheeting used to isolate contaminated rooms from non-contaminated rooms must remain in place until after the cleaning and removal of other sheeting. Dispose of the sheeting as waste.
- (ii) Additional cleaning for interior renovations. The firm must clean all objects and surfaces in the work area and within two (2) feet of the work area in the following manner, cleaning from higher to lower:
 - (I) Walls. Clean walls starting at the ceiling and working down to the floor by either vacuuming with a HEPA vacuum or wiping with a damp cloth.
 - (II) Remaining surfaces. Thoroughly vacuum all remaining surfaces and objects in the work area, including furniture and fixtures, with a HEPA vacuum. The HEPA vacuum must be equipped with a beater bar when vacuuming carpets and rugs.
 - (III) Wipe all remaining surfaces and objects in the work area, except for carpeted or upholstered surfaces, with a damp cloth. Mop uncarpeted floors thoroughly, using a mopping method that keeps the wash water separate from the rinse water, such as the 2-bucket mopping method, or using a wet mopping system.

(d) Standards for post-renovation cleaning verification

1. Interiors.

- (i) A certified renovator must perform a visual inspection to determine whether dust, debris or residue is still present. If dust, debris or residue is present, these conditions must be removed by re-cleaning and another visual inspection must be performed.
- (ii) After a successful visual inspection, a certified renovator must:
 - (I) Verify that each windowsill in the work area has been adequately cleaned, using the following procedure.
 - I. Wipe the windowsill with a wet disposable cleaning cloth that is damp to the touch. If the cloth matches or is lighter than the cleaning verification card, the windowsill has been adequately cleaned.
 - II. If the cloth does not match and is darker than the cleaning verification card, re-clean the windowsill as directed in items (c)6(ii)(II) and (III) of this paragraph, then either use a new cloth or fold the used cloth in such a way that an unused surface is exposed, and wipe the surface again. If the cloth matches or is lighter than the cleaning verification card, that windowsill has been adequately cleaned.
 - III. If the cloth does not match and is darker than the cleaning verification card, wait for one (1) hour or until the surface has dried completely, whichever is longer.
 - IV. After waiting for the windowsill to dry, wipe the windowsill with a dry disposable cleaning cloth. After this wipe, the windowsill has been adequately cleaned.
 - (II) Wipe uncarpeted floors and countertops within the work area with a wet disposable cleaning cloth. Floors must be wiped using an application device with a long handle and a head to which the cloth is attached. The cloth must remain damp at all times while it is being used to wipe the surface for post-renovation cleaning verification. If the surface within the work area is greater than forty (40) square feet, the surface within the work area must be divided into roughly equal sections that are each less than forty (40) square feet. Wipe each such section separately with a new wet disposable cleaning cloth. If the cloth used to wipe each section of the surface within the work area matches the cleaning verification card, the surface has been adequately cleaned.
 - I. If the cloth used to wipe a particular surface section does not match the cleaning verification card, re-clean that section of the surface as directed in items (c)6(ii)(II) and (III) of this paragraph, then use a new wet disposable cleaning cloth to wipe that section again. If the cloth matches the cleaning verification card, that section of the surface has been adequately cleaned.
 - II. If the cloth used to wipe a particular surface section does not match the cleaning verification card after the surface has been re-cleaned, wait for one (1) hour or until the entire surface within the work area has dried completely, whichever is longer.
 - III. After waiting for the entire surface within the work area to dry, wipe each section of the surface that has not yet achieved post

renovation cleaning verification with a dry disposable cleaning cloth. After this wipe, that section of the surface has been adequately cleaned.

- (iii) When the work area passes the post-renovation cleaning verification, remove the warning signs.

- 2. Exteriors. A certified renovator must perform a visual inspection to determine whether dust, debris or residue is still present on surfaces in and below the work area, including windowsills and the ground. If dust, debris or residue is present, these conditions must be eliminated and another visual inspection must be performed. When the area passes the visual inspection, remove the warning signs.

- (e) Optional dust clearance testing.

Cleaning verification need not be performed if the contract between the renovation firm and the person contracting for the renovation or another Federal, State, Territorial, Tribal, or local law or regulation requires:

- 1. The renovation firm to perform dust clearance sampling at the conclusion of a renovation covered by this Rule.
- 2. The dust clearance samples are required to be collected by a certified inspector, risk assessor or dust sampling technician.
- 3. The renovation firm is required to re-clean the work area until the dust clearance sample results are below the clearance standards in part (8)(e)11 of Rule 0400-13-01-.01.

- (f) Activities conducted after post-renovation cleaning verification.

Activities that do not disturb paint, such as applying paint to walls that have already been prepared, are not regulated by this Rule if they are conducted after post-renovation cleaning verification has been performed.

(7) Recordkeeping Requirements [40 CFR 745.86]

- (a) Firms performing renovations must retain and, if requested, make available to the Commissioner all records necessary to demonstrate compliance with this Rule for a period of three (3) years following completion of the renovation. This three-year retention requirement does not supersede longer obligations required by other provisions for retaining the same documentation, including any applicable State or Tribal laws or regulations.

- (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 a lead-based paint inspector, certified by the Commissioner pursuant to paragraph (7) of Rule 0400-13-01-.01, that lead-based paint is not present on the components affected by the renovation, as described in part (1)(c)2 of this Rule.
- 2. Signed and dated acknowledgments of receipts when conducting renovations in dwelling units, renovations in common areas and renovations in child-occupied facilities, as described in subparts (5)(a)1(i), (5)(a)2(i), (5)(b)1(i), (5)(c)1(i) and (5)(c)2(i) of this Rule.
- 3. Certifications of attempted delivery when conducting renovations in dwellings and renovations in child-occupied facilities, as described in subparts (5)(a)2(i) and (5)(c)2(i) of this Rule.
- 4. Certificates of mailing for renovations in dwelling units described in subparts (5)(a)1(ii) and (5)(a)2(ii) of this Rule; renovations in common areas described in subpart (5)(b)1(ii)

of this Rule; and renovations in child-occupied facilities described in paragraphs (5)(c)1(i) and (5)(c)2(ii) of this Rule.

5. Records of notification activities performed regarding common area renovations, as described in parts (5)(b)3 and 4 of this Rule, and renovations in child-occupied facilities, as described in part (5)(c)3 of this Rule.
6. Any signed and dated statements received from owner-occupants documenting that the requirements of paragraph (6) of this Rule do not apply. These statements must include a declaration that:
 - (i) The renovation will occur in the owner's residence;
 - (ii) A declaration that no children under age six (6) reside there;
 - (iii) A declaration that no pregnant woman resides there;
 - (iv) A declaration that the housing is not a child-occupied facility;
 - (v) The address of the unit undergoing renovation and the owner's name;
 - (vi) An acknowledgment by the owner that the work practices to be used during the renovation will not necessarily include all of the lead-safe work practices contained in these renovation, repair, and painting rules, the signature of the owner, and the date of signature; and
 - (vii) These statements must be written in the same language as the text of the renovation contract, if any.
7. Documentation of compliance with the requirements of paragraph (6) of this Rule, including documentation that a certified renovator was assigned to the project, that the certified renovator provided on-the-job training for workers used on the project, that the certified renovator performed or directed workers who performed all of the tasks described in subparagraph (6)(c) of this Rule, a certified renovator performed the post-renovation cleaning verification subparagraph (6)(d). If the renovation firm was unable to comply with all of the requirements of this Rule due to an emergency as defined in subparagraph (1)(d), the firm must document the nature of the emergency and the provisions of the rule that were not followed. This documentation must include a copy of the certified renovator's training certificate, and a certification by the certified renovator assigned to the project that:
 - (i) Training was provided to workers (topics must be identified for each worker) on forms provided by the Division;
 - (ii) Warning signs were posted at the entrances to the work area;
 - (iii) If test kits were used, that the specified brand of kits was used at the specified locations and that the results were as specified;
 - (iv) The work area was contained by:
 - (I) Removing or covering all objects in the work area (interiors);
 - (II) Closing and covering all HVAC ducts in the work area (interiors);
 - (III) Closing all windows in the work area (interiors) or closing all windows in and within 20 feet of the work area (exteriors);
 - (IV) Closing and sealing all doors in the work area (interiors) or closing and sealing all doors in and within 20 feet of the work area (exteriors);

- (V) Covering doors in the work area that were being used to allow passage but prevent spread of dust;
- (VI) Covering the floor surface, including installed carpet, with taped-down plastic sheeting or other impermeable material in the work area six (6) feet beyond the perimeter of surfaces undergoing renovation or a sufficient distance to contain the dust, whichever is greater (interiors) or covering the ground with plastic sheeting or other disposable impermeable material anchored to the building extending ten (10) feet beyond the perimeter of surfaces undergoing renovation or a sufficient distance to collect falling paint debris, whichever is greater, unless the property line prevents ten (10) feet of such ground covering, weighted down by heavy objects (exteriors); and
- (VII) Installing (if necessary) vertical containment to prevent migration of dust and debris to adjacent property (exteriors);
- (v) Waste was contained on-site and while being transported off-site;
- (vi) The work area was properly cleaned after the renovation by:
 - (I) Picking up all chips and debris, misting protective sheeting, folding it dirty side inward, and taping it for removal; and
 - (II) Cleaning the work area surfaces and objects using a HEPA vacuum and/or wet cloths or mops (interiors); and
- (vii) The certified renovator performed the post-renovation cleaning verification (the results of which must be briefly described, including the number of wet and dry cloths used).
- (c) When test kits are used, the renovation firm must, within thirty (30) days of the completion of the renovation, provide identifying information as to the manufacturer and model of the test kits used, a description of the components that were tested including their locations, and the test kit results to the person who contracted for the renovation.
- (d) If dust clearance sampling is performed in lieu of cleaning verification as permitted by paragraph (6)(d) of this Rule, the renovation firm must provide, within thirty (30) days of the completion of the renovation, a copy of the dust sampling report to the person who contracted for the renovation.

(8) Enforcement and Penalties [40 CFR 745.87]

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

- (a) Failure or refusal to comply with any provision of this Rule is a violation.
- (b) Failure or refusal to establish and maintain records or to make available or permit access to or copying of records, as required by this Rule, is a violation.
- (c) Failure or refusal to permit entry or inspection as required is a violation.
- (d) Violators may be subject to civil and criminal sanctions pursuant to T.C.A. § 68-131-404 and § 68-131-405 of the Act.
- (e) Lead-based paint is assumed to be present at renovations covered by this Rule. The Commissioner or the Commissioner's designee may conduct inspections and issue subpoenas pursuant to the provisions of T.C.A. § 68-131-405 to ensure compliance with this Rule.

(9) Recognized test kits. [40 CFR 745.88]

- (a) On the effective date of this Rule, the Commissioner recognizes the test kits that have been determined by EPA through the National Institute of Standards and Technology research to meet the negative response criteria described in part (c)1 of this paragraph. This recognition will last until the EPA publicizes its recognition of the first test kit that meets both the negative response and positive response criteria in subparagraph (c) of this paragraph.
- (b) The Commissioner will not recognize any other test kits until they are tested through EPA's Environmental Technology Verification Program or other equivalent EPA approved testing program.
 - 1. Before September 1, 2010, test kits must meet only the negative response criteria in part (c)1 of this paragraph. The Commissioner's recognition of kits that meet only these criteria will last until EPA publicizes its recognition of the first test kits that meets both of the criteria in subparagraph (c) of this paragraph.
 - 2. After September 1, 2010, the Commissioner will recognize test kits that meet both of the criteria in subparagraph (c) of this paragraph.
- (c) Response criteria.
 - 1. Negative response criteria. For paint containing lead at or above the regulated level, 1.0 mg/cm² or 0.5% by weight, a demonstrated probability (with 95% confidence) of a negative response less than or equal to 5% of the time.
 - 2. Positive response criteria. For paint containing lead below the regulated level, 1.0 mg/cm² or 0.5% by weight, a demonstrated probability (with 95% confidence) of a positive response less than or equal to 10% of the time.

(10) Firm certification. [40 CFR 745.89]

- (a) Initial certification.
 - 1. Firms that perform renovations for compensation must apply to the Commissioner for certification to perform renovations or dust sampling. To apply, a firm must submit a completed "Application for Firms," using forms provided by the Division, signed by an authorized agent of the firm, and pay at least the correct amount of fees outlined in paragraph (13) of this Rule.
 - 2. After the Commissioner receives a firm's application, the Commissioner will take one of the following actions within ninety (90) days of the date the application is received:
 - (i) The Commissioner will approve a firm's application if the Commissioner determines that it is complete and that the environmental compliance history of the firm, its principals, or its key employees does not show an unwillingness or inability to maintain compliance with environmental statutes or regulations. An application is complete if it contains all of the information requested on the form and includes at least the correct amount of fees. When the Commissioner approves a firm's application, the Commissioner will issue the firm a certificate with an expiration date not more than three (3) years from the date the application is approved. The Commissioner's certification allows the firm to perform renovations covered by this paragraph in the state of Tennessee.
 - (ii) The Commissioner may request a firm to supplement its application if the Commissioner determines that the application is incomplete. If the Commissioner requests a firm to supplement its application, the firm must submit the requested information or pay additional firm certification fees within thirty (30) days of the date of the request.

- (iii) The Commissioner will not approve a firm's application if the firm does not supplement its application in accordance with subpart (ii) of this part if EPA determines that the environmental compliance history of the firm, its principals, or its key employees demonstrates an unwillingness or inability to maintain compliance with environmental statutes or regulations. The Commissioner will send the firm a letter giving the reason for not approving the application. The Commissioner will not refund the application fees. A firm may reapply for certification at any time by filing a new, complete application that includes the correct amount of fees.
- (b) Re-certification. To maintain its certification, a firm must be re-certified by the Commissioner every three (3) years.
1. Timely and complete application. To be re-certified, a firm must submit a complete application for re-certification. A complete application for re-certification includes a completed "Application for Firms" which contains all of the information requested by the form and is signed by an authorized agent of the firm, noting on the form that it is submitted as a re-certification. A complete application must also include at least the correct amount of fees.
 - (i) An application for re-certification is timely if it is postmarked ninety (90) days or more before the date the firm's current certification expires. If the firm's application is complete and timely, the firm's current certification will remain in effect until its expiration date or until the Commissioner has made a final decision to approve or disapprove the re-certification application, whichever is later.
 - (ii) If the firm submits a complete re-certification application less than ninety (90) days before its current certification expires, and the Commissioner does not approve the application before the expiration date, the firm's current certification will expire and the firm will not be able to conduct renovations until the Commissioner approves its re-certification application.
 - (iii) If the firm fails to obtain recertification before the firm's current certification expires, the firm must not perform renovations or dust sampling until it is certified anew pursuant to paragraph (a) of this Rule.
 2. Commissioner action on an application. After the Commissioner receives a firm's application for re-certification, the Commissioner will review the application and take one of the following actions within ninety (90) days of receipt:
 - (i) The Commissioner will approve a firm's application if the Commissioner determines that it is timely and complete and that the environmental compliance history of the firm, its principals, or its key employees does not show an unwillingness or inability to maintain compliance with environmental statutes or regulations. When the Commissioner approves a firm's application for recertification, the Commissioner will issue the firm a new certificate with an expiration date three (3) years from the date that the firm's current certification expires. The Commissioner's certification allows the firm to perform renovations or dust sampling covered by this Rule in the state of Tennessee.
 - (ii) The Commissioner may request a firm to supplement its application if the Commissioner determines that the application is incomplete.
 - (iii) The Commissioner will not approve a firm's application if it is not received or is not complete as of the date that the firm's current certification expires, or if the Commissioner determines that the environmental compliance history of the firm, its principals, or its key employees demonstrates an unwillingness or inability to maintain compliance with environmental statutes or regulations. The Commissioner will send the firm a letter giving the reason for not approving the

application. The Commissioner will not refund the application fees. A firm may reapply for certification at any time by filing a new application and paying the correct amount of fees.

(c) Amendment of certification. A firm must amend its certification within ninety (90) days of the date a change occurs to information included in the firm's most recent application. If the firm fails to amend its certification within ninety (90) days of the date the change occurs, the firm may not perform renovations or dust sampling until its certification is amended.

1. To amend a certification, a firm must submit a completed "Application for Firms," signed by an authorized agent of the firm, noting on the form that it is submitted as an amendment and indicating the information that has changed. The firm must also pay at least the correct amount of fees.
2. If additional information is needed to process the amendment, or the firm did not pay the correct amount of fees, the Commissioner may request the firm to submit the necessary information or fees. The firm's certification is not amended until the firm complies with the request.
3. Amending a certification does not affect the certification expiration date.

(d) Firm responsibilities. Firms performing renovations must ensure that:

1. All individuals performing renovation activities on behalf of the firm are either certified renovators or have been trained by a certified renovator in accordance with paragraph (11) of this Rule.
2. A certified renovator is assigned to each renovation performed by the firm and discharges all of the certified renovator responsibilities identified in paragraph (11) of this Rule.
3. All renovations performed by the firm are performed in accordance with the work practice standards in paragraph (6) of this Rule.
4. The pre-renovation education requirements of paragraph (5) of this Rule have been performed.
5. The recordkeeping requirements of paragraph (7) of this Rule are met.

(11) Renovator certification and dust sampling technician certification.[40 CFR 745.90].

(a) Renovator certification and dust sampling technician certification.

1. To become a certified renovator or certified dust sampling technician, an individual must successfully complete the appropriate course accredited by the Commissioner under paragraph (6) of Rule 0400-13-01-.01, or a course accredited by EPA or by an EPA authorized State or Tribal program, and
 - (i) No additional experience and/or education requirements.
 - (ii) (Reserved)
2. Individuals who have successfully completed an accredited lead-based paint abatement worker or supervisor course, or individuals who have successfully completed an EPA, HUD, or EPA/HUD model renovation training course may take an accredited refresher renovator training course in lieu of the initial renovator training course to become a certified renovator.
3. Individuals who have successfully completed an accredited lead-based paint inspector or risk assessor course may take an accredited refresher dust sampling technician course in lieu of the initial training to become a certified dust sampling technician.

- (b) Certification Procedures Renovator and Dust Sampling Technician Individuals.
1. Individuals seeking certification by the Commissioner to engage in renovator or dust sampling technician RRP activities must:
 - (i) Submit to the Commissioner an application (on forms provided by the Commissioner) demonstrating that they meet the requirements established in subparagraph (a) of this paragraph for the particular discipline for which certification is sought, along with an state of Tennessee accredited training course certificate and the appropriate application fees in accordance with paragraph (13) of this Rule; or
 - (ii) Submit to the Commissioner an application (on forms provided by the Division) with a legible copy of a valid renovator or dust sampling technician certification from EPA or an EPA authorized State or Indian Tribe along with the appropriate application fees in accordance with paragraph (13) of this Rule. Completing the refresher training requirements in part (a)3 of this paragraph may be required prior to certification based upon the Commissioner's evaluation of submitted documents.
 - (iii) Submit to the Commissioner a standard color passport photograph with each application for the RRP activity discipline for which certification is sought.
 - (vi) To become re-certified an individual must comply with the refresher training requirements outlined in subparagraph (7)(c) of Rule 0400-13-01-.01 and submit the appropriate recertification fees required by paragraph (13) of this Rule.
 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, as appropriate.
 3. Proof, which may be required by the Commissioner, of meeting the requirements of this subparagraph may include, 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.
 4. It shall be a violation of this Rule for an individual to conduct any of the RRP activities described in paragraph (6) of this 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.
 5. To maintain renovator certification or dust sampling technician certification, an individual must complete a renovator or dust sampling technician refresher course accredited by the State of Tennessee or by EPA or by an EPA authorized State or Tribal program within three (3) years of the date the individual completed the initial course described in part (a)1 of this paragraph. If the individual does not complete a refresher course within this time, the individual must re-take the initial course to become certified again. To become re-certified an individual must comply with the refresher training requirements outlined in subparagraph (c) of this paragraph and submit the appropriate re-certification fees required by paragraph (13) of this Rule.

(c) Re-certification of individuals.

To maintain certification as an RRP renovator or dust sampling technician, a certified individual shall apply to and be re-certified by the Commissioner in that discipline every three (3) years if the individual completed an accredited refresher-training course with a course test and hands-on assessment.

1. An individual previously certified by the Commissioner shall be re-certified if the individual successfully completes the appropriate accredited refresher-training course within one (1) year prior to the expiration date of their current certification, and
2. Submits to the Commissioner a re-certification application with a legible copy of the lead-based paint refresher-training course completion certificate at least sixty (60) days prior to the expiration of certification, and
3. Submits to the Commissioner a standard color passport photograph with an application for each lead-based paint discipline for which re-certification is sought, and
4. Submits the appropriate fees in accordance with paragraph (13) of this Rule.

(d) Renovator responsibilities.

Certified renovators are responsible for ensuring compliance with work practice standards outlined in paragraph (6) of this Rule at all renovations to which they are assigned. A certified renovator:

1. Must perform all of the tasks described in subparagraph (6)(d) of this Rule and must either perform or direct workers who perform all of the tasks described in subparagraph (6)(c) of this Rule.
2. Must provide training to workers on the work practices they will be using in performing their assigned tasks.
3. Must be physically present at the work site when the signs required by part (6)(c)2 of this Rule are posted, while the work area containment required by paragraph (6)(c)3 of this Rule is being established, and while the work area cleaning required by part (6)(c)6 is performed.
4. Must regularly direct work being performed by other individuals to ensure that the work practices are being followed, including maintaining the integrity of the containment barriers and ensuring that dust or debris does not spread beyond the work area.
5. Must be available, either on-site or by telephone, at all times that renovations are being conducted.
6. When requested by the party contracting for renovation services, must use an acceptable test kit to determine whether components to be affected by the renovation contain lead-based paint.
7. Must have with them at the work site a State of Tennessee valid certification photo identification card.
8. Must prepare the records required by part (7)(b)7 of this Rule.

(e) Dust sampling technician responsibilities.

When performing optional dust clearance sampling under subparagraph (6)(d) of this Rule, a certified dust sampling technician:

1. Must collect dust samples in accordance with part (8)(e)11 of Rule 0400-13-01-.01, must send the collected samples to a laboratory recognized by subparagraph (8)(f) of Rule 0400-13-01-.01 and must compare the results to the clearance levels in accordance with subparagraph (8)(h) of Rule 0400-13-01-.01.
 2. Must have with them at the work site a Tennessee valid certification photo identification card.
- (12) Suspending, revoking, or modifying an individual's or firm's certification. [40 CFR 745.91]
- (a) Grounds for suspending, revoking, or modifying an individual's certification.
 1. The Commissioner may suspend, revoke, or modify an individual's certification if the individual fails to comply with Federal lead-based paint statutes. The Commissioner may also suspend, revoke, or modify a certified renovator's certification if the renovator fails to ensure that all assigned renovations comply with paragraph (6) of this Rule.
 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 paragraph, evidence of a failure to comply with relevant statutes or regulations.
 - (b) Grounds for suspending, revoking, or modifying a firm's certification. The Commissioner may suspend, revoke, or modify a firm's certification if the firm:
 1. Submits false or misleading information to the Commissioner in its application for certification or re-certification.
 2. Fails to maintain or falsifies records required in paragraph (7) of this Rule.
 3. Fails to comply, or an individual performing a renovation on behalf of the firm fails to comply, with Federal lead-based paint statutes or regulations. 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 paragraph, evidence of a failure to comply with relevant statutes or regulations.
 - (c) Process for suspending, revoking, or modifying certification. The Commissioner may suspend or revoke a certification or accreditation for any person or accredited training program violating any provision of 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(6). The Division will maintain a publicly available list of entities whose certification has been suspended, revoked, modified, or reinstated.
 1. Unless the decision and order issued under subparagraph (c) of this paragraph specify otherwise:
 - (i) An individual whose certification has been suspended must take a refresher training course (renovator or dust sampling technician) in order to make his or her certification current.
 - (ii) An individual whose certification has been revoked must take an initial renovator or dust sampling technician course in order to become certified again.
 - (iii) A firm whose certification has been revoked must reapply for certification after the revocation ends in order to become certified again. If the firm's certification has been suspended and the suspension ends less than three (3) years after the firm was initially certified or re-certified, the firm does not need to do anything to re-activate its certification.
- (13) Fees for Certification and Project Notification Permit for Renovation, Repair and Painting Activities [40 CFR 745.238]

(a) Purpose.

To establish and impose fees for certified individuals and certified firms engaged in renovation, repair and painting activities. To establish and impose project notification fees for certified firms engaged in renovation, repair and painting activities regulated by this Rule.

(b) Persons who must pay fees.

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

1. Firms and Individuals

All firms and individuals seeking certification and re-certification from the Commissioner to engage in renovation, remodeling and painting activities regulated by this Rule, as a firm, renovator or dust sampling technician.

2. Renovation, Repair and Painting Project Notification Permit Fees

All firms engaged in renovation, remodeling and painting activities regulated by this Rule, based on project type and project contract costs.

(c) Fee Amounts.

1. Certification and Notification Permit Fees. Initial, re-certification and project notification permit fees are specified in the following table:

Renovation, Remodeling and Painting – Training Program	Accreditation	Re-accreditation [Every two (2) years]
Initial Course		
Dust Sampling Technician	\$1,250	\$800
Renovator	\$1,625	\$1,025
Refresher Course		
Dust Sampling Technician	\$505	\$505
Renovator	\$505	\$505
Renovation, Remodeling and Painting – Individual	Certification	Re-certification [Every three (3) years]
Dust Sampling Technician	\$310	\$310
Renovator	\$410	\$410
Renovation, Remodeling and Painting – Firm	Certification	Re-certification [Every three (3) years]
Firm	\$600	\$600
Renovation, Remodeling and Painting – Project Notification Permit Fee	Project Contract Cost	Notification Fee
Project Type		
Home Improvement License Project	\$3,000 to \$7000	\$50
	\$7001 to \$10,000	\$75
	>\$10,000	0.02 times project contract cost
License Contractor Projects	All projects >\$3,000	0.01 times project contract cost
	All projects >10,001	0.02 times project contract cost
Limited Licensed Electrician Projects	> \$5,000	0.01 times project contract cost
Limited Licensed Plumber Projects	> \$5,000	0.01 times project contract cost

2. Lost Registration Card or Certification Card or Certificate.

A \$25 fee shall be charged for replacement of 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 Renovator or Dust Sampling RRP 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 Renovation, Repair and Painting Activities"), the materials described in paragraph (7) of this Rule, and the appropriate application fee(s) described in this paragraph.

2. Application Forms.

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

3. All certified individuals shall maintain on their person at any renovation, repair and painting activity site, a valid State of Tennessee issued Certification Photo Identification Card.

(e) Certification Identification Card or Certificate Replacement.

1. Parties seeking a Certification Identification 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 Renovator or Dust Sampling RRP Activities."

(ii) Firms.

"Application to Conduct Renovation, Repair and Painting Activities."

2. Submit application and payment in the amount specified in part (c)1 of this paragraph in accordance with the instructions provided with the application package.

(14) Violations

(a) It is a violation for a renovator or dust sampling technician 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 (7) 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 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.

- (b) It is a violation for certified RRP 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 (6) 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.
 6. Fail to obtain a permit to proceed from the Division prior to commencing renovation, repair and painting activities.
- (15) Implementation of Rule 0400-13-01-.06 Residential Property Renovation. [40 CFR 745.84]
- (a) Training program accreditation
1. These Rules shall apply in Tennessee on their effective date. Except as allowed in subparagraph (b) of this paragraph, a training provider, person or firm shall not conduct renovation, repair or painting (RRP) activities in Tennessee after the effective date of these Rules unless accredited by the Commissioner.
 2. A training program may continue to conduct RRP activities in Tennessee and whose training certificate the Commissioner may accept the training certificate after the effective date of these Rules until an accreditation decision is made by the Commissioner, provided:
 - (i) The training provider accredited by an EPA authorized state or EPA on the effective date of these rules; and
 - (ii) The training provider or firm applies for accreditation in Tennessee pursuant to paragraph (6) of Rule 1200-01-18-.01 as applicable, within ninety (90) days after the effective date of these Rules, accompanied with payment of the corresponding application fees.
- (b) Firms certification and work practice standards.
1. Firms may apply for certification by the Commissioner on the effective day of these Rules.
 2. On or after April 22, 2010, no firm may perform, offer, or claim to perform renovations without certification from the Commissioner in target housing or child-occupied facilities, unless the renovation qualifies for one of the exceptions identified in subparagraph (1)(c) of this Rule.
- (c) Individual certification and work practice standards.
1. Renovators and dust sampling technicians may apply for certification by the Commissioner on the effective day of these Rules.
 2. On or after April 22, 2010, all renovations must be directed by renovators certified by the Commissioner pursuant to paragraph (11) of this Rule. On or after April 22, 2010, all renovations must be performed by certified renovators or individuals trained in accordance with part (11)(b)3 of this Rule, in target housing or child-occupied facilities, unless renovation qualifies for one of the exceptions identified in subparagraph (1)(c) of

this Rule.

(d) Work Practices.

On or after April 22, 2010, all renovations must be performed in accordance with the work practice standards in paragraph (6) of this Rule and the associated recordkeeping requirements in parts (7)(b)6 and 7 of this Rule in target housing and child-occupied facilities, unless the renovation qualifies for one of the exceptions identified in subparagraph (1)(c) of this Rule.

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

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.



Date: 8/13/09

Signature: Adrienne White

Name of Officer: Adrienne White

Title of Officer: Program Manager

Subscribed and sworn to before me on: 8/13/09

Notary Public Signature: Wanda Powers

My commission expires on: 11/7/2012

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Filed with the Department of State on: 8/13/09

Tre Hargett

Tre Hargett
Secretary of State

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