

# **SECTION 3**

## **RULES OF DEPARTMENT OF ENVIRONMENT AND CONSERVATION DIVISION OF SOLID WASTE MANAGEMENT**

CHAPTER 1200-1-18

LEAD-BASED PAINT ABATEMENT

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OF  
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<https://publications.tnsosfiles.com/rules/1200/1200-01/1200-01-18.pdf>

Rule 1200-1-18-.01 Lead-Based Paint Abatement.

Rule 1200-1-18-.02 [Reserved]

Rule 1200-1-18-.03 [Reserved]

Rule 1200-1-18-.04 [Reserved]

Rule 1200-1-18-.05 Lead-Based Paint Hazards [Subpart D]

Rule 1200-1-18-.06 Residential Property Renovation [Subpart E]

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**CHAPTER 1200-1-18  
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**1200-1-18-.01 LEAD-BASED PAINT ABATEMENT.**

- (1) Scope and applicability. [40 CFR 745.220]
  - (a) This Rule contains procedures and requirements for the accreditation of lead-based paint activities training programs, procedures and requirements for the certification of individuals and firms engaged in lead-based paint activities, and work practice standards for performing such activities. It also requires that certified individuals and firms, except as otherwise stated, as defined in this Rule, shall perform all lead-based paint activities.
  - (b) This Rule is applicable to all individuals and firms who are engaged in lead-based paint activities in “target housing” and “child-occupied facilities”, as defined in paragraph (4) 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) 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.
  - (d) Nothing in this Rule requires that the owner or occupant undertake any particular lead-based paint activity.
  - (e) Use of Number and Gender – As used in these Rules:
    - 1. Words in the masculine gender also include the feminine and neuter genders; and
    - 2. Words in the singular include the plural; and
    - 3. Words in the plural include the singular.
  - (f) Rule Structure – These Rules are organized, numbered, and referenced according to the following outline form:

- (1) paragraph

(Rule 1200-1-18-.01, continued)

- (a) subparagraph
  - 1. part
    - (i) subpart
      - (I) item
        - I. submit
          - A. section
            - (A) subsection

(2)–(3) RESERVED

(4) Definitions [40 CFR 745.223]

Definitions-when used in these Rules , the following terms have the meanings given below unless otherwise specified:

“Abatement” means any measures or set of measures designed to permanently eliminate lead-based paint hazards in “targeted housing” and “child-occupied facilities”. 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.

(Rule 1200-1-18-.01, continued)

- (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 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 68-131-401et 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.

“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 at a work-site during all abatement, cleaning and clearance activities.

“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.

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

“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.

“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.

“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.

“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.

“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

(Rule 1200-1-18-.01, continued)

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.

"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 occupants. 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.

"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.

(Rule 1200-1-18-.01, continued)

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

“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.

“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 1200-1-11-.02(1)(c).

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

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

“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.

“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 ( $\text{mg}/\text{cm}^2$ ) or more than 0.5 percent by weight.

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

(Rule 1200-1-18-.01, continued)

“Lead-based paint hazard” means:

- (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 1200-1-18-.01. The work practice standards in that Rule do not apply when treating paint-lead hazards of less than:
1. Two square feet of deteriorated lead-based paint per room or equivalent,
  2. Twenty square feet of deteriorated paint on the exterior building, or
  3. Ten percent of the total surface area of deteriorated paint on an interior or exterior type of component with a small surface area.

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

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

“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.



(Rule 1200-1-18-.01, continued)

“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 unit 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.

“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.

“Residential dwelling” means:

- (a) 1. A detached single family dwelling unit, including attached structures such as porches and stoops; or
2. 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) 1. an on-site investigation to determine the existence, nature, severity, and location of lead-based paint hazards, and

(Rule 1200-1-18-.01, continued)

2. 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.

“Start date” means the date on which activities begin on a lead-based paint abatement project requiring the use of certified individuals, and may include the abatement area isolation and preparation or any other activity which may disturb lead-based paint.

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

“Target housing” means any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any one or more children age 6 years or under resides or is expected to reside in such housing for the elderly or persons with disabilities) or any 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.

“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.

(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 lead-based paint activities courses in any of the following disciplines: inspector, risk assessor, supervisor, project designer, and abatement worker. 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 courses or refresher courses pursuant to this paragraph on or after the effective date of this Rule.

(Rule 1200-1-18-.01, continued)

3. A training program shall not provide, offer, or claim to provide State-accredited lead-based paint activities courses without applying for and receiving accreditation 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 shall follow to receive State accreditation to offer lead-based paint activities courses:

1. A training program seeking accreditation shall submit a written application to the Division 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;
  - (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
  - (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.

(Rule 1200-1-18-.01, continued)

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. If a training program's application is disapproved, the program may reapply for accreditation at any time.
3. A training program may apply for accreditation to offer courses or refresher courses in as many disciplines as it chooses. A training program may seek accreditation for additional courses at any time as long as the program can demonstrate that it meets the requirements of this paragraph.
4. A training program applying for accreditation must submit the appropriate 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, 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 at least sixteen (16) hours of any EPA-accredited or EPA-authorized State or Tribal-accredited lead-specific training; and
  - (iii) Demonstrated experience, education, or training in lead or asbestos abatement, painting, carpentry, renovation, remodeling, occupational safety and health, or industrial hygiene.
3. The 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

(Rule 1200-1-18-.01, continued)

- activities, or work practice components of a course. Guest instructors who provide hands-on/work practice instruction shall meet the same qualifications as the principal instructor.
4. The documents listed below may be required by the Commissioner to provide evidence that training managers and principal instructors have the education, work experience, training requirements, or demonstrated experience, specifically listed in parts (c)1 and (c)2 of this paragraph. 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.
    - (i) Official academic transcripts or diploma as evidence of meeting the education requirements;
    - (ii) Resumes, letters of reference, and detailed descriptions of work experience, including the number of and dates of projects and jobs, the size of each project and job, descriptions of tasks performed by the individual, as evidence of meeting the work experience requirements; and the names and telephone numbers of supervisors; and
    - (iii) Certificates from train-the-trainer courses and lead-specific training courses, as evidence of meeting the training requirements.
  5. The training program shall ensure the availability of, and provide adequate facilities for, the delivery of the lecture, course test, hands-on training, and assessment activities. This includes providing training equipment that reflects current work practices and maintaining or updating the equipment and facilities as needed.
  6. To become accredited in the following disciplines, the training program shall provide training courses that meet the following training hour requirements:
    - (i) The inspector course shall last a minimum of twenty-four (24) training hours, with a minimum of eight (8) hours devoted to hands-on training activities. The minimum curriculum requirements for the inspector course are contained in part (d)1 of this paragraph;
    - (ii) The risk assessor course shall last a minimum of sixteen (16) training hours, with a minimum of four (4) hours devoted to hands-on training activities. The minimum curriculum requirements for the risk assessor course are contained in part (d)2 of this paragraph;
    - (iii) The supervisor course shall last a minimum of thirty-two (32) training hours, with a minimum of eight (8) hours devoted to hands-on activities. The minimum curriculum requirements for the supervisor course are contained in part (d)3 of this paragraph;
    - (iv) The project designer course shall last a minimum of eight (8) training hours. The minimum curriculum requirements for the project designer course are contained in part (d)4 of this paragraph; and
    - (v) The abatement worker course shall last a minimum of sixteen (16) training hours, with a minimum of eight (8) hours devoted to hands-on training activities. The minimum curriculum requirements for the abatement worker course are contained in part (d) 5 of this paragraph.

(Rule 1200-1-18-.01, continued)

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, and 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 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;
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.

(Rule 1200-1-18-.01, continued)

10. The training program shall offer courses, which teach the work practice standards for conducting lead-based paint activities contained in paragraph (8), and other standards developed by EPA or the Commissioner. These standards shall be taught in the appropriate courses to provide trainees with the knowledge needed to perform the lead-based paint activities they are responsible for conducting.
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.
13. The training manager shall provide the Commissioner a copy of the schedule for all training courses related to lead-based paint abatement at least thirty (30) days prior to course commencement.
14. The training manager shall provide the Commissioner notice of changes in scheduled training courses related to lead-based paint abatement immediately.
15. If a training program utilizes materials printed in a language other than English, the Commissioner shall be provided an accurate translation of the materials in English.

(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;

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- (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:



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- (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. \*
- (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, and abatement worker. To obtain State accreditation to offer refresher-training, a training program shall allow the Commissioner to audit the training program to verify the contents of the application for accreditation as described in subparagraph (b) of this paragraph. 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

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- (iii) Current technologies relating to lead-based paint activities in general, as well as specific information pertaining to the appropriate discipline.
- 2. Each refresher course, except for the project designer course, shall last a minimum of eight (8) training hours. The project designer refresher course shall 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 (c)5, and parts(e) 1, (e) 2 and (e) 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.
    - (II) The printed name of the principal instructor.
  - (ii) A list of courses for which it 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.
    - (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.

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- (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).
  - (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 (c)5, and (c)7 through (c)12 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. If a refresher-training program's application is disapproved, the program may reapply for accreditation at any time.
  - (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 Division 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.

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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 (f) 3 of this paragraph. 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 (c)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 (g) 1(i) through (g) 1(vi) of this paragraph 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 (g) 3 of this paragraph) for a minimum of 3 years and 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 month of issuance. To maintain accreditation, the training program shall be re-accredited every two (2) years.

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- (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 Commissioner) 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 Commissioner) 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 (a)1(vi) of this paragraph 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) Unless the Commissioner revokes or suspends 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 month of issuance.

(Note: In order to practice in the area certified, a person must also have a valid registration card as provided in subparagraph (e) of this paragraph.)
    - (v) An individual shall pass the Commissioner's third party certification exam for all disciplines, except Project Designer and Worker, and receive certification from the Commissioner within six (6) months after completing an initial lead-based paint training course; otherwise, the individual must retake the appropriate initial training course from an accredited training program, before reapplying for certification from the Commissioner.
    - (vi) To become re-certified an individual must comply with the refresher training requirements outlined in subparagraph (7)(c) and submit the appropriate renewal 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.

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4. Upon receiving Commissioner 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).)
- (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; and
    - (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)
      - (II) Risk assessors.
        - I. Successful completion of an accredited training course for inspectors; and
        - II. Bachelor's degree and one (1) year of experience in a related field (e.g., lead, asbestos, environmental remediation work, or construction), or an Associates degree and two (2) years experience in a related field (e.g., lead, asbestos, environmental remediation work, or construction); or
        - III. Certification as an industrial hygienist, professional engineer, registered architect and/or certification in a related engineering/health/environmental field (e.g., safety professional, environmental scientist); or
        - IV. A high school diploma (or equivalent), and at least three (3) years of experience in a related field (e.g., lead, asbestos, environmental remediation work or construction).
      - (III) Supervisors:
        - I. One (1) year of experience as a certified lead-based paint abatement worker; or

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- II. At least two (2) years of experience in a related field (e.g., lead, asbestos, or environmental remediation work) or in the building trades.
- (IV) Project designers:
- I. Successful completion of an accredited training course for supervisors.
  - II. Bachelor's degree in engineering, architecture, or a related profession, and one (1) year of experience in building construction and design or a related field; or
  - III. Four (4) years of experience in building construction and design or a related field.
- (IV) 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 (b) 1(iii) of this paragraph.
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 (b) 1 of this paragraph, 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 registration card as provided in subparagraph (e) of this paragraph.)

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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 (7)(c) and submit the appropriate re-certification fees required by paragraph (18) of this Rule.

(c) Re-certification

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 shall be re-certified if the individual successfully completes the appropriate accredited refresher-training course within one year prior to the expiration date of their current certification, and
3. 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, and
4. 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
5. 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).)
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.

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

4. The firm shall maintain all records pursuant to the requirements in paragraph (8) of this Rule.
5. Firms applying for re-certification must submit the documents described in part 2 of this subparagraph and appropriate fees described in paragraph (18) of this Rule.



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

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- (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)9(viii) of this paragraph.
- (b) Inspection
  - 1. An inspection shall be conducted only by a person certified by the Commissioner as an inspector or risk assessor and, if conducted, must be conducted according to the procedures in 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;

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- (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 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 (c)2(iv) of this paragraph, 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.

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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 (d) 11(xiv), and excluding subparts (d) 11(xv) through (d) 11(xviii) of this paragraph. Additionally, any background information collected pursuant to subpart (c)2(i) of this paragraph 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 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 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:

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- (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 6 and under, and in other common areas in the child-occupied facility where one or more children, age 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) Dripline/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;

(Rule 1200-1-18-.01, continued)

- (xii) All data collected from on-site testing, including quality control data and, if used, the serial number of any XRF device;
  - (xiii) All results of laboratory analysis on collected paint, soil, and dust samples;
  - (xiv) Any other sampling results;
  - (xv) Any background information collected pursuant to part (d) 3 of this paragraph;
  - (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. A certified supervisor is required for each abatement project and shall be onsite during all work site preparation and during the post-abatement cleanup of work areas. At all other times when abatement activities are being conducted, the certified supervisor shall be onsite or available by telephone, pager or answering service and able to be present at the work site in no more than two (2) hours.
  3. The certified supervisor and the certified firm employing that supervisor shall ensure that all abatement activities are conducted according to the requirements of this paragraph and all other Federal, State and local requirements.
  4. Notification of the Commencement of Lead-Based Paint Abatement Activities in a residential dwelling or child-occupied facility or as a result of a Federal, State or local order shall be submitted to the Division on forms provided by the Division, at least fifteen (15) days before the beginning of abatement activities. A copy of the Inspection Report described in part (b)4 of this paragraph or the Risk Assessment report described in part (d) 11 of this paragraph, shall be included with the Notification sent to the Division.
  5. 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

(Rule 1200-1-18-.01, continued)

- 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.
  - (iv) An Occupant Protection Plan for multi-family dwellings with eleven or more units shall be prepared by a certified project designer.
6. After the commencement of an abatement project, all persons within a containment area shall be lead-based paint abatement personnel certified by the Commissioner pursuant to subparagraph (18)(d) of this Rule.
7. The work practices listed below shall be restricted during an abatement as follows:
- (i) Open-flame burning or torching of lead-based paint is prohibited;
  - (ii) Machine sanding or grinding or abrasive blasting or sandblasting of lead-based paint is prohibited unless used with High Efficiency Particulate Air (HEPA) exhaust control which removes particles of 0.3 microns or larger from the air at 99.97 percent or greater efficiency;
  - (iii) Dry scraping of lead-based paint is permitted only in conjunction with heat guns or around electrical outlets or when treating defective paint spots totaling no more than two (2) square feet in any one room, hallway or stairwell or totaling no more than twenty (20) square feet on exterior surfaces; and
  - (iv) Operating a heat gun on lead-based paint is permitted only at temperatures below 1100 degrees Fahrenheit.
8. If conducted, soil 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 in paragraph (4) of this Rule.
9. The following post-abatement clearance procedures shall be performed only by a certified inspector or risk assessor:
- (i) Following an abatement, a visual inspection shall be performed 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.

(Rule 1200-1-18-.01, continued)

- (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 dripline 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



(Rule 1200-1-18-.01, continued)

of subsamples in the composite sample, the components represented by the failed sample shall be recleaned 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.
10. 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 (e) 9 of this paragraph.
  11. An abatement report shall be prepared by a certified supervisor or project designer for single family dwellings or multi-family dwellings with 10 or fewer units. A certified project designer shall prepare an abatement report and project specifications for child-occupied facilities and multi-family dwellings having eleven (11) or more units. The completed Abatement Report shall be submitted to the Division no more than 15-days following the completion of the abatement project. The abatement report shall include the following information:
    - (i) Start and completion dates of abatement;
    - (ii) The name and address of each certified firm conducting the abatement and the name of each supervisor assigned to the abatement project;
    - (iii) The occupant protection plan prepared pursuant to part (e) 5 of this paragraph;
    - (iv) A copy of the risk assessment report signed by a State of Tennessee certified lead-based paint risk assessor and prepared pursuant to subpart (d) 11 of this paragraph;
    - (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

(Rule 1200-1-18-.01, continued)

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 (b) of this subparagraph; 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,

(Rule 1200-1-18-.01, continued)

- (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.

## (i) 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. (RESERVED) [40 CFR 745.228]
- (10) Certification of Individuals and Firms Engaged in Lead-Based Paint Activities: Public and Commercial Buildings, Bridges and Superstructures. (RESERVED) [40 CFR 745.229]
- (11) Work Practice Standards for Conducting Lead-Based Paint Activities: Public and Commercial Buildings, Bridges and Superstructures. (RESERVED) [40 CFR 745.230]
- (12)–(13) (RESERVED)
- (14) 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 and properly registered 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]

(Rule 1200-1-18-.01, continued)

(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:

Training Program	Accreditation	Re-accreditation [every 2 years, see Rule 1200-1-18-.01(6)(f)1]
Initial Course		
Inspector	\$2,500	\$ 800
Risk assessor	\$1,760	\$ 575
Supervisor	\$3,250	\$1,025
Worker	\$1,760	\$ 575
Project designer	\$1,010	\$ 355
Refresher Course		
Inspector	\$1,010	\$ 355
Risk assessor	\$1,010	\$ 355
Supervisor	\$1,010	\$ 355
Worker	\$1,010	\$ 355
Project designer	\$ 640	\$ 245

Lead-based Paint Activities-Individual	Certification	Annual Registration Renewal	Re-certification [every 3 years, see Rule 1200-1-18-.01(7)(c)1 for details]
Inspector	\$ 200	\$ 100	\$ 200
Risk assessor	\$ 250	\$ 125	\$ 250
Supervisor	\$ 200	\$ 100	\$ 200
Worker	\$ 60	\$ 30	\$ 60
Project designer	\$ 300	\$ 150	\$ 300
Lead-based Paint Activities-Firm	Certification	Annual Registration Renewal	Certification Renewal [every 3 years, see Rule 1200-1-18-.01(7)(d)]

(Rule 1200-1-18-.01, continued)

Firm	\$ 500	\$ 300	\$ 500
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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 certification card or certificate. (See replacement procedure in subparagraph (e) of this paragraph).

(d) Application/Payment Procedure.

1. Certification and Re-certification.

(i) Individuals.

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

(ii) Firms.

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

2. Accreditation and Re-accreditation.

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

3. Annual Registration.

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

4. Application Forms.

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

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

(Rule 1200-1-18-.01, continued)

(e) Certification Card or Registration Card or Certificate Replacement.

1. Parties seeking a Registration Card or a Certification Card or a Certificate replacement shall complete the applicable portions of the appropriate application in accordance with the instructions provided. The appropriate applications are:

- (i) Individuals.

“Application to Conduct Lead-based Paint Abatement Activities.”

- (ii) Firms.

“Application to Conduct Lead-based Paint Abatement Activities.”

- (iii) Training Programs.

“Accreditation Application for Training Programs.”

2. Submit application and payment in the amount specified in part (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;

(Rule 1200-1-18-.01, continued)

4. Perform work requiring certification at a job site without having proof of certification;
5. Permit the duplication or use of the individual's own certificate by another;
6. Perform work for which certification is required, but for which appropriate certification has not been received;
7. Fail to comply with the appropriate work practice standards for lead-based paint activities at paragraph (8) of this Rule; or
8. Fail to comply with any other provision of these regulations or the Act.

(c) It is a violation for certified firms to:

1. Perform work requiring certification at a job site with individuals who are not certified;
2. Fail to comply with the work practice standards established in paragraph (8) of this Rule;
3. Misrepresent facts in its letter of application for certification to the Commissioner;
4. Fail to maintain required records; or
5. Fail to comply with any other provision of these regulations or the Act.

(20) Suspension or Revocation of Certification and Accreditation

- (a) The Commissioner may suspend or revoke a certification or accreditation for any person or accredited training program violating any provision of Tennessee Code Annotated (T.C.A.) §§ 68-131-403 – 68-131-405 of the Act or of these rules, in accordance with the procedures set forth in T.C.A. § 4-5-320.
- (b) In addition to an administrative or judicial finding of violation, for purposes of this paragraph only, execution of a consent agreement in settlement of an enforcement action constitutes evidence of a failure to comply with relevant statutes or regulations.

(21) Implementation of Rule 1200-1-18-.01 Lead-Based Paint Abatement.

This Rule shall apply in Tennessee on the effective date of this Rule. Persons, including accredited training providers, shall be in compliance with this Rule within ninety (90) days of 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.

**Authority:** T.C.A. §§11-1-101 and 68-131-401 et seq. **Administrative History:** Original rule filed July 13, 2000; effective September 26, 2000. Amendment filed December 5, 2003; effective February 18, 2004.

**1200-1-18-.02 RESERVED.**

*Authority:* T.C.A. §§11-1-101 and 68-131-401 et seq. *Administrative History:* Original rule filed December 5, 2003; effective February 18, 2004.

**1200-1-18-.03 RESERVED.**

*Authority:* T.C.A. §§11-1-101 and 68-131-401 et seq. *Administrative History:* Original rule filed December 5, 2003; effective February 18, 2004.

**1200-1-18-.04 RESERVED.**

*Authority:* T.C.A. §§11-1-101 and 68-131-401 et seq. *Administrative History:* Original rule filed December 5, 2003; effective February 18, 2004.

**1200-1-18-.05 LEAD-BASED PAINT HAZARDS [SUBPART D].**

- (1) Scope and Applicability. [40 CFR 745.61]
  - (a) This subpart 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 (ties) subject to these standards to evaluate the property (ties) 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 Rule Chapter 1200-1-18, unless otherwise specified.

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

“Chewable surface” means an interior or exterior surface painted with lead-based paint that a young child can mouth or chew. A chewable surface is the same as an “accessible surface” as defined in 42U.S.C. 4851b(2). Hard metal substrates and other materials that cannot be dented by the bite of a young child are not considered chewable.

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

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

“Deteriorated paint” means any interior or exterior paint or other coating that is peeling, chipping, chalking or cracking, or any paint or coating located on an interior or exterior surface or fixture that is otherwise damaged or separated from the substrate.

“Dripline” means the area within 3 feet surrounding the perimeter of a building.



(Rule 1200-1-18-.05, continued)

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

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

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

“Lead-based paint hazard” means hazardous lead-based paint, dust-lead hazard or soil-lead hazard as identified in Rule 1200-1-18-.05(5).

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

“Mid-yard” means an area of a residential yard approximately midway between the dripline of a residential building and the nearest property boundary or between the driplines 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 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 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  $60 \mu\text{g}/\text{ft}^2$ , a composite sample (three subsamples) containing  $100 \mu\text{g}/\text{ft}^2$ , and a composite sample (4 subsamples) containing  $110 \mu\text{g}/\text{ft}^2$  is  $100 \mu\text{g}/\text{ft}^2$ . 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."

(Rule 1200-1-18-.05, continued)

“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 1200-1-18-.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. **Administrative History:** Original rule filed December 5, 2003; effective February 18, 2004.

#### **1200-1-18-.06 RESIDENTIAL PROPERTY RENOVATION [SUBPART E].**

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

(Rule 1200-1-18-.06, continued)

- (a) The purpose of this Rule is to require each person who performs a renovation of target housing for compensation to provide a lead hazard information pamphlet to the owner and occupant of such housing prior to commencing the renovation.
- (b) Except as provided in subparagraph (c) of this paragraph, this Rule applies to all renovations of target housing performed for compensation.
- (c) This Rule does not apply to renovation activities that are limited to the following:
  - 1. Minor repair and maintenance activities (including minor electrical work and plumbing) that disrupt 2 square feet or less of painted surface per component.
  - 2. Emergency renovation operations.
  - 3. Renovations in target housing in which a written determination has been made by an inspector (certified by the State of Tennessee pursuant Rule 1200-1-18-.01(7)) that the components affected by the renovation are free of paint or other surface coatings that contain lead equal to or in excess of 1.0 milligram per square centimeter or 0.5 percent by weight, where the renovator has obtained a copy of the determination.

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

The following definitions apply to Rule Chapter 1200-1-18, unless otherwise specified:

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

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

“Common area” means a portion of a building generally accessible to all residents/users including, but not limited to, hallways, stairways, laundry and recreational rooms, playgrounds, community centers, and boundary fences.

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

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

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

“Evaluation” means a risk assessment and/or inspection.

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

“Inspection” means:

- (a) A surface-by-surface investigation to determine the presence of lead-based paint as provided in subparagraph (8)(b) of Rule Chapter 1200-1-18-.01, Lead-Based Paint Abatement, and

(Rule 1200-1-18-.06, continued)

- (b) An investigation conducted by a person who is certified by the Commissioner as a lead-based paint inspector or lead-based paint risk assessor, and
- (c) The provision of a report explaining the results of the investigation.

“Lead-based paint” means paint or other surface coatings that contain lead equal to or in excess of 1.0 milligram per square centimeter or 0.5 percent by weight.

“Lead-based paint free housing” means target housing that has been found to be free of paint or other surface coatings that contain lead equal to or in excess of 1.0 milligram per square centimeter or 0.5 percent by weight.

“Lead-based paint hazard” means hazardous lead-based paint, dust-lead hazard or soil-lead hazard as identified in Rule Chapter 1200-1-18-.05(5).

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

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

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

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

“Pamphlet” means the EPA pamphlet developed under section 406(a) of TSCA for use in complying with this and other rulemakings under Title IV of TSCA and the Residential Lead-Based Paint Hazard Reduction Act, 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.

“Renovation” means the modification of any existing structure, or portion thereof, that results in the disturbance of painted surfaces, unless that activity is performed as part of an abatement as defined in Rule Chapter 1200-1-18-.01(8). The term renovation includes (but is not limited to): the removal or modification to painted surfaces or painted components (e.g., modification of painted doors, surface preparation activity (such as sanding, scraping, or other such activities that may generate paint dust)); the removal of large structures (e.g., walls, ceiling, large surface replastering, major re-plumbing); and window replacement.

“Renovator” means any person who performs for compensation a renovation.

“Residential dwelling” means:

- (a) A single-family dwelling, including attached structures such as porches and stoops; or

(Rule 1200-1-18-.06, continued)

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

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

- (a) Information gathering regarding the age and history of the housing and occupancy by children under age 6;
- (b) Visual inspection;
- (c) Limited wipe sampling or other environmental sampling techniques;
- (d) Other activity as may be appropriate; and
- (e) Provision of a report explaining the results of the investigation.

“Target housing” means any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any child who is less than 6 years of age resides or is expected to reside in such housing) or any 0-bedroom dwelling.

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

“0-bedroom dwelling” means any residential dwelling in which the living area is not separated from the sleeping area. The term includes efficiencies, studio apartments, dormitory housing, military barracks, and rentals of individual rooms in residential dwellings.

- (3) Reserved
- (4) Reserved
- (5) Information Distribution Requirements [40 CFR 745.85]
  - (a) Renovations in Dwelling Units

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

1. Provide the owner of the unit with the pamphlet, and comply with one of the following:
  - (i) Obtain, from the owner, a written acknowledgment that the owner has received the pamphlet.
  - (ii) Obtain a certificate of mailing at least 7 days prior to the renovation.
2. In addition to the requirements in part (a)1 of this paragraph, if the owner does not occupy the dwelling unit, provide an adult occupant of the unit with the pamphlet, and comply with one of the following:
  - (i) Obtain, from the adult occupant, a written acknowledgment that the occupant has received the pamphlet; or certify in writing that a pamphlet has been delivered to the dwelling and that the renovator has been unsuccessful in obtaining a written

(Rule 1200-1-18-.06, continued)

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 the renovator, and the date of signature.

(ii) Obtain a certificate of mailing at least 7 days prior to the renovation.

(b) Renovations in Common Areas

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

1. Provide the owner with the pamphlet, and comply with one of the following:
  - (i) Obtain, from the owner, a written acknowledgment that the owner has received the pamphlet.
  - (ii) Obtain a certificate of mailing at least 7 days prior to the renovation.
2. Notify in writing, or ensure written notification of, each unit of the multi-family housing and make the pamphlet available upon request prior to the start of renovation. Such notification shall be accomplished by distributing written notice to each affected unit. The notice shall describe the general nature and locations of the planned renovation activities; the expected starting and ending dates; and a statement of how the occupant can obtain the pamphlet, at no charge, from the renovator.
3. Prepare, sign, and date a statement describing the steps performed to notify all occupants of the intended renovation activities and to provide the pamphlet.
4. If the scope, locations, or expected starting and ending dates of the planned renovation activities change after the initial notification, the renovator shall provide further written notification to the owners and occupants providing revised information on the ongoing or planned activities. This subsequent notification must be provided before the renovator initiates work beyond that which was described in the original notice.

(c) Written Acknowledgment

Sample language for such acknowledgments is provided in paragraph (7) of this Rule. The written acknowledgments required in subparts (a)1(i), (a)2(i), and (b)1(i) of this paragraph shall:

1. Include a statement recording the owner or occupant's name and acknowledging receipt of the pamphlet prior to the start of renovation, the address of the unit undergoing renovation, the signature of the owner or occupant as applicable, and the date of signature.
2. Be either a separate sheet or part of any written contract or service agreement for the renovation.
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) Recordkeeping Requirements [40 CFR 745.86]

(Rule 1200-1-18-.06, continued)

- (a) Renovators shall retain and, if requested, make available to the Commissioner all records necessary to demonstrate compliance with this Rule for a period of 3 years following completion of the renovation activities in target housing.
- (b) Records that must be retained pursuant to subparagraph (a) of this paragraph shall include (where applicable):
  1. Reports certifying that a determination had been made by an inspector (certified pursuant to Rule 1200-1-18-.01(7)) that lead-based paint is not present in the area affected by the renovation, as described in paragraph (1) of this Rule.
  2. Signed and dated acknowledgments of receipt as described in subparts (a)1(i), (a)2(i), and (b)1(i) of paragraph (4) of this Rule.
  3. Certifications of attempted delivery as described in subpart (a)2(i) of paragraph (4) of this Rule.
  4. Certificates of mailing as described in subparts (a)1(ii), (a)2(ii), and (b)1(ii) of paragraph (4) of this Rule.
  5. Records of notification activities performed regarding common area renovations, as described in parts (b)3 and (b) 4 of paragraph 4 of this Rule.

## (7) Enforcement and Penalties [40 CFR 745.87]

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.

## (8) Acknowledgment and Certification Statements [40 CFR 745.88]

## (a) Acknowledgment Statement

1. As required under part (c) 1 of paragraph (4) of this Rule, acknowledgments shall include a statement of receipt of the pamphlet prior to the start of renovation, the address of the unit undergoing renovation, the signature of the owner or occupant as applicable, and the date of signature.
2. Sample acknowledgment language - The following is a sample of language that could be used for such acknowledgments:

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Unit Address

(Rule 1200-1-18-.06, continued)

(b) Certification of Attempted Delivery

1. When an occupant is unavailable for signature or refuses to sign the acknowledgment of receipt of the pamphlet, the renovator is permitted (per subpart (a)(2)(i) of paragraph (4) of this Rule) to certify delivery for each instance. The certification shall include the address of the unit undergoing renovation, the date and method of delivery of the pamphlet, names of the persons delivering the pamphlet, reason for lack of acknowledgment (e.g. occupant refuses to sign, no adult occupant available), the signature of the renovator, and the date of signature.
2. Sample certification language –The following is a sample of language that could be used under those circumstances:

(i) Refusal To Sign

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Unit Address

Attempted delivery dates and times: \_\_\_\_\_  
\_\_\_\_\_

(ii) Unavailable For Signature

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Unit Address



(Rule 1200-1-18-.06, continued)

Attempted delivery dates and times: \_\_\_\_\_  
\_\_\_\_\_

(9) Violations

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

1. Fail or refuse to comply with any provision of this Rule.
2. Fail or refuse to establish and maintain records required by paragraph (6) 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.

**Authority:** T.C.A. §§11-1-101 and 68-131-401 et seq. **Administrative History:** Original rule filed December 5, 2003; effective February 18, 2004.