

# Proposed Utah Lead-Based Paint Rule Changes

The text in this document incorporates the proposed changes to Utah Administrative Rule R307-840, *Lead-Based Paint Accreditation, Certification and Work Practice Standards* during the May 2003 rulemaking. The original Utah Lead-Based Paint (LBP) Rule substantially adopted the U.S. Environmental Protection Agency (USEPA) regulation published in the Federal Register on August 29, 1996 by reference and modified the regulation to facilitate program operation in Utah. This version of the rule is meant to create an easily read, complete and accurate version of the proposed changes to the original Utah LBP Rule by this rulemaking. An official version of the current Utah LBP rule can be found at the Utah Administrative Rules web site at <http://www.rules.utah.gov/publicat/code/r307/r307-840.htm>

This proposed rulemaking adopts four additions/corrections made to the federal lead-based paint regulation subsequent to the original Utah LBP Program rulemaking. The purpose of this rulemaking is to adopt the additional four USEPA federal register actions to keep the Utah LBP Program equally protective to human health and the environment as the federal program. The proposed modifications to the Utah LBP rule must be incorporated on or before September 30, 2003 to maintain continued federal grant funding and USEPA authorization for the Utah LBP Program.

The following version of the rule begins with the current Utah LBP rule and includes underlined text (e.g. Rule R307-840 establishes) which indicates text added to the current Utah LBP rule and strike out-text (e.g. ~~This subpart contains~~) which indicates text deleted from the current Utah LBP rule. Any questions, concerns or comments should be directed to Bob Ford at 801-536-4451 or by e-mail at [rwford@utah.gov](mailto:rwford@utah.gov).

## **Subpart D - Lead-Based Paint Hazards**

### ' 745.61 Scope and applicability.

- (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 subpart requires the owner of the property(ies) subject to these standards to evaluate the property(ies) for the presence of lead-based paint hazards or take any action to control these conditions if one or more of them is identified.

### ' 745.63 Definitions.

The following definitions apply to part 745.

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<sup>®</sup> (as defined in 42 U.S.C. 4851b(2)). Hard metal substrates and other materials that can not 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, stairways, 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 other 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 the building.

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

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

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 § 745.65.

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, AStandard 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 window sill 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 Awell.@

Wipe sample means a sample collected by wiping a representative surface of known area, as determined by ASTM E1728, AStandard 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, AStandard Specification for Wipe Sampling Materials for Lead in Surface Dust.@

#### ' 745.65 Lead-based paint hazards.

(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 paragraph (b) of this section.

(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 door knob that knocks into a wall or a door that knocks against its door frame).

(3) Any chewable lead-based painted surface on which there is evidence of teeth marks.

(4) Any other deteriorated lead-based paint in any residential building or child-occupied facility or on the exterior of any residential building or child-occupied facility.

(b) Dust-lead hazard. A dust-lead hazard is surface dust in a residential dwelling or child-occupied facility that contains a mass-per-area concentration of lead equal to or exceeding 40 µg/ft<sup>2</sup> on floors or 250 µg/ft<sup>2</sup> on interior window sills based on wipe samples.

(c) Soil-lead hazard. A soil-lead hazard is bare soil on residential real property or on the property of a child-occupied facility that contains total lead equal to or exceeding 400 parts per million (µg/g) in a play area or average 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 regulations issued by EPA at 40 CFR part 745, subpart L and in regulations issued by the Department of Housing and Urban Development (HUD) at 24 CFR part 35, subpart R. The work practice standards in those regulations 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.

## **Subpart L - Lead-Based Paint Activities**

' 745.220 Scope and applicability.

(a) Rule R307-840 establishes 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. This rule also requires that, except as outlined in (2), all lead-based paint activities, as defined in this rule, must be performed by certified individuals and firms.

(b) R307-840 applies to all individuals and firms who are engaged in lead-based paint activities as defined in R307-840-2, 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.

(c) Each department, agency, and instrumentality of the executive, legislative, and judicial branches of the Federal Government 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 R307-840 regarding lead-based paint, lead-based paint activities, and lead-based paint hazards.

(d) While Rule R307-840 establishes specific requirements for performing lead-based paint activities should they be undertaken, nothing in R307-840 requires that the owner or occupant undertake any particular lead-based paint activity.

' 745.223 Definitions.

The definitions in subpart A apply to this subpart. In addition, the following definitions apply.

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

(1) The removal of ~~lead-based~~ paint and ~~lead-contaminated~~ dust, the permanent enclosure or encapsulation of lead-based paint, the replacement of ~~lead-painted~~ surfaces or fixtures, or and the removal or permanent covering of lead-contaminated soil, when lead-based paint hazards are present in such paint, dust or soil; and

(2) All preparation, cleanup, disposal, and post-abatement clearance testing activities associated with such measures.

(3) Specifically, abatement includes, but is not limited to:

(i) 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:

(A) Shall result in the permanent elimination of lead-based paint hazards; or

(B) Are designed to permanently eliminate lead-based paint hazards and are described in paragraphs (1) and (2) of this definition.

(ii) Projects resulting in the permanent elimination of lead-based paint hazards, conducted by firms or individuals certified in accordance with ' 745.226, unless such projects are covered by paragraph (4) of this definition;

(iii) 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 section, unless such projects are covered by paragraph (4) of this definition; or

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

(4) 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.

*Accredited training program* means a training program that has been accredited by Executive Secretary pursuant to ' 745.225 to provide training for individuals engaged in lead-based paint activities.

*Adequate quality control* means a plan or design which ensures the authenticity, integrity, and accuracy of samples, including dust, soil, and paint chip or paint film samples. Adequate quality control also includes provisions for representative sampling.

*Certified firm* means a company, partnership, corporation, sole proprietorship, association, or other business entity that performs lead-based paint activities to which Executive Secretary has issued a certificate of approval pursuant to ' 745.226(f).

*Certified inspector* means an individual who has been trained by an accredited training program, as defined by this section, and certified by Executive Secretary pursuant to ' 745.226 to conduct inspections. A certified inspector also samples for the presence of lead in dust and soil for the purposes of abatement clearance testing.

*Certified abatement worker* means an individual who has been trained by an accredited training program, as defined by this section, and certified by Executive Secretary pursuant to ' 745.226 to perform abatements.

*Certified project designer* means an individual who has been trained by an accredited training program, as defined by this section, and certified by Executive Secretary pursuant to ' 745.226 to prepare abatement project designs, occupant protection plans, and abatement reports.

*Certified risk assessor* means an individual who has been trained by an accredited training program, as defined by this section, and certified by Executive Secretary pursuant to ' 745.226 to conduct risk assessments. A risk assessor also samples for the presence of lead in dust and soil for the purposes of abatement clearance testing.

*Certified supervisor* means an individual who has been trained by an accredited training program, as defined by this section, and certified by Executive Secretary pursuant to ' 745.226 to supervise and conduct abatements, and to prepare occupant protection plans and abatement reports.

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

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

*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.

*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, cornerboards, 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 an abatement.

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

*Course test* means an evaluation of the overall effectiveness of the training which shall test the trainees' knowledge and retention of the topics covered during the course.

*Course test blue print* means written documentation identifying the proportion of course test questions devoted to each major topic in the course curriculum.

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

*Discipline* means one of the specific types or categories of lead-based paint activities identified in this subpart for which individuals may receive training from accredited programs and become certified by Executive Secretary. 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.

*Documented methodologies* are 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 µg/dl (micrograms of lead per deciliter of whole blood) for a single venous test or of 15-19 µg/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.

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

*Hands-on skills assessment* means an evaluation which tests the trainees' ability to satisfactorily perform the work practices and procedures identified in ' 745.225(d), as well as any other skill taught in a training course.

*Hazardous waste* means any waste as defined in 40 CFR 261.3.

*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.

*Interim certification* means the status of an individual who has successfully completed the appropriate training course in a discipline from an accredited training program, as defined by this section, but has not yet received formal certification in that discipline from Executive Secretary pursuant to ' 745.226. Interim certifications expire 6 months after the completion of the training course, and is equivalent to a certificate for the 6-month period.

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

*Lead-based paint* means paint or other surface coatings that contain lead equal to or in excess of 1.0 milligrams per square centimeter or more than 0.5 percent by weight.

*Lead-based paint activities* means, in the case of target housing and child-occupied facilities, inspection, risk assessment, and abatement, as defined in this subpart.

~~*Lead-based paint hazard* means any condition that causes exposure to lead from lead-contaminated dust, lead-contaminated soil, or lead-contaminated paint that is deteriorated or present in accessible surfaces, friction surfaces, or impact surfaces that would result in adverse human health effects as identified by the Administrator pursuant to Guidance on Identification of Lead-Based Paint Hazards (Federal Register, Vol. 60, No. 175, Pgs. 47248-57) TSCA section 403.~~

~~*Lead-contaminated dust* means surface dust in residential dwellings, or child-occupied facilities that contains an area or mass concentration of lead at or in excess of levels identified by the Administrator pursuant to Guidance on Identification of Lead-Based Paint Hazards (Federal Register, Vol. 60, No. 175, Pgs. 47248-57) TSCA section 403.~~

~~*Lead-contaminated soil* means bare soil on residential real property and on the property of a child-occupied facility that contains lead at or in excess of levels identified by the Administrator pursuant to Guidance on Identification of Lead-Based Paint Hazards (Federal Register, Vol. 60, No. 175, Pgs. 47248-57) TSCA section 403.~~

*Lead-hazard screen* is a limited risk assessment activity that involves limited paint and dust sampling as described in ' 745.227(c).

*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 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.

*Nonprofit means an entity which has demonstrated to any branch of the Federal Government or to a State, municipal, tribal or territorial government, that no part of its net earnings inure to the benefit of any private shareholder or individual.*

*Paint in poor condition* means more than 10 square feet of deteriorated paint on exterior components with large surface areas; or more than 2 square feet of deteriorated paint on interior components with large surface areas (e.g., walls, ceilings, floors, doors); or more than 10 percent 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 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.

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

*Recognized laboratory* means an environmental laboratory recognized by EPA 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 (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.

*Risk assessment* means (1) an on-site investigation to determine the existence, nature, severity, and location of lead-based paint hazards, and (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.

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

*Target housing* means any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any one or more children age 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.

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

*Training hour* means at least 50 minutes of actual learning, including, but not limited to, time devoted to lecture, learning activities, small group activities, demonstrations, evaluations, 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.

' 745.225 Accreditation of training programs: target housing and child-occupied facilities.

(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 Executive Secretary for accreditation of their lead-based paint activities courses or refresher courses pursuant to this section on or after August 31, 1998.

(3) A training program shall not provide, offer, or claim to provide Executive Secretary-accredited lead-based paint activities courses without applying for and receiving accreditation from Executive Secretary as required under paragraph (b) of this section on or after March 1, 1999.

(b) Application process. The following are procedures a training program shall follow to receive Executive Secretary accreditation to offer lead-based paint activities courses:

(1) A training program seeking accreditation shall submit a written application to Executive Secretary containing the following information:

(i) The training program's name, address, 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 paragraph (c) of this section. If a training program uses EPA-recommended model training materials, 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, its application for accreditation shall also include:

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

(B) A copy of the course agenda for each course.

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

- (A) A description of the facilities and equipment to be used for lecture and hands-on training.
- (B) A copy of the course test blueprint for each course.
- (C) A description of the activities and procedures that will be used for conducting the assessment of hands-on skills for each course.

(D) A copy of the quality control plan as described in paragraph (c)(9) of this section.

(2) If a training program meets the requirements in paragraph (c) of this section, then Executive Secretary shall approve 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, Executive Secretary may, at its discretion, work with the applicant to address inadequacies in the application for accreditation. Executive Secretary may also request additional materials retained by the training program under paragraph (i) of this section. 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 section.

(4) A training program applying for accreditation must submit the appropriate fees in accordance with <sup>1-745.238</sup> the current Department of Environmental Quality Fee Schedule.

(c) Requirements for the accreditation of training programs. For a training program to obtain accreditation from Executive Secretary 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 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 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 16 hours of any Executive Secretary-accredited, 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 activities, or work practice components of a course.

(4) The following documents shall be recognized by Executive Secretary as evidence that training managers and principal instructors have the education, work experience, training requirements or demonstrated experience, specifically listed in paragraphs (c)(1) and (c)(2) of this section. This documentation need not be submitted with the accreditation application, but, if not submitted, shall be retained by the training program as required by the recordkeeping requirements contained in paragraph (i) of this section. Those documents include the following:

- (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.
- (iii) Certificates from train-the-trainer courses and lead-specific training courses, as evidence of meeting the training requirements.

(5) The training program shall ensure the availability of, and provide adequate facilities for, the delivery of the lecture, course test, hands-on training, and assessment activities. This includes providing training equipment that reflects current work practices and maintaining or updating the equipment and facilities as needed.

(6) To become accredited in the following disciplines, the training program shall provide training courses that meet the following training hour requirements:

(i) The inspector course shall last a minimum of 24 training hours, with a minimum of 8 hours devoted to hands-on training activities. The minimum curriculum requirements for the inspector course are contained in paragraph (d)(1) of this section.

(ii) The risk assessor course shall last a minimum of 16 training hours, with a minimum of 4 hours devoted to hands-on training activities. The minimum curriculum requirements for the risk assessor course are contained in paragraph (d)(2) of this section.

(iii) The supervisor course shall last a minimum of 32 training hours, with a minimum of 8 hours devoted to hands-on activities. The minimum curriculum requirements for the supervisor course are contained in paragraph (d)(3) of this section.

(iv) The project designer course shall last a minimum of 8 training hours. The minimum curriculum requirements for the project designer course are contained in paragraph (d)(4) of this section.

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

(7) For each course offered, the training program shall conduct either a course test at the completion of the course, and if applicable, a hands-on skills assessment, or in the alternative, a proficiency test for that discipline. Each individual must successfully complete the hands-on skills assessment and receive a passing score on the course test to pass any course, or successfully complete a proficiency test.

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

(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.

(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.

(iii) Dates of course completion/test passage.

(iv) Expiration date of interim certification, which shall be 6 months from the date of course completion.

(v) The name, address, and telephone number of the training program.

(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.

(ii) Procedures for the training manager's annual review of principal instructor competency.

(10) The training program shall offer courses which teach the work practice standards for conducting lead-based paint activities contained in ' 745.227, and other standards developed by EPA pursuant to Title IV of TSCA. 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 section.

(12) The training manager shall allow Executive Secretary or Executive Secretary's authorized representative to audit the training program to verify the contents of the application for accreditation as described in paragraph (b) of this section.

(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. 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.\*

(viii) Recordkeeping.

(2) Risk assessor. (i) Role and responsibilities of a risk assessor.

(ii) Collection of background information to perform a risk assessment.

(iii) Sources of environmental lead contamination such as paint, surface dust and soil, water, air, packaging, and food.

(iv) Visual inspection for the purposes of identifying potential sources of lead-based paint hazards.\*

(v) Lead hazard screen protocol.

(vi) Sampling for other sources of lead exposure.\*

(vii) Interpretation of lead-based paint and other lead sampling results, including all applicable State or Federal guidance or regulations pertaining to lead-based paint hazards.\*

(viii) Development of hazard control options, the role of interim controls, and operations and maintenance activities to reduce lead-based paint hazards.

(ix) Preparation of a final risk assessment report.

(3) Supervisor. (i) Role and responsibilities of a supervisor.

(ii) Background information on lead and its adverse health effects.

(iii) Background information on Federal, State, and local regulations and guidance that pertain to lead-based paint abatement.

(iv) Liability and insurance issues relating to lead-based paint abatement.

(v) Risk assessment and inspection report interpretation.\*

(vi) Development and implementation of an occupant protection plan and abatement report.

(vii) Lead-based paint hazard recognition and control.\*

(viii) Lead-based paint abatement and lead-based paint hazard reduction methods, including restricted practices.\*

(ix) Interior dust abatement/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.

(xiii) Recordkeeping.

(4) Project designer. (i) Role and responsibilities of a project designer.

(ii) Development and implementation of an occupant protection plan for large scale abatement projects.

(iii) Lead-based paint abatement and lead-based paint hazard reduction methods, including restricted practices for large-scale abatement projects.

(iv) Interior dust abatement/cleanup or lead hazard control and reduction methods for large-scale abatement projects.

(v) Clearance standards and testing for large scale abatement projects.

(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.\*

(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 Executive Secretary accreditation to offer refresher training, a training program must meet the following minimum requirements:

(1) Each refresher course shall review the curriculum topics of the full-length courses listed under paragraph (d) of this section, 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.

(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 8 training hours. The project designer refresher course shall last a minimum of 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.

(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 paragraph (b) of this section. If so, Executive Secretary shall use the approval procedure described in paragraph (b) of this section. In addition, the minimum requirements contained in paragraphs (c) (except for the requirements in paragraph (c)(6)), and (e)(1), (e)(2) and (e)(3) of this section shall also apply.

(5) A training program seeking accreditation to offer refresher training courses only shall submit a written application to Executive Secretary containing the following information:

(i) The refresher training program's name, address, 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 refresher training program meets the minimum requirements established in paragraph (c) of this section, except for the requirements in paragraph (c)(6) of this section. If a training program uses EPA-developed model training materials, the training manager shall include a statement certifying that, as well.

(iv) If the refresher training course materials are not based on EPA-developed model training materials, the training program's application for accreditation shall include:

(A) A copy of the student and instructor manuals to be used for each course.

(B) A copy of the course agenda for each course.

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

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

(B) A copy of the course test blueprint for each course.

(C) A description of the activities and procedures that will be used for conducting the assessment of hands-on skills for each course (if applicable).

(D) A copy of the quality control plan as described in paragraph (c)(9) of this section.

(vi) The requirements in paragraphs (c)(1) through (c)(5), and (c)(7) through (c)(12) of this section apply to refresher training providers.

(vii) If a refresher training program meets the requirements listed in this paragraph, then Executive Secretary shall approve 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, Executive Secretary may, at its discretion, work with the applicant to address inadequacies in the application for accreditation. Executive Secretary may also request additional materials retained by the refresher training program under paragraph (i) of this section. If a refresher training program's application is disapproved, the program may reapply for accreditation at any time.

(f) Re-accreditation of training programs. (1) Unless re-accredited, a training program's accreditation (including refresher training accreditation) shall expire 4 years after the date of issuance. If a training program meets the requirements of this section, the training program shall be re-accredited.

(2) A training program seeking re-accreditation shall submit an application to Executive Secretary no later than 180 days before its accreditation expires. If a training program does not submit its application for re-accreditation by that date, Executive Secretary cannot guarantee that the program will be re-accredited before the end of the accreditation period.

(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:
    - (A) That the training program complies at all times with all requirements in paragraphs 8 and (e) of this section, as applicable; and
    - (B) The recordkeeping and reporting requirements of paragraph (i) of this section shall be followed.
  - (v) A payment of appropriate fees in accordance with <sup>1-745.238</sup> the current Department of Environmental Quality Fee Schedule.
- (4) Upon request, the training program shall allow Executive Secretary or Executive Secretary's authorized representative to audit the training program to verify the contents of the application for re-accreditation as described in paragraph (f)(3) of this section.
- (g) Suspension, revocation, and modification of accredited training programs. (1) Executive Secretary may, after notice and an opportunity for hearing, suspend, revoke, or modify training program accreditation (including refresher training accreditation) if a training program, training manager, or other person with supervisory authority over the training program has:
- (i) Misrepresented the contents of a training course to Executive Secretary and/or the student population.
  - (ii) Failed to submit required information or notifications in a timely manner.
  - (iii) Failed to maintain required records.
  - (iv) Falsified accreditation records, instructor qualifications, or other accreditation-related information or documentation.
  - (v) Failed to comply with the training standards and requirements in this section.
  - (vi) Failed to comply with Federal, State, or local lead-based paint statutes or regulations.
  - (vii) Made false or misleading statements to Executive Secretary in its application for accreditation or re-accreditation which Executive Secretary relied upon in approving the application.
- (2) In addition to an administrative or judicial finding of violation, execution of a consent agreement in settlement of an enforcement action constitutes, for purposes of this section, evidence of a failure to comply with relevant statutes or regulations.
- (h) [Reserved]
- (i) Training program recordkeeping requirements. (1) Accredited training programs shall maintain, and make available to Executive Secretary or Executive Secretary's authorized representative, upon request, the following records:
- (i) All documents specified in paragraph (c)(4) of this section that demonstrate the qualifications listed in paragraphs (c)(1) and (c)(2) of this section 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:

- (A) Who conducts the assessment.
  - (B) How the skills are graded.
  - (C) What facilities are used.
  - (D) The pass/fail rate.
  - (v) The quality control plan as described in paragraph (c)(9) of this section.
  - (vi) Results of the students' hands-on skills assessments and course tests, and a record of each student's course completion certificate.
  - (vii) Any other material not listed above in paragraphs (i)(1)(i) through (i)(1)(vi) of this section that was submitted to Executive Secretary 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 paragraph (i)(3) of this section for a minimum of 3 years and 6 months.
- (3) The training program shall notify Executive Secretary in writing within 30 days of changing the address specified on its training program accreditation application or transferring the records from that address.

' 745.226 Certification of individuals and firms engaged in lead-based paint activities: target housing and child-occupied facilities.

(a) Certification of individuals. (1) Individuals seeking certification by Executive Secretary to engage in lead-based paint activities must either:

(i) Submit to Executive Secretary an application demonstrating that they meet the requirements established in paragraphs (b) or (c) of this section for the particular discipline for which certification is sought; or

(ii) Submit to Executive Secretary an application with a copy of a valid lead-based paint activities certification (or equivalent) from EPA or a State or Tribal program that has been authorized by EPA pursuant to subpart Q of this part.

(2) Individuals may first apply to Executive Secretary for certification to engage in lead-based paint activities pursuant to this section on or after March 1, 1999.

(3) Following the submission of an application demonstrating that all the requirements of this section have been met, Executive Secretary shall certify an applicant as an inspector, risk assessor, supervisor, project designer, or abatement worker, as appropriate.

(4) Upon receiving Executive Secretary 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 ' 745.227.

(5) It shall be a violation of TSCA for an individual to conduct any of the lead-based paint activities described in ' 745.227 after ~~August 30, 1999~~ March 1, 2000 ~~August 30, 1999~~, if that individual has not been certified by Executive Secretary pursuant to this section to do so.

(6) Individuals applying for certification must submit the appropriate fees in accordance with <sup>1</sup> 745.238 the current Department of Environmental Quality Fee Schedule.

(b) Inspector, risk assessor or supervisor. (1) To become certified by Executive Secretary as an inspector, risk assessor, or supervisor, pursuant to paragraph (a)(1)(i) of this section, an individual must:

(i) Successfully complete an accredited course in the appropriate discipline and receive a course completion certificate from an accredited training program.

(ii) Pass the certification exam in the appropriate discipline offered by Executive Secretary; and,

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

(A) Inspectors. (1) No additional experience and/or education requirements.

(2) [Reserved]

(B) Risk assessors. (1) Successful completion of an accredited training course for inspectors; and

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

(3) 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

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

(C) Supervisor: (1) One year of experience as a certified lead-based paint abatement worker; or

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

(2) The following documents shall be recognized by Executive Secretary as evidence of meeting the requirements listed in (b)(2)(iii) of this paragraph:

(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.

(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 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.

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

(4) The course completion certificate shall serve as interim certification for an individual until the next available opportunity to take the certification exam. Such interim certification shall expire 6 months after issuance.

(5) After passing the appropriate certification exam and submitting an application demonstrating that he/she meets the appropriate training, education, and/or experience prerequisites described in paragraph (b)(1) of this section, an individual shall be issued a certificate by Executive Secretary. To maintain certification, an individual must be re-certified as described in paragraph (e) of this section.

(6) An individual may take the certification exam no more than three times within 6 months of receiving a course completion certificate.

(7) If an individual does not pass the certification exam and receive a certificate within 6 months of receiving his/her course completion certificate, the individual must retake the appropriate course from an accredited training program before reapplying for certification from Executive Secretary.

(c) Abatement worker and project designer. (1) To become certified by Executive Secretary as an abatement worker or project designer, pursuant to paragraph (a)(1)(i) of this section, an individual must:

(i) Successfully complete an accredited course in the appropriate discipline and receive a course completion certificate from an accredited training program.

(ii) Meet or exceed the following additional experience and/or education requirements:

(A) Abatement workers. (1) No additional experience and/or education requirements.

(2) [Reserved]

(B) Project designers. (1) Successful completion of an accredited training course for supervisors.

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

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

(2) The following documents shall be recognized by Executive Secretary as evidence of meeting the requirements listed in this paragraph:

(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.

(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) The course completion certificate shall serve as an interim certification until certification from Executive Secretary is received, but shall be valid for no more than 6 months from the date of completion.

(4) After successfully completing the appropriate training courses and meeting any other qualifications described in paragraph (c)(1) of this section, an individual shall be issued a certificate from Executive Secretary. To maintain certification, an individual must be re-certified as described in paragraph (e) of this section.

(d) Certification based on prior training. (1) Any individual who received training in a lead-based paint activity between October 1, 1990, and March 1, 1999 shall be eligible for certification by

Executive Secretary under the alternative procedures contained in this paragraph. Individuals who have received lead-based paint activities training at an EPA-authorized State or Tribal accredited training program shall also be eligible for certification by Executive Secretary under the following alternative procedures:

(i) Applicants for certification as an inspector, risk assessor, or supervisor shall:

(A) Demonstrate that the applicant has successfully completed training or on-the-job training in the conduct of a lead-based paint activity.

(B) Demonstrate that the applicant meets or exceeds the education and/or experience requirements in paragraph (b)(1)(iii) of this section.

(C) Successfully complete an accredited refresher training course for the appropriate discipline.

(D) Pass a certification exam administered by Executive Secretary for the appropriate discipline.

(ii) Applicants for certification as an abatement worker or project designer shall:

(A) Demonstrate that the applicant has successfully completed training or on-the-job training in the conduct of a lead-based paint activity.

(B) Demonstrate that the applicant meets the education and/or experience requirements in paragraphs (c)(1) of this section; and

(C) Successfully complete an accredited refresher training course for the appropriate discipline.

(2) Individuals shall have until ~~August 30, 1999~~ ~~March 1, 2000~~ August 30, 1999, to apply to Executive Secretary for certification under the above procedures. After that date, all individuals wishing to obtain certification must do so through the procedures described in paragraph (a), and paragraph (b) or (c) of this section, according to the discipline for which certification is being sought.

(e) Re-certification. (1) To maintain certification in a particular discipline, a certified individual shall apply to and be re-certified by Executive Secretary in that discipline by Executive Secretary either:

(i) Every 3 years if the individual completed a training course with a course test and hands-on assessment; or

(ii) every 5 years if the individual completed a training course with a proficiency test.

(2) An individual shall be re-certified if the individual successfully completes the appropriate accredited refresher training course and submits a valid copy of the appropriate refresher course completion certificate.

(3) Individuals applying for recertification must submit the appropriate fees in accordance with <sup>1</sup> 745.238 the current Department of Environmental Quality Fee Schedule.

(f) Certification of firms. (1) All firms which perform or offer to perform any of the lead-based paint activities described in ' 745.227 after ~~August 30, 1999~~ ~~March 1, 2000~~ August 30, 1999, shall be certified by Executive Secretary.

(2) A firm seeking certification shall submit to Executive Secretary 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 ' 745.227 for conducting lead-based paint activities.

(3) From the date of receiving the firm's letter requesting certification, Executive Secretary shall have 90 days to approve or disapprove the firm's request for certification. Within that time, Executive Secretary shall respond with either a certificate of approval or a letter describing the reasons for a disapproval.

(4) The firm shall maintain all records pursuant to the requirements in ' 745.227.

(5) Firms may first apply to Executive Secretary for certification to engage in lead-based paint activities pursuant to this section on or after March 1, 1999.

(6) Firms applying for certification must submit the appropriate fees in accordance with ~~'745.238~~ the current Department of Environmental Quality Fee Schedule.

(7) To maintain certification a firm shall submit appropriate fees in accordance with ~~'745.238~~ the current Department of Environmental Quality Fee Schedule every 3 years.

(g) Suspension, revocation, and modification of certifications of individuals engaged in lead-based paint activities. (1) Executive Secretary may, after notice and opportunity for hearing, suspend, revoke, or modify an individual's certification if an individual has:

(i) Obtained training documentation through fraudulent means.

(ii) Gained admission to and completed an accredited training program through misrepresentation of admission requirements.

(iii) Obtained certification through misrepresentation of certification requirements or related documents dealing with education, training, professional registration, or experience.

(iv) Performed work requiring certification at a job site without having proof of certification.

(v) Permitted the duplication or use of the individual's own certificate by another.

(vi) Performed work for which certification is required, but for which appropriate certification has not been received.

(vii) Failed to comply with the appropriate work practice standards for lead-based paint activities at ' 745.227.

(viii) Failed to comply with Federal, State, or local lead-based paint statutes or regulations.

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

(h) Suspension, revocation, and modification of certifications of firms engaged in lead-based paint activities. (1) Executive Secretary may, after notice and opportunity for hearing, suspend, revoke, or modify a firm's certification if a firm has:

(i) Performed work requiring certification at a job site with individuals who are not certified.

(ii) Failed to comply with the work practice standards established in ' 745.227.

(iii) Misrepresented facts in its letter of application for certification to Executive Secretary.

(iv) Failed to maintain required records.

(v) Failed to comply with Federal, State, or local lead-based paint statutes or regulations.

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

(i) [Reserved]

' 745.227 Work practice standards for conducting lead-based paint activities: target housing and child-occupied facilities.

(a) Effective date, applicability, and terms. (1) Beginning on ~~March 1, 1999~~ ~~March 1, 2000~~ August 30, 1999, all lead-based paint activities shall be performed pursuant to the work practice standards contained in this section.

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

(3) Documented methodologies that are appropriate for this section are found in the following: The U.S. Department of Housing and Urban Development (HUD) Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing; the EPA Guidance on Residential Lead-Based Paint, Lead-Contaminated Dust, and Lead-Contaminated Soil; the EPA Residential Sampling for Lead: Protocols for Dust and Soil Sampling (EPA report number 7474-R-95-001); and other equivalent methods and guidelines.

(4) Clearance levels are appropriate for the purposes of this section may be found in the EPA Guidance on Residential Lead-Based Paint, Lead-Contaminated Dust, and Lead Contaminated Soil or other equivalent guidelines.

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

(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 paragraph (f) of this section to determine if they contain detectable levels of lead that can be quantified numerically.

(4) The certified inspector or risk assessor shall prepare an inspection report which shall include the following information:

(i) Date of each inspection.

(ii) Address of building.

(iii) Date of construction.

(iv) Apartment numbers (if applicable).

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

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

(vii) Name, address, and telephone number of the certified firm employing each inspector and/or risk assessor, if applicable.

(viii) Each testing method and device and/or sampling procedure employed for paint analysis, including quality control data and, if used, the serial number of any x-ray fluorescence (XRF) device.

(ix) Specific locations of each painted component tested for the presence of lead-based paint.

(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 Executive Secretary 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:

(A) Determine if any deteriorated paint is present, and

(B) 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 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 paragraph (c)(1)(iii) of this section, the risk assessor shall also collect composite dust samples from common areas where one or more children, age 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.

(ii) All collected dust samples shall be analyzed according to paragraph (f) of this section to determine if they contain detectable levels of lead that can be quantified numerically.

(4) Paint shall be sampled in the following manner: (i) The analysis of paint to determine the presence of lead shall be conducted using documented methodologies which incorporate adequate quality control procedures; and/or

(ii) All collected paint chip samples shall be analyzed according to paragraph (f) of this section 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 paragraph (d) of this section, including paragraphs (d)(11)(i) through (d)(11)(xiv), and excluding paragraphs (d)(11)(xv) through (d)(11)(xviii) of this section. Additionally, any background information collected pursuant to paragraph (c)(2)(i) of this section 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 Executive Secretary as a risk assessor and, if conducted, must be conducted according to the procedures in this paragraph.

(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 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; Each other surface determined, using documented methodologies, to be a potential lead-based paint hazard and having a distinct painting history, shall also 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 paragraph (d)(4) of this section shall be taken. In addition, interior window sill and floor dust samples (either composite

or single-surface samples) shall be collected and analyzed for lead concentration in the following locations:

- (i) Common areas adjacent to the sampled residential dwelling or child-occupied facility; and
- (ii) Other common areas in the building where the risk assessor determines that one or more children, age 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 ~~the risk assessor determines~~ 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) ~~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 paragraph (f) of this section to determine if they contain detectable levels of lead that can be quantified numerically.

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

- (i) Date of assessment.
- (ii) Address of each building.
- (iii) Date of construction of buildings.
- (iv) Apartment number (if applicable).
- (v) Name, address, and telephone number of each owner of each building.
- (vi) Name, signature, and certification of the certified risk assessor conducting the assessment.
- (vii) Name, address, and telephone number of the certified firm employing each certified risk assessor if applicable.
- (viii) Name, address, and telephone number of each recognized laboratory conducting analysis of collected samples.
- (ix) Results of the visual inspection.
- (x) Testing method and sampling procedure for paint analysis employed.
- (xi) Specific locations of each painted component tested for the presence of lead.
- (xii) All data collected from on-site testing, including quality control data and, if used, the serial number of any XRF device.
- (xiii) All results of laboratory analysis on collected paint, soil, and dust samples.
- (xiv) Any other sampling results.
- (xv) Any background information collected pursuant to paragraph (d)(3) of this section.

(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.

(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 Executive Secretary, and if conducted, shall be conducted according to the procedures in this paragraph.

(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 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 section 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 given to Executive Secretary prior to the commencement of abatement activities. The procedure for this notification will be developed by EPA prior to August 31, 1998.

(5) A written occupant protection plan shall be developed for all abatement projects and shall be prepared according to the following procedures:

(i) The occupant protection plan shall be unique to each residential dwelling or child-occupied facility and be developed prior to the abatement. The occupant protection plan shall describe the measures and management procedures that will be taken during the abatement to protect the building occupants from exposure to any lead-based paint hazards.

(ii) A certified supervisor or project designer shall prepare the occupant protection plan.

(6) 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 2 square feet in any one room, hallway or stairwell or totaling no more than 20 square feet on exterior surfaces; and

(iv) Operating a heat gun on lead-based paint is permitted only at temperatures below 1100 degrees Fahrenheit.

(7) If conducted, soil abatement shall be conducted in one of the following ways:

(i) If the soil is removed, ~~the lead-contaminated soil shall be replaced with soil that is not lead-contaminated; or~~

(A) The soil shall be replaced by soil with a lead concentration as close to local background as practicable, but no greater than 400 ppm.

(B) The soil that is removed shall not be used as top soil at another residential property or child-occupied facility.

(ii) If soil is not removed, the ~~lead-contaminated~~ soil shall be permanently covered, as defined in 745.223.

(8) The following post-abatement clearance procedures shall be performed only by a certified inspector or risk assessor:

(i) Following an abatement, a visual inspection shall be performed to determine if deteriorated painted surfaces and/or visible amounts of dust, debris or residue are still present. If deteriorated painted surfaces or visible amounts of dust, debris or residue are present, these conditions must be eliminated prior to the continuation of the clearance procedures.

(ii) Following the visual inspection and any post-abatement cleanup required by paragraph (e)(8)(i) of this section, clearance sampling for ~~lead-contaminated~~ 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:

(A) 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 available) 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.

(B) 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 available) 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.

(C) 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 applicable clearance levels in paragraph (e)(8)(viii) of this section 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 levels in a single surface dust sample equals or exceeds the applicable clearance levels or if the residual lead level in a composite dust sample equals or exceeds the applicable clearance level divided by half the number of subsamples in the composite sample, ~~all the~~ components represented by the failed sample shall be recleaned and retested ~~until clearance levels are met.~~

(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 window sills, and 400  $\mu\text{g}/\text{ft}^2$  for window troughs.

(9) 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 paragraph (e)(8) of this section.

(10) An abatement report shall be prepared by a certified supervisor or project designer. 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 paragraph (e)(5) of this section.

(iv) The name, address, and signature of each certified risk assessor or inspector conducting clearance sampling and the date of clearance testing.

(v) The results of clearance testing and all soil analyses (if applicable) and the name of each recognized laboratory that conducted the analyses.

(vi) 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 samples collected pursuant to the work practice standards contained in this section shall be:

- (1) Collected by persons certified by Executive Secretary as an inspector or risk assessor; and
- (2) Analyzed by a laboratory recognized by EPA pursuant to section 405(b) of TSCA as being capable of performing analyses for lead compounds in paint chip, dust, and soil samples.

(g) Composite dust sampling. Composite dust sampling may only be conducted in the situations specified in paragraphs (c) through (e) of this section. 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; and

(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 ' 745.65(b);

(ii) On any chewable lead-based paint surface on which there is evidence of teeth marks;

(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); and

(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;

(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; and,

(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.

~~(h)~~ (i) Recordkeeping. All reports or plans required in this section shall be maintained by the certified firm or individual who prepared the report for no fewer than 3 years. The certified firm or individual also shall provide copies of these reports to the building owner who contracted for its services.

' 745.228 Accreditation of training programs: public and commercial buildings, bridges and superstructures [Reserved].

' 745.229 Certification of individuals and firms engaged in lead-based paint activities: public and commercial buildings, bridges and superstructures [Reserved].

' 745.230 Work practice standards for conducting lead-based paint activities: public and commercial buildings, bridges and superstructures [Reserved].

' 745.233 Lead-based paint activities requirements.

Lead-based paint activities, as defined in this part, shall only be conducted according to the procedures and work practice standards contained in ' 745.227 of this subpart. No individual or firm may offer to perform or perform any lead-based paint activity as defined in this part, unless certified to perform that activity according to the procedures in ' 745.226.

' 745.235 [Reserved]

' 745.237 [Reserved]

' 745.239 [Reserved]