DEPARTMENT OF HEALTH AND SOCIAL SERVICES
DIVISION OF PUBLIC HEALTH
4400 Health Systems Protection

4459B Residential Property Renovation, Repair and Painting

1.0 General Provisions

1.1 Preamble. These regulations are adopted by the Secretary of Delaware Health and Social Services pursuant to the Authority invested in the Secretary by 16 **Del.C.** §122(3)t. These regulations apply to all renovations performed for compensation in target housing and child-occupied facilities.

1.2 Purpose. These regulations shall be construed and applied to promote their underlying purpose of protecting the public health. The purpose of these regulations is to ensure the following:

1.2.1 Owners and occupants of target housing and child-occupied facilities receive information on lead-based paint hazards before these renovations begin;

1.2.2 Individuals performing renovations regulated in accordance with 1.5 of these regulations are properly trained;

1.2.3 Renovators and firms performing these renovations are certified; and

1.2.4 The work practices in Section 3.0 are followed during these renovations.

1.3 Severability. If any provision or application of any provision of these regulations is held invalid, that invalidity shall not affect other provisions or applications of these regulations.

1.4 Effective Dates

1.4.1 Training programs. On or after the effective date of these regulations, it shall be unlawful for any training program to provide, offer, or claim to provide training or refresher training for certification as a Renovator or a Dust Wipe Technician without first possessing accreditation from the Secretary under Section 11.0. Training programs accredited by EPA as of the effective date of these regulations shall be deemed accredited only:

1.4.1.1 Through the expiration date of that EPA certification, and

1.4.1.2 Upon the Secretary's receipt of documentation of that EPA certification.

1.4.2 Firms. On or after the effective date of these regulations, it shall be unlawful for any firm to perform, offer, or claim to perform renovations in target housing or child-occupied facilities without certification from the Secretary under Section 7.0, unless the renovation qualifies for one of the exceptions identified in 1.5.1 and 1.5.2. A firm certified by EPA as of the effective date of these regulations shall be deemed certified only:

1.4.2.1 Through the expiration date of that EPA certification, and

1.4.2.2 Upon the Secretary's receipt of documentation of that EPA certification.

1.4.3 Individuals. On or after the effective date of these regulations, all renovations in target housing or child-occupied facilities must be directed by Renovators certified by the Secretary in accordance with 8.1 and performed by certified Renovators, or individuals trained in accordance with 8.2.2, unless the renovation qualifies for one of the exceptions identified in 1.5.1 and 1.5.2. An individual certified by EPA as of the effective date of these regulations shall be deemed certified only:

1.4.3.1 Through the expiration date of that EPA certification, and

1.4.3.2 Upon the Secretary's receipt of documentation of that EPA certification.

1.4.4 Work practices. On or after the effective date of these regulations, all renovations in target housing or child-occupied facilities must be performed in accordance with the work practice standards in Section 4.0 and the associated recordkeeping requirements in 5.2.1 through 5.2.6, unless the renovation qualifies for the exception identified in 1.5.1.

1.4.5 Suspension and revocation. On or after the effective date of these regulations, the suspension and revocation provisions in Section 9.0 are effective.

1.4.6 Pre-Renovation information distribution requirements. On or after the effective date of these regulations, firms performing renovations must provide owners and occupants with the EPA pamphlet: "Renovate Right: Important Lead Hazard Information for Families, Child Care Providers and Schools," or any State of

Delaware pamphlet approved by EPA pursuant to 40 CFR §745.326 that is developed for the same purpose.

1.5 Applicability.

1.5.1 These regulations apply to all renovations performed for compensation in target housing and child-occupied facilities, except for the following:

1.5.1.1 Renovations in target housing or child-occupied facilities for which –

1.5.1.1.1 A written determination has been made by an inspector or risk assessor, certified pursuant to 16 **DE Admin Code** 4459, that the components affected by the renovation are free of paint or other surface coatings that contain lead equal to or in excess of 1.0 milligrams/per square centimeter (mg/cm^2) or 0.5% by weight; and

1.5.1.1.2 The firm performing the renovation has obtained a copy of the determination.

1.5.1.2 Renovations in target housing or child-occupied facilities for which –

1.5.1.2.1 A certified Renovator, using an EPA-recognized test kit as defined in 40 CFR §745.83 and following the kit manufacturer's instructions, has tested each component affected by the renovation; and

1.5.1.2.2 The certified Renovator determined that the components are free of paint or other surface coatings that contain lead equal to or in excess of 1.0 mg/cm^2 or 0.5% by weight. If the components make up an integrated whole, such as the individual stair treads and risers of a single staircase, the Renovator is required to test only one of the individual components, unless the individual components appear to have been repainted or refinished separately.

1.5.1.3 Renovations in target housing or child-occupied facilities for which –

1.5.1.3.1 A certified Renovator has collected a paint chip sample from each painted component affected by the renovation;

1.5.1.3.2 The Renovator is required to test only one of the individual components if the components make up an integrated whole, such as the individual stair treads and risers of a single staircase, unless the individual components appear to have been repainted or refinished separately; and

1.5.1.3.3 A laboratory recognized by EPA pursuant to section 405(b) of the Toxic Substances Control Act of 1976, as amended, (15 USC §2601 et.seq.) as being capable of performing analyses for lead compounds in paint chip samples has determined that the samples are free of paint or other surface coatings that contain lead equal to or in excess of 1.0 mg/cm^2 or 0.5% by weight.

1.5.2 Emergency renovations.

1.5.2.1 The information distribution requirements in Section 3.0 do not apply to emergency renovations, which are renovation activities that were not planned but result from a sudden, unexpected event (such as non-routine failures of equipment) that, if not immediately attended to, presents a safety or public health hazard, or threatens equipment and/or property with significant damage. Interim controls performed in response to an elevated blood lead level in a resident child are also emergency renovations.

1.5.2.2 To the extent necessary to respond to the emergency, the warning sign, containment, waste handling, training, and certification requirements in Sections 4.0, 7.0, and 8.0 do not apply to emergency renovations, other than interim controls.

1.5.2.3 Emergency renovations are not exempt from:

1.5.2.3.1 The cleaning requirements in 4.1.5, which must be performed by certified Renovators or individuals trained in accordance with 8.2.2;

1.5.2.3.2 The cleaning verification requirements in 4.2, which must be performed by certified Renovators; and

1.5.2.3.3 The recordkeeping requirements in 5.2.6.

2.0 Definitions

2.1 For purposes of these regulations, the definitions in 16 **DE Admin. Code** 4459, as well as the following definitions apply. The following words and terms when used in this regulation shall have the following meaning unless the context clearly indicates otherwise:

"**Certified Renovator**" means an individual who has been certified by the Secretary to perform renovations.

"**Child-Occupied Facility**" means a building, or portion of a building, constructed prior to 1978, visited regularly by the same child, under six years of age, on at least two different days within any week (Sunday through Saturday period), provided that each day's visit lasts at least three hours and the combined weekly visits last at least six hours, and the combined annual visits last at least 60 hours. Child-occupied facilities may include, but are not limited to day-cares, preschools and kindergarten classrooms. Child-occupied facilities may be located in target housing or in public or commercial buildings. With respect to common areas in public or commercial buildings that contain child-occupied facilities, the child-occupied facility encompasses only those common areas that are routinely used by children under age six, such as restrooms and cafeterias. Common areas that children under age six only pass through, such as hallways, stairways and garages are not included. In addition, with respect to exteriors of public or commercial buildings that contain child-occupied facilities, the child-occupied facility encompasses only the exterior sides of the building that are immediately adjacent to the child-occupied facility or the common areas routinely used by children under age six.

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

"**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 moldings, 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, windows 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 down spouts, ceilings, soffits, fascias, rake boards, corner boards, bulkheads, doors and door trim, fences, floors, joists, lattice work, railings and railing caps, siding handrails, stair risers and treads, stair stringers, columns, balustrades, window sills or stools and troughs, casings, sashes, and wells and air conditioners.

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

"**EPA**" means U.S. Environmental Protection Agency.

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

"**HEPA Vacuum**" means a vacuum cleaner which has been designed with a high-efficiency particulate air (HEPA) filter as the last filtration stage. A HEPA filter is a filter that is capable of capturing particulates of 0.3 microns with 99.97% efficiency. The vacuum cleaner must be designed so that all the air drawn into the machine is expelled through the HEPA filter with none of the air leaking past it. HEPA vacuums must be operated and maintained in accordance with the manufacturer's instructions.

"**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 Activities**" means, in the case of target housing and child-occupied facilities, inspection, risk assessment, abatement, renovation and dust sampling as provided in these regulations and in 16 **DE Admin. Code** 4459.

"**Minor Repair and Maintenance Activities**" means activities, including minor heating, ventilation or air conditioning work, electrical work, and plumbing, that disrupt six square feet or less of painted surface per room for interior activities or 20 square feet or less of painted surface for exterior activities where none of the work practices prohibited or restricted by 4.1.3 are used and where the work does not involve window replacement or demolition of painted surface areas. When removing painted components, or portions of painted components, the entire surface area removed is the amount of painted surface disturbed. Jobs, other

than emergency renovations, performed in the same room within the same 30 days must be considered the same job for the purpose of determining whether the job is a minor repair and maintenance activity.

"**Painted Surface**" means a component surface covered in whole or in part with paint or other surface coatings.

"**Pamphlet**" means the EPA pamphlet titled "Renovate Right: Important Lead Hazard Information for Families, Child Care Providers and Schools" developed under section 406(a) of the Toxic Substances Control Act of 1976, as amended, (15 USC §2601 et.seq.) (TSCA) for use in complying with section 406(b) of TSCA, or any State of Delaware pamphlet approved by EPA pursuant to 40 CFR §745.326 that is developed for the same purpose. This includes reproductions of the pamphlet when copied in full and without revision or deletion of material from the pamphlet (except for the addition or revision of State or local sources of information).

"**Person**" means any natural or judicial person including any individual, corporation, partnership, or association; any Indian Tribe, State, or political subdivision thereof; any interstate body; and any department, agency, or instrumentality of the Federal, State or local government.

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

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

"**Secretary**" means the Administrator of the Department of Health and Social Services (DHSS) of the State of Delaware or the Secretary's designee, who shall hereafter in this document be referred to as: Secretary; The Secretary; or, Secretary, DHSS.

"**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 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, if applicable, hands-on experience.

"**Vertical Containment**" means a vertical barrier consisting of plastic sheeting or other impermeable material over scaffolding or a rigid frame, or an equivalent system of containing the work area. Vertical containment is required for some exterior renovations, but it may be used on any renovation.

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

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

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

3.0 Information Distribution Requirements

3.1 Renovations in dwelling units. No more than 60 days before beginning renovation activities in any residential dwelling unit of target housing, the firm performing the renovation must:

3.1.1 Provide the owner of the unit with the pamphlet, and comply with one of the following:

3.1.1.1 Obtain, from the owner, a written acknowledgment that the owner has received the pamphlet.

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

3.1.2 In addition to the requirements in 3.1.1 of this section, if the owner does not occupy the dwelling unit, provide an adult occupant of the unit with the pamphlet, and comply with one of the following:

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

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

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

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

3.2.1.1 Obtain, from the owner, a written acknowledgment that the owner has received the pamphlet.

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

3.2.2 Comply with one of the following:

3.2.2.1 Notify in writing, or ensure written notification of, each affected unit and make the pamphlet available upon request prior to the start of renovation. Such notification shall be accomplished by distributing written notice to each affected unit. The notice shall describe the general nature and locations of the planned renovation activities; the expected starting and ending dates; and a statement of how the occupant can obtain the pamphlet and a copy of the records required by 5.3 and 5.4, at no cost to the occupants.

3.2.2.2 While the renovation is ongoing, post informational signs describing the general nature and locations of the renovation and the anticipated completion date. These signs must be posted in areas where they are likely to be seen by the occupants of all of the affected units. The signs must be accompanied by a posted copy of the pamphlet or information on how interested occupants can review a copy of the pamphlet or obtain a copy from the renovation firm at no cost to occupants. The signs must also include information on how interested occupants can review a copy of the records required by 5.3 and 5.4 or obtain a copy from the renovation firm at no cost to the occupants.

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

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

3.3 Renovations in child-occupied facilities. No more than 60 days before beginning renovation activities in any child-occupied facility, the firm performing the renovation must:

3.3.1 Provide the owner of the building with the pamphlet, and comply with one of the following:

3.3.1.1 Obtain, from the owner, a written acknowledgment that the owner has received the pamphlet.

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

3.3.2 If the child-occupied facility is not the owner of the building, provide an adult representative of the child-occupied facility with the pamphlet, and comply with one of the following:

3.3.2.1 Obtain, from the adult representative, a written acknowledgment that the adult representative has received the pamphlet; or certify in writing that a pamphlet has been delivered to the facility and that the firm performing the renovation has been unsuccessful in obtaining a written acknowledgment from an adult representative. Such certification must include the address of the child-occupied facility undergoing renovation, the date and method of delivery of the pamphlet, names of the persons delivering the pamphlet, reason for lack of acknowledgment (e.g., representative refuses to sign), the signature of a representative of the firm performing the renovation, and the date of signature.

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

3.3.3 Provide the parents and guardians of children using the child-occupied facility with the pamphlet, information describing the general nature and locations of the renovation and the anticipated completion date, and information on how interested parents or guardians of children frequenting the child-occupied facility can review a copy of the records required by 5.3 and 5.4 or obtain a copy from the renovation firm at no cost to the occupants by complying with one of the following:

3.3.3.1 Mail or hand-deliver the pamphlet and the renovation information to each parent or guardian of a child using the child-occupied facility.

3.3.3.2 While the renovation is ongoing, post informational signs describing the general nature and locations of the renovation and the anticipated completion date. These signs must be posted in

areas where they can be seen by the parents or guardians of the children frequenting the child-occupied facility. The signs must be accompanied by a posted copy of the pamphlet or information on how interested parents or guardians of children frequenting the child-occupied facility can review a copy of the pamphlet or obtain a copy from the renovation firm at no cost to the parents or guardians. The signs must also include information on how interested parents or guardians of children frequenting the child-occupied facility can review a copy of the records required by 5.3 and 5.4 or obtain a copy from the renovation firm at no cost to the parents or guardians.

3.3.4 The renovation firm must prepare, sign, and date a statement describing the steps performed to notify all parents and guardians of the intended renovation activities and to provide the pamphlet.

3.4 Written acknowledgment. The written acknowledgments required by 3.1.1.1, 3.1.2.1, 3.2.1.1, 3.3.1.1, and 3.3.2.1, of this section must:

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

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

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

4.0 Work Practice Standards

4.1 Standards for renovation activities. Renovations must be performed by certified firms using certified Renovators as directed in Section 7.0. The responsibilities of certified firms are set forth in 7.4 and the responsibilities of certified Renovators are set forth in 8.8.

4.1.1 Occupant protection. Firms must post signs clearly defining the work area and warning occupants and other persons not involved in renovation activities to remain outside of the work area. To the extent practicable, these signs must be in the primary language of the occupants. These signs must be posted before beginning the renovation and must remain in place and readable until the renovation and the post-renovation cleaning verification have been completed. If warning signs have been posted in accordance with 24 CFR 35.1345(b)(2) or 29 CFR 1926.62(m), additional signs are not required by this section.

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

4.1.2.1 Interior renovations. The firm must:

4.1.2.1.1 Remove all objects from the work area, including furniture, rugs, and window coverings, or cover them with plastic sheeting or other impermeable material with all seams and edges taped or otherwise sealed.

4.1.2.1.2 Close and cover all ducts opening in the work area with taped-down plastic sheeting or other impermeable material.

4.1.2.1.3 Close windows and doors in the work area. Doors must be covered with plastic sheeting or other impermeable material. Doors used as an entrance to the work area must be covered with plastic sheeting or other impermeable material in a manner that allows workers to pass through while confining dust and debris to the work area.

4.1.2.1.4 Cover the floor surface, including installed carpet, with taped-down plastic sheeting or other impermeable material in the work area six (6) feet beyond the perimeter of surfaces undergoing renovation or a sufficient distance to contain the dust, whichever is greater. Floor containment measures may stop at the edge of the vertical barrier when using a vertical containment system consisting of impermeable barriers that extend from the floor to the ceiling and are tightly sealed at joints with the floor, ceiling and walls.

4.1.2.1.5 Use precautions to ensure that all personnel, tools, and other items, including the exteriors of containers of waste, are free of dust and debris before leaving the work area.

4.1.2.2 Exterior renovations. The firm must:

4.1.2.2.1 Close all doors and windows within 20 feet of the renovation. On multi-story buildings, close all doors and windows within 20 feet of the renovation on the same floor as the renovation, and close all doors and windows on all floors below that are the same horizontal distance from the renovation.

4.1.2.2.2 Ensure that doors within the work area that will be used while the job is being performed are covered with plastic sheeting or other impermeable material in a manner that allows workers to pass through while confining dust and debris to the work area.

4.1.2.2.3 Cover the ground with plastic sheeting or other disposable impermeable material extending 10 feet beyond the perimeter of surfaces undergoing renovation or a sufficient distance to collect falling paint debris, whichever is greater, unless the property line prevents 10 feet of such ground covering. Ground containment measures may stop at the edge of the vertical barrier when using a vertical containment system.

4.1.2.2.4 If the renovation will affect surfaces within 10 feet of the property line, the renovation firm must erect vertical containment or equivalent extra precautions in containing the work area to ensure that dust and debris from the renovation do not contaminate adjacent buildings or migrate to adjacent properties. Vertical containment or equivalent extra precautions in containing the work area may also be necessary in other situations in order to prevent contamination of other buildings, other areas of the property, or adjacent buildings or properties.

4.1.3 Prohibited and restricted practices. The work practices listed below are prohibited or restricted during a renovation as follows:

4.1.3.1 Open-flame burning or torching of painted surfaces is prohibited.

4.1.3.2 The use of machines designed to remove paint or other surface coatings through high speed operation such as sanding, grinding, power planing, needle gun, abrasive blasting, or sandblasting, is prohibited on painted surfaces unless such machines have shrouds or containment systems and are equipped with a HEPA vacuum attachment to collect dust and debris at the point of generation. Machines must be operated so that no visible dust or release of air occurs outside the shroud or containment system.

4.1.3.3 Operating a heat gun on painted surfaces is permitted only at temperatures below 1,100 degrees Fahrenheit.

4.1.4 Waste from renovations.

4.1.4.1 Waste from renovation activities must be contained to prevent releases of dust and debris before the waste is removed from the work area for storage or disposal. If a chute is used to remove waste from the work area, it must be covered.

4.1.4.2 At the conclusion of each work day and at the conclusion of the renovation, waste that has been collected from renovation activities must be stored under containment, in an enclosure, or behind a barrier that prevents release of dust and debris out of the work area and prevents access to dust and debris.

4.1.4.3 When the firm transports waste from renovation activities, the firm must contain the waste to prevent release of dust and debris.

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

4.1.5.1 Interior and exterior renovations. The firm must:

4.1.5.1.1 Collect all paint chips and debris and, without dispersing any of it, seal this material in a heavy-duty bag.

4.1.5.1.2 Remove the protective sheeting. Mist the sheeting before folding it, fold the dirty side inward, and either tape shut to seal or seal in heavy-duty bags. Sheeting used to isolate contaminated rooms from non-contaminated rooms must remain in place until after the cleaning and removal of other sheeting. Dispose of the sheeting as waste.

4.1.5.2 Additional cleaning for interior renovations. The firm must clean all objects and surfaces in the work area and within two (2) feet of the work area in the following manner, cleaning from higher to lower:

4.1.5.2.1 Clean walls starting at the ceiling and working down to the floor by either vacuuming with a HEPA vacuum or wiping with a damp cloth.

4.1.5.2.2 Thoroughly vacuum all remaining surfaces and objects in the work area, including furniture and fixtures, with a HEPA vacuum. The HEPA vacuum must be equipped with a beater bar when vacuuming carpets and rugs.

4.1.5.2.3 Wipe all remaining surfaces and objects in the work area, except for carpeted or upholstered surfaces, with a damp cloth. Mop uncarpeted floors thoroughly, using a mopping method that keeps the wash water separate from the rinse water, such as the 2-bucket mopping method, or using a wet mopping system.

4.2 Standards for post-renovation cleaning verification.

4.2.1 Interiors.

4.2.1.1 A certified Renovator must perform a visual inspection to determine whether dust, debris or residue is still present. If dust, debris or residue is present, these conditions must be removed by re-cleaning and another visual inspection must be performed.

4.2.1.2 After a successful visual inspection, a certified Renovator must:

4.2.1.2.1 Verify that each windowsill in the work area has been adequately cleaned, using the following procedure.

4.2.1.2.1.1 Wipe the windowsill with a wet disposable cleaning cloth that is damp to the touch. If the cloth matches or is lighter than the cleaning verification card, the windowsill has been adequately cleaned.

4.2.1.2.1.2 If the cloth does not match and is darker than the cleaning verification card, re-clean the windowsill as directed in paragraphs 4.1.5.2.2 and 4.1.5.2.3, then either use a new cloth or fold the used cloth in such a way that an unused surface is exposed, and wipe the surface again. If the cloth matches or is lighter than the cleaning verification card, that windowsill has been adequately cleaned.

4.2.1.2.1.3 If the cloth does not match and is darker than the cleaning verification card, wait for one (1) hour or until the surface has dried completely, whichever is longer. After waiting for the windowsill to dry, wipe the windowsill with a dry disposable cleaning cloth. After this wipe, the windowsill has been adequately cleaned.

4.2.1.2.2 Wipe uncarpeted floors and countertops within the work area with a wet disposable cleaning cloth. Floors must be wiped using an application device with a long handle and a head to which the cloth is attached. The cloth must remain damp at all times while it is being used to wipe the surface for post-renovation cleaning verification. If the surface within the work area is greater than 40 square feet, the surface within the work area must be divided into roughly equal sections that are each less than 40 square feet. Wipe each such section separately with a new wet disposable cleaning cloth. If the cloth used to wipe each section of the surface within the work area matches the cleaning verification card, the surface has been adequately cleaned.

4.2.1.2.2.1 If the cloth used to wipe a particular surface section does not match the cleaning verification card, re-clean that section of the surface as directed in paragraphs 4.1.5.2.2 and 4.1.5.2.3 of this section, then use a new wet disposable cleaning cloth to wipe that section again. If the cloth matches the cleaning verification card, that section of the surface has been adequately cleaned.

4.2.1.2.2.2 If the cloth used to wipe a particular surface section does not match the cleaning verification card after the surface has been re-cleaned, wait for one (1) hour or until the entire surface within the work area has dried completely, whichever is longer. After waiting for the entire surface within the work area to dry, wipe each section of the surface that has not yet achieved post-renovation cleaning verification with a dry disposable cleaning cloth. After this wipe, that section of the surface has been adequately cleaned.

4.2.1.3 When the work area passes the post-renovation cleaning verification, remove the warning signs.

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

4.3 Optional dust clearance testing. Cleaning verification need not be performed if the contract between the renovation firm and the person contracting for the renovation or a Federal or Tribal law or regulation requires:

4.3.1 The renovation firm to perform dust clearance sampling at the conclusion of a renovation covered by these regulations.

4.3.2 The dust clearance samples be collected by a certified Inspector, Risk Assessor or Dust Wipe Technician.

4.3.3 The renovation firm to re-clean the work area until the dust clearance sample results are below the clearance standards in 16 **DE Admin. Code** 4459, §5.1.

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

5.0 Recordkeeping and Reporting Requirements

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

5.2 Records that must be retained pursuant to paragraph 5.1 of this section shall include (where applicable):

5.2.1 Records or reports certifying that a determination had been made that lead-based paint was not present on the components affected by the renovation, as described in 1.5.1. These records or reports include:

5.2.1.1 Reports prepared by a certified Inspector or certified Risk Assessor as defined in 16 **DE Admin. Code** 4459.

5.2.1.2 Records prepared by a certified Renovator after using EPA-recognized test kits, including an identification of the manufacturer and model of any test kits used, a description of the components that were tested including their locations, and the result of each test kit used.

5.2.1.3 Records prepared by a certified Renovator after collecting paint chip samples, including a description of the components that were tested and their locations, the name and address of the NLLAP-recognized entity performing the analysis, and the results for each sample.

5.2.2 Signed and dated acknowledgments of receipt as described in 3.1.1.1, 3.1.2.1, 3.2.1.1, 3.3.1.1 and 3.3.2.1.

5.2.3 Certifications of attempted delivery as described in 3.1.2.1 and 3.3.2.1.

5.2.4 Certificates of mailing as described in 3.1.1.1, 3.2.1.2, 3.3.1.2, and 3.3.2.2.

5.2.5 Records of notification activities performed regarding common area renovations, as described in 3.2.3 and 3.2.4 and renovations in child-occupied facilities, as described 3.3.3.

5.2.6 Documentation of compliance with the requirements of Section 4.0, including documentation that a certified Renovator was assigned to the project, that the certified Renovator provided on-the-job training for workers used on the project, that the certified Renovator performed or directed workers who performed all of the tasks described in 4.1, and that the certified Renovator performed the post-renovation cleaning verification described in 4.2. If the renovation firm was unable to comply with all of the requirements of this rule due to an emergency as defined in 1.5, the firm must document the nature of the emergency and the provisions of the rule that were not followed. This documentation must include a copy of the certified Renovator's training certificate, and a certification by the certified Renovator assigned to the project that:

5.2.6.1 Training was provided to workers (topics must be identified for each worker).

5.2.6.2 Warning signs were posted at the entrances to the work area.

5.2.6.3 If test kits were used, the specified brand of kits was used at the specified locations and that the results were as specified.

5.2.6.4 If paint chip samples were collected, the samples were collected at the specified locations, the specified NLLAP-recognized laboratory analyzed the samples, and the results were as specified.

5.2.6.5 The work area was contained by:

5.2.6.5.1 Removing or covering all objects in the work area (interiors).

5.2.6.5.2 Closing and covering all HVAC ducts in the work area (interiors).

5.2.6.5.3 Closing all windows in the work area (interiors) or closing all windows in and within 20 feet of the work area (exteriors).

5.2.6.5.4 Closing and sealing all doors in the work area (interiors) or closing and sealing all doors in and within 20 feet of the work area (exteriors).

5.2.6.5.5 Covering doors in the work area that were being used to allow passage but prevent spread of dust.

5.2.6.5.6 Covering the floor surface, including installed carpet, with taped-down plastic sheeting or other impermeable material in the work area six (6) feet beyond the perimeter of surfaces undergoing renovation or a sufficient distance to contain the dust, whichever is greater (interiors); or covering the ground with plastic sheeting or other disposable impermeable material anchored to the building extending 10 feet beyond the perimeter of surfaces undergoing renovation or a sufficient distance to collect falling paint debris, whichever is greater, unless the property line prevents 10 feet of such ground covering, weighted down by heavy objects (exteriors).

5.2.6.5.7 Installing (if necessary) vertical containment to prevent migration of dust and debris to adjacent property (exteriors).

5.2.6.6 Waste was contained on-site and while being transported off-site.

5.2.6.7 The work area was properly cleaned after the renovation by:

5.2.6.7.1 Picking up all chips and debris, misting protective sheeting, folding it dirty side inward, and taping it for removal.

5.2.6.7.2 Cleaning the work area surfaces and objects using a HEPA vacuum and/or wet cloths or mops (interiors).

5.2.6.8 The certified Renovator performed the post-renovation cleaning verification (the results of which must be briefly described, including the number of wet and dry cloths used).

5.3 Compliance Information.

5.3.1 When the final invoice for the renovation is delivered or within 30 days of the completion of the renovation, whichever is earlier, the renovation firm must provide information pertaining to compliance with these regulations to the following persons:

5.3.1.1 The owner of the building; and, if different,

5.3.1.2 An adult occupant of the residential dwelling, if the renovation took place within a residential dwelling, or an adult representative of the child-occupied facility, if the renovation took place within a child-occupied facility.

5.3.2 When performing renovations in common areas of multi-unit target housing, renovation firms must post the information required by these regulations or instructions on how interested occupants can obtain a copy of this information. This information must be posted in areas where it is likely to be seen by the occupants of all of the affected units.

5.3.3 The information required to be provided by 5.3 may be provided by completing the sample form titled “Sample Renovation Recordkeeping Checklist” or a similar form containing the test kit information required by 5.2.1.2 and the training and work practice compliance information required by 5.2.6.

5.4 Dust clearance sampling.

5.4.1 If dust clearance sampling is performed in lieu of cleaning verification as permitted by §4.3. the renovation firm must provide, when the final invoice for the renovation is delivered or within 30 days of the completion of the renovation, whichever is earlier, a copy of the dust sampling report to:

5.4.1.1 The owner of the building; and, if different,

5.4.1.2 An adult occupant of the residential dwelling, if the renovation took place within a residential dwelling, or an adult representative of the child-occupied facility, if the renovation took place within a child-occupied facility.

5.4.2 When performing renovations in common areas of multi-unit target housing, renovation firms must post these dust sampling reports or information on how interested occupants of the housing being renovated can obtain a copy of the report. This information must be posted in areas where they are likely to be seen by the occupants of all of the affected units.

6.0 Enforcement and Inspections.

6.1 Failure or refusal to comply with any provision of these regulations is a prohibited act.

6.2 Failure or refusal to establish and maintain records or to make available or permit access to or copying of records, as required by these regulations is a prohibited act.

6.3 Failure or refusal to permit entry or inspection as required by these regulations is a prohibited act

6.4 In addition to the above, any individual or firm that performs any of the following acts shall be deemed to have committed a prohibited act. These include but are limited to the following:

6.4.1 Obtaining certification through fraudulent representation.

6.4.2 Failing to obtain certification from the Secretary and performing work at a job site.

6.4.3 Fraudulently obtaining certification and engaging in any lead based paint activity requiring certification.

6.5 Violators may be subject to civil and criminal sanctions pursuant to 16 **Del.C.** §107 for each violation of the requirements established in these regulations.

6.6 Lead-based paint is assumed to be present at renovations covered by these regulations.

7.0 Firm Certification

7.1 Initial certification.

7.1.1 Firms that perform renovations for compensation must apply to the Secretary for certification to perform renovations or dust sampling. To apply, a firm must:

7.1.1.1 Use an application form approved by the Secretary.

7.1.1.2 Submit a completed application signed by an authorized agent of the firm attesting that:

7.1.1.2.1 The firm and its employees shall permit the Secretary access to enter premises or facilities where the firm conducts business, including work sites, to execute reasonable inspection, including taking samples, to ensure compliance with regulations;

7.1.1.2.2 The firm and its employees shall follow the work practices in Section 4.0; and

7.1.1.2.3 The firm shall only employ appropriately certified Renovators and Dust Wipe Technicians to conduct renovations for compensation in target housing and child-occupied facilities.

7.1.1.3 Submit the correct certification fee amount with the completed application.

7.1.2 After receipt of a firm's application, the Secretary will take one of the following actions within 90 days of the date the application is received:

7.1.2.1 Approve the firm's application if it is complete and that the environmental compliance history of the firm, its principals, or its key employees does not show an unwillingness or inability to maintain compliance with environmental statutes or regulations. A signed application is complete if it contains all of the information requested on the form, including the signed attestation, and the correct fee amount is received by the Secretary. Upon approval, the Secretary issues the firm a certificate with an expiration date not more than 2 years from the date the application is approved.

7.1.2.2 Not approve the firm's application if the firm did not provide a complete application and the correct certification fee amount, or if the Secretary determines that the environmental compliance history of the firm, its principals, or its key employees demonstrates an unwillingness or inability to maintain compliance with environmental statutes or regulations. The Secretary will send the firm a letter giving the reason for not approving the application and will return the submitted fee. A firm may reapply for certification at any time by filing a new, complete application that includes the correct fee amount.

7.2 Re-certification.

7.2.1 To maintain its certification, a firm must be re-certified by the Secretary every two (2) years and must submit a timely and complete application. To be re-certified, a firm must:

7.2.1.1 Use an application form approved by the Secretary.

7.2.1.2 Submit a completed application signed by an authorized agent of the firm attesting that:

7.2.1.2.1 The firm and its employees shall permit the Secretary access to enter premises or facilities where the firm conducts business, including work sites, to execute reasonable inspection, including taking samples, to ensure compliance with regulations;

7.2.1.2.2 The firm and its employees shall follow the work practices in Section 4.0; and

7.2.1.2.3 The firm shall only employ appropriately certified Renovators and Dust Wipe Technicians to conduct renovations for compensation in target housing and child-occupied facilities

7.2.1.3 Submit the correct certification fee amount with the completed application.

7.2.1.4 An application for re-certification is timely if it is postmarked 90 days or more before the date the firm's current certification expires.

7.2.1.4.1 If the firm's application is complete and timely, the firm's current certification will remain in effect until its expiration date or until the Secretary has made a final decision to approve or disapprove the re-certification application, whichever is later.

7.2.1.4.2 If the firm submits a complete re-certification application less than 90 days before its current certification expires, and the Secretary does not approve the application before the expiration date, the firm's current certification will expire and the firm will not be able to conduct renovations until the Secretary approves its re-certification application.

7.2.1.5 If an application for re-certification is not submitted prior to the expiration of the firm's current certification expires, the firm must not perform renovations or dust sampling until it is certified anew pursuant to 7.1.

7.2.2 After receipt of a firm's application for re-certification, the Secretary will review the application and take one of the following actions within 90 days of receipt:

7.2.2.1 Approve the firm's application if the Secretary determines that it is timely and complete and that the environmental compliance history of the firm, its principals, or its key employees does not show an unwillingness or inability to maintain compliance with environmental statutes or regulations. The Secretary will issue the firm a new certificate with an expiration date 2 years from the date that the firm's current certification expires.

7.2.2.2 Not approve a firm's re-certification application if it is not received or is not complete and the correct certification fee amount was not submitted as of the date that the firm's current certification expires, or if the Secretary determines that the environmental compliance history of the firm, its principals, or its key employees demonstrates an unwillingness or inability to maintain compliance with environmental statutes or regulations. The Secretary will send the firm a letter and will return the fee. A firm may reapply for certification at any time by filing a new application and paying the correct amount of fees.

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

7.3.1 To amend a certification, a firm must submit a complete application for re-certification. A complete application for re-certification:

7.3.1.1 Uses the form approved by the Secretary for re-certification, contains all of the information requested on the form and clearly indicates which items have changed;

7.3.1.2 Is signed by an authorized agent of the firm attesting that:

7.3.1.2.1 The firm and its employees shall permit the Secretary access to enter premises or facilities where the firm conducts business, including work sites, to execute reasonable inspection, including taking samples, to ensure compliance with regulations;

7.3.1.2.2 The firm and its employees shall follow the work practices in Section 4.0.; and

7.3.1.2.3 The firm shall only employ appropriately certified Renovators and Dust Wipe Technicians to conduct renovations for compensation in target housing and child-occupied facilities

7.3.2 If additional information is needed to process the amendment, the Secretary will return the amendment to the firm with a letter giving the reason for not approving the amendment. The firm's certification is not amended until the firm complies with 7.3.1.

7.3.3 Amending a certification does not affect the certification expiration date.

7.4 Firm responsibilities. Responsibilities of firms performing renovations include, but are not limited to ensuring that:

7.4.1 All individuals performing renovation activities on behalf of the firm are either certified Renovators or have been trained by a certified Renovator in accordance with Section 8.0.

7.4.2 A certified Renovator is assigned to each renovation performed by the firm and discharges all of the certified Renovator responsibilities identified in Section 8.0.

7.4.3 All renovations performed by the firm are performed in accordance with the work practice standards in Section 4.0.

7.4.4 The pre-renovation education requirements of Section 3.0 have been performed.

7.4.5 The recordkeeping requirements of Section 5.0 are met.

8.0 Renovator Certification and Dust Wipe Technician Certification and Responsibilities

8.1 Renovator certification and Dust Wipe Technician certification. Except as provided in 8.2, individuals seeking Renovator and Dust Wipe Technician certification must either:

8.1.1 Submit to the Secretary, a complete application on a form approved by the Secretary demonstrating that they meet the requirements established in 8.3 for the particular discipline for which certification is sought and the required certification fee; or

8.1.2 Submit to the Secretary, an application that includes:

8.1.2.1 A copy of a valid lead-based paint activities Renovator or Dust Wipe Technician certification (or equivalent) from a State or Tribal program that has been authorized by the EPA;

8.1.2.2 A passport or digital photo of the applicant; and

8.1.2.3 The required certification fee.

8.2 A Renovator or Dust Wipe Technician accredited by EPA as of the effective date of these regulations shall be deemed accredited only:

8.2.1 Through the expiration date of that EPA certification, and

8.2.2 Upon the Secretary's receipt of documentation of that EPA certification.

8.3 In addition to the requirements in 8.1, to become a certified Renovator or certified Dust Wipe Technician, an individual must successfully complete the appropriate course accredited by the Secretary, EPA, or a State or Tribal program authorized by EPA.

8.4 Following the submission of a complete application demonstrating that all the requirements of this section have been met and the required certification fee, the Secretary shall certify an applicant as a Renovator or Dust Wipe Technician, as appropriate for a period of two (2) years.

8.5 Upon receiving certification from the Secretary, all Renovators and Dust Wipe Technicians must comply with the work practice standards established in Section 4.0 of these regulations.

8.6 On or after the effective date of these regulations, it shall be a violation of the work practice standards for an individual to conduct any renovation activities described in Section 4.0, if that individual has not been certified by the Secretary.

8.7 To maintain Renovator certification or Dust Wipe Technician certification, an individual must complete a Renovator or Dust Wipe Technician Refresher course accredited by the Secretary, EPA, or a State or Tribal program authorized by EPA:

8.7.1 Within 2 years of the date the individual successfully completed the initial or refresher course, as applicable, except as provided in 8.7.2 and 8.7.3.

8.7.2 Prior to the expiration of the individual's EPA certification, if the individual was certified by EPA as of the effective date of these regulations.

8.7.3 An individual may apply to be recertified by the Secretary during the six-month period following certification expiration only if the individual has not performed any renovation activities authorized by that certification after the date that the certification expired.

8.7.4 If an individual does not complete a refresher course within the timeframes required, as appropriate by these regulations, the individual must re-take the initial course to become certified again.

8.8 Renovator responsibilities. Certified Renovators are responsible for ensuring compliance with Section 4.0 at all renovations to which they are assigned. A certified Renovator:

8.8.1 Must perform all of the tasks described in 4.2 and must either Perform, or direct workers who perform, all of the tasks described in 4.1.

8.8.2 Must provide training to workers on the work practices required by 4.1 that they will be using in performing their assigned tasks.

8.8.3 Must be physically present at the work site when the signs required by 4.1.1 are posted, while the work area containment required by 4.1.2 is being established, and while the work area cleaning required by 4.1.5 is performed.

8.8.4 Must regularly direct work being performed by other individuals to ensure that the work practices required by 4.1 are being followed, including maintaining the integrity of the containment barriers and ensuring that dust or debris does not spread beyond the work area.

8.8.5 Must be available, either on-site or by telephone, at all times that renovations are being conducted.

8.8.6 When requested by the party contracting for renovation services, must use an acceptable test kit or take paint chip samples to determine whether components to be affected by the renovation contain lead-based paint.

8.8.7 Must have with them at the work site:

8.8.7.1 Their certification from the Secretary, or

8.8.7.2 Only if they meet the certification requirement at 8.2, copies of their initial course completion certificate and their most recent refresher course completion certificate.

8.8.8 Must prepare the records required by 5.2.1.2 and 5.2.6.

8.9 Dust Wipe Technician responsibilities. When performing optional dust clearance sampling under §3.3, a certified Dust Wipe Technician:

8.9.1 Must collect dust samples in accordance with 16 **DE Admin. Code** 4459, §5.5.8, must send the collected samples to a laboratory recognized by EPA under TSCA section 405(b), and must compare the results to the clearance levels in accordance with 16 **DE Admin. Code** 4459, §5.5.8.

8.9.2 Must have with them at the work site:

8.9.2.1 Their certification from the Secretary, or

8.9.2.2 Only if they meet the certification requirement at 8.2, copies of their initial course completion certificate and their most recent refresher course completion certificate.

9.0 Suspending, Revoking, or Modifying an Individual's or Firm's Certification

9.1 Grounds for suspension, revocation, or modification.

9.1.1 Grounds for suspending, revoking, or modifying an individual's certification. The Secretary may, after notice and opportunity for hearing, suspend, revoke, or modify an individual's certification if:

9.1.1.1 The individual fails to comply with Federal lead-based paint statutes or regulations, or Delaware lead-based paint statutes or regulations.

9.1.1.2 The Renovator fails to ensure that all assigned renovations comply with Section 4.0.

9.1.1.3 Obtained training documentation through fraudulent means.

9.1.1.4 Gained admission to and completed an accredited training program through misrepresentation of admission requirements.

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

9.1.1.6 Performed work requiring certification at a job site without having proof of certification.

9.1.1.7 Permitted the duplication or use of the individual's own certificate by another.

9.1.1.8 Performed work for which appropriate certification has not been received.

9.1.1.9 Failed to comply with the appropriate work practice standards for lead-based paint activities in Section 4.0.

9.1.1.10 Denied the Secretary access to enter premises or facilities where the certified individual conducts business, including work sites, to execute reasonable inspection, including taking samples, to ensure compliance with regulations.

9.1.2 Grounds for suspending, revoking, or modifying a firm's certification.

9.1.2.1 The Secretary may, after notice and opportunity for hearing, suspend, revoke, or modify a firm's certification if the firm:

9.1.2.1.1 Submits false or misleading information in its application for certification or re-certification.

9.1.2.1.2 Fails to maintain or falsifies records required in Section 5.0.

9.1.2.1.3 Fails to comply, or an individual performing a renovation on behalf of the firm fails to comply, with Federal lead-based paint statutes or regulations or Delaware lead-based paint statutes or regulations.

9.1.2.1.4 Performed work requiring certification at a job site with individuals who are not certified.

9.1.2.1.5 Failed to comply with the work practice standards established in Section 4.0.

9.1.2.1.6 Misrepresented facts in its certification application or letter.

9.1.2.1.7 Failed to maintain required records.

9.1.2.1.8 Denied the Secretary access to enter premises or facilities where the certified firm conducts business, including work sites, to execute reasonable inspection, including taking samples, to ensure compliance with regulations

9.1.3 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.

9.2 Process for suspending, revoking, or modifying certification.

9.2.1 Prior to taking action to suspend, revoke, or modify an individual's or firm's certification, the Secretary will notify the affected entity in writing of the following:

9.2.1.1 The legal and factual basis for the proposed suspension, revocation, or modification.

9.2.1.2 The anticipated commencement date and duration of the suspension, revocation, or modification.

9.2.1.3 Actions, if any, which the affected entity may take to avoid suspension, revocation, or modification, or to receive certification in the future.

9.2.1.4 The opportunity and method for requesting a hearing prior to final suspension, revocation, or modification.

9.2.2 If an individual or firm requests a hearing within 20 days of the postmarked date of the Secretary's notification in 9.2.1, the Secretary will:

9.2.2.1 Provide the affected entity an opportunity to offer written statements in response to Secretary's assertions of the legal and factual basis for its proposed action, and any other explanations, comments, and arguments it deems relevant to the proposed action.

9.2.2.2 Provide the affected entity such other procedural opportunities as the Secretary may deem appropriate to ensure a fair and impartial hearing.

9.2.2.3 Appoint an official Hearing Officer. No person shall serve as a Hearing Officer if he or she has had any prior involvement with the specific matter.

9.2.3 The Hearing Officer will:

9.2.3.1 Conduct a fair, orderly, and impartial hearing within 90 days of the request for a hearing.

9.2.3.2 Consider all relevant evidence, explanation, comment, and argument submitted.

9.2.3.3 Notify the Secretary in writing within 45 days of completion of the hearing of his or her decision. The Secretary shall either accept or reject the decision. If accepted, the Secretary issues a final order within 45 days of receiving the Hearing Officer's decision. Such an order is a final agency action, which may be subject to judicial review by Superior Court. The order contains the commencement date and duration of the suspension, revocation, or modification.

9.2.4 If the Secretary determines that the public health, interest, or welfare warrants immediate action to suspend the certification of any individual or firm, or if an individual or firm denies the Secretary access for purposes of inspection or taking samples, prior to the opportunity for a hearing, the Secretary will:

9.2.4.1 Notify the affected entity in accordance with paragraph 9.2.1.1 through 9.2.1.3 of this section, explaining why it is necessary to suspend the entity's certification before an opportunity for a hearing.

9.2.4.2 Notify the affected entity of its right to request a hearing on the immediate suspension within 15 days of the suspension taking place and the procedures for the conduct of such a hearing.

9.2.5 Any notice, decision, or order issued by the Secretary under this section, any transcript or other verbatim record of oral testimony, and any documents filed by a certified individual or firm in a hearing under this section will be available to the public. Any such hearing at which oral testimony is presented will be open to the public, except that the Presiding Officer may exclude the public to the extent necessary to allow presentation of information which may be entitled to confidential treatment.

9.2.6 The Secretary will maintain a publicly available list of entities whose certification has been suspended, revoked, modified, or reinstated.

9.2.7 Unless the decision and order issued under paragraph 9.2.3.3 of this section specify otherwise:

9.2.7.1 An individual whose certification has been suspended must take a refresher training course (Renovator or Dust Wipe Technician) in order to make his or her certification current.

9.2.7.2 An individual whose certification has been revoked must take an initial Renovator or Dust Wipe Technician course in order to become certified again.

9.2.7.3 A firm whose certification has been revoked must reapply for certification after the revocation ends in order to become certified again. If the firm's certification has been suspended and the suspension ends less than two (2) years after the firm was initially certified or re-certified, the firm does not need to do anything to re-activate its certification.

10.0 Fees for the Accreditation of Renovation and Dust Wipe Technician Training, Certification of Renovation Firms, and Certification of Individual Renovators and Dust Wipe Technicians.

10.1 Persons who must pay fees. Fees in accordance with 10.2 of this section must be paid by:

10.1.1 Training programs. All training programs applying for the accreditation and re-accreditation of training programs in one or more of the following disciplines: Renovator, Dust Wipe Technician.

10.1.2 Firms. All firms applying for certification and re-certification to conduct renovations.

10.1.3 Individuals. All individuals applying for certification and re-certification as Renovators or Dust Wipe Technicians.

10.2 Fee amounts.

10.2.1 Certification and accreditation fees. Initial and renewal certification and accreditation fees are specified as follows:

10.2.1.1 Training Program Accreditation.

10.2.1.1.1 Initial Renovator or Dust Wipe Technician Course Accreditation - $200 per year for a two-year period.

10.2.1.1.2 Re-accreditation of Initial Renovator or Dust Wipe Technician Course $200 per year for a two-year period.

10.2.1.1.3 Refresher Renovator Course or Dust Wipe Technician Course - $200 per year for a two-year period.

10.2.1.1.4 Re-accreditation of Refresher Dust Wipe Technician Course - $200 per year for a two-year period.

10.2.1.2 Renovation Firm Certification.

10.2.1.2.1 Initial certification - $50 per year for a two-year period.

10.2.1.2.2 Re-certification - $50 per year for a two-year period.

10.2.1.3 Individual Renovator and Dust Wipe Technician Certification.

10.2.1.3.1 Initial certification - $50 per year for a two-year period.

10.2.1.3.2 Re-certification - $50 per year for a two-year period.

10.2.2 Accreditation or certification amendments. No fee will be charged for accreditation or certification amendments.

10.3 Failure to remit fees.

10.3.1 The Secretary will not provide certification, re-certification, accreditation, or re-accreditation for any training program, firm or individual that does not remit fees described in 10.2 of this section in accordance with the procedures specified in Section 7.0.

11.0 Accreditation of Training Programs and Application and Renewal Requirements

11.1 Accreditation of training programs. On or after the effective date of these regulations, it shall be unlawful for any person or firm to provide, offer to provide, or claim to provide training in one or more of the following disciplines without first possessing an approval from the Secretary as an accredited training program: Renovator and Dust Wipe Technician.

11.1.1 Accredited training programs shall provide, offer to provide, and claim to provide training only for the disciplines for which they are approved.

11.1.2 The Secretary approves an accredited training program for any firm or business that applies and meets the qualifications specified in these regulations.

11.1.3 A training provider may seek accreditation to offer courses in any of the following disciplines: Renovator and Dust Wipe Technician. A training provider may seek accreditation to offer initial and refresher courses for each of the disciplines.

11.2 Application process. The following are procedures a training provider must follow to receive accreditation to offer Renovator and Dust Wipe Technician courses:

11.2.1 A training provider seeking accreditation shall submit a written application to the Secretary containing the following information:

11.2.1.1 The training provider's business name, address, and telephone number.

11.2.1.2 Written evidence that the applicant has been approved by the Delaware Department of Education as a training provider.

11.2.1.3 A list of courses for which it is applying for accreditation. For the purposes of this section, courses taught in different languages and electronic learning courses are considered different courses, and each must independently meet the accreditation requirements.

11.2.1.4 A statement signed by the training program manager certifying that the training program meets the requirements established in these regulations. If a training program uses EPA-recommended model training materials, or training materials approved by the Secretary, the training program manager shall include a statement certifying that, as well.

11.2.1.5 The name and documentation of the qualifications of the training program manager.

11.2.1.6 The name(s) and documentation of qualifications of any principal instructor(s).

11.2.1.7 If a training provider does not use EPA-recommended model training materials or training materials approved by the Secretary, its application for accreditation shall also include:

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

11.2.1.7.2 A copy of the course agenda for each course.

11.2.1.7.3 When applying for accreditation of a course in a language other than English, a signed statement from a qualified, independent translator that they had compared the course to the English language version and found the translation to be accurate.

11.2.1.8 All training providers shall include in their application for accreditation the following:

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

11.2.1.8.2 The name, address and location of the training facility.

11.2.1.8.3 A description of the activities and procedures that will be used for conducting the assessment of hands-on skills for each course.

11.2.1.8.4 A copy of the quality control plan as described in 11.3.10.

11.2.1.8.5 A certified check or a check written on a business account in the appropriate amount as provided in Section 10.0 made payable to the Division of Public Health.

11.2.1.8.6 A copy of the course test blueprint for each course.

11.2.2 If a training program meets the requirements in 11.3, then the Secretary will approve the application for accreditation no more than 90 days after receiving a complete application from the training provider. In the case of approval, a certificate of accreditation shall be sent to the applicant. In the case of disapproval, a letter describing the reasons for disapproval shall be sent to the applicant. Prior to disapproval, the Secretary may, at the Secretary's discretion, work with the applicant to address inadequacies in the application for accreditation. The Secretary, within the 90 day period, may also request additional materials retained by the training provider under 11.9. If the Secretary requests additional materials, the time period for approval may extend beyond 90 days. If a training provider's application is disapproved, the provider may reapply for accreditation at any time. Application fees for disapproved training programs will not be refunded.

11.2.3 A training provider may apply for accreditation to offer courses or refresher courses in as many disciplines as it chooses. A training provider may seek accreditation for additional courses at any time as long as the provider can demonstrate that it meets the requirements of this section.

11.3 Requirements for the accreditation of training programs. For a training provider to obtain accreditation from the Secretary to offer Renovator and Dust Wipe Technician courses, the program must meet the following requirements:

11.3.1 The training program must employ a training manager who has demonstrated experience, education, or training in the construction industry in the areas of lead abatement, painting, carpentry, renovation, remodeling, occupational safety and health or industrial hygiene, and meets one of the following requirements:

11.3.1.1 At least two (2) years of experience, education, or training in teaching workers or adults, that is satisfactory to the Secretary; or

11.3.1.2 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

11.3.1.3 Two years of experience in managing a training program specializing in environmental hazards.

11.3.2 The training manager shall designate a qualified principal instructor for each course who has:

11.3.2.1 Demonstrated experience, education, or training in teaching workers or adults;

11.3.2.2 Successfully completed at least 8 hours of any EPA-accredited or EPA-authorized State or Tribal accredited lead-specified training; and

11.3.2.3 Demonstrated experience, education, or training in lead abatement, painting, carpentry, renovation, remodeling, occupational safety and health, or industrial hygiene.

11.3.3 The principal instructor shall be responsible for the organization of the course, course delivery, and oversight of the teaching of all course material. The training manager may designate guest instructors as needed for a portion of the course to provide instruction specific to the lecture, hands-on activities, or work practice portions of a course. However, the principal instructor is primarily responsible for teaching the course materials and must be present to provide instruction (or oversight of portions of the course taught by guest instructors) for the course for which he has been designated as the principal instructor.

11.3.4 The following documents shall be accepted as evidence that training managers and principal instructors have the education, work experience, training requirements, or demonstrated experience, specifically listed in 11.3.1 and 11.3.2. This documentation must be submitted with the accreditation application and retained by the training program as required by the record keeping requirements contained in 11.9. Those documents include the following:

11.3.4.1 Official academic transcripts or diploma as evidence of meeting the education requirements.

11.3.4.2 Resumes, letters of reference, or documentation of work experience, as evidence of meeting the work experience requirements.

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

11.3.5 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.

11.3.6 To become accredited in the following disciplines, the training program shall provide training courses that meet the following training requirements.

11.3.6.1 The Initial Renovator course must last a minimum of eight (8) training hours, with a minimum of two (2) hours devoted to hands-on activities. The minimum curriculum requirements for the Initial Renovator course are contained in 11.4.1.

11.3.6.2 The Initial Dust Wipe Technician course must last a minimum of eight (8) training hours, with a minimum of two (2) hours devoted to hands-on activities. The minimum curriculum requirements for the Initial Renovator course are contained in 11.4.2.

11.3.7 Electronic learning and other alternative course delivery methods are permitted for the classroom portion of Renovator or Dust Wipe Technician courses but not the hands-on portion of these courses, or for final course tests or proficiency tests described in 11.3.8. Electronic learning courses must comply with the following requirements:

11.3.7.1 A unique identifier must be assigned to each student for them to use to launch and re-launch the course.

11.3.7.2 The training provider must track each student's course log-ins, launches, progress, and completion, and maintain these records as required in 11.9.

11.3.7.3 The course must include periodic knowledge checks equivalent to the number and content of the knowledge checks contained in EPA's model course, but at least 16 over the entire course. The knowledge checks must be successfully completed before the student can go on to the next module.

11.3.7.4 There must be a test of at least 20 questions at the end of the electronic learning portion of the course, of which 80% must be answered correctly by the student for successful completion of the electronic learning portion of the course. The test must be designed so that students do not receive feedback on their test answers until after they have completed and submitted the test.

11.3.7.5 Each student must be able to save or print a copy of an electronic learning course completion certificate. The electronic certificate must not be susceptible to easy editing.

11.3.8 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 student 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.

11.3.8.1 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. For quality assurance, there will be periodic revision of the course assessment or proficiency test.

11.3.8.2 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. For quality assurance, there shall be periodic revision of the course assessment or proficiency test. The course test blueprint shall be submitted to the Secretary.

11.3.8.3 The course test shall be developed in accordance with the test blueprint submitted with the training accreditation application.

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

11.3.9.1 The name, unique identification number, and address of the individual.

11.3.9.2 The business name, address and phone number of the accredited training program provider and program, and the name of the training manager.

11.3.9.3 The name of the particular course that the individual completed.

11.3.9.4 Date(s) of course completion/test passage.

11.3.9.5 The language in which the course was taught.

11.3.9.6 A photograph of the individual. The photograph must be an accurate and recognizable image of the individual. As reproduced on the certificate, the photograph must not be smaller than one (1) square inch.

11.3.10 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:

11.3.10.1 Procedures for periodic revision of training materials and the course test to reflect innovations in the field.

11.3.10.2 Procedures for the training manager's annual review of principal instructor competency.

11.3.11 The training program must offer courses that teach the applicable work practice standards in Section 4.0 for conducting renovations. These standards must be taught in the appropriate courses and training environments to provide trainees with the knowledge needed to perform the activities they are responsible for conducting.

11.3.12 The training manager shall be responsible for ensuring that the training program complies at all times with all of the requirements in this Section.

11.3.13 The training provider and training manager must allow the Secretary to conduct, at the Secretary's discretion, either announced or unannounced audits of the training program(s) to verify the contents of the application for accreditation as described in 11.2 and to confirm compliance with all program accreditation requirements.

11.3.14 The training manager must provide notification of the courses offered.

11.3.14.1 The training manager must provide the Secretary with notification of all Renovator and Dust Wipe Technician courses offered. The Secretary must receive the original notification at least seven (7) business days prior to the start date of any Renovator and Dust Wipe Technician courses.

11.3.14.2 The training manager must provide the Secretary updated notification when Renovator and Dust Wipe Technician courses will begin on a date other than the start date specified in the original notification, as follows:

11.3.14.2.1 For Renovator and Dust Wipe Technician courses beginning prior to the start date provided to the Secretary, an updated notification must be received by the Secretary at least seven (7) business days before the new start date.

11.3.14.2.2 For Renovator and Dust Wipe Technician courses beginning after the start date provided to the Secretary, an updated notification must be received by the Secretary at least two (2) business days before the start date provided to the Secretary.

11.3.14.2.3 The training manager must update the Secretary of any change in location of Renovator and Dust Wipe Technician courses at least seven (7) business days prior to the start date provided to the Secretary.

11.3.14.2.4 The training manager must update the Secretary regarding any course cancellations, or any other change to the original notification. Updated notifications must be received by the Secretary at least two (2) business days prior to the start date provided to the Secretary.

11.3.14.2.5 Each notification, including updates, must include the following:

11.3.14.2.5.1 Notification type (original, update, cancellation).

11.3.14.2.5.2 Training program name, the Delaware accreditation number, address, and telephone number.

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

11.3.14.2.5.4 Date(s) and time(s) of training.

11.3.14.2.5.5 Training location(s), telephone number, and address.

11.3.14.2.5.6 Principal instructor's name.

11.3.14.2.5.7 Training manager's name and signature.

11.3.14.2.6 Notification must be accomplished using any of the following methods: Written or electronic notification to the Secretary. Written and electronic notifications of lead-based paint activities course schedules can be accomplished by using the guidance and sample form provided on the Internet at **http://dhss.delaware.gov/dhss/dph/hsp/leadregcomm.html**. All written notifications must be delivered by U.S. Postal Service, fax, commercial delivery service, or hand delivery (persons submitting notification by U.S. Postal Service are reminded that they should allow three (3) additional business days for delivery in order to ensure that the Secretary receives the notification by the required date).

11.3.14.2.7 Renovator and Dust Wipe Technician courses must not begin on a date, or at a location other than that specified in the original notification unless an updated notification identifying a new start date or location is submitted, in which case the course must begin on the new start date and/or location specified in the updated notification.

11.3.14.2.8 No training program shall provide Renovator and Dust Wipe Technician courses without first notifying the Secretary of such activities in accordance with the requirements of 11.3.14.

11.3.15 The training manager must provide notification following completion of Renovator and Dust Wipe Technician courses.

11.3.15.1 The training manager must provide the Secretary notification after the completion of any Renovator and Dust Wipe Technician course. This notice must be received by the Secretary no later than 10 business days following course completion.

11.3.15.2 The notification must include the following:

11.3.15.2.1 Training program name, the Delaware accreditation number, address, and telephone number.

11.3.15.2.2 Course discipline and type (initial/refresher).

11.3.15.2.3 Date(s) of training.

11.3.15.2.4 The following information for each student who took the course:

11.3.15.2.4.1 Name.

11.3.15.2.4.2 Address.

11.3.15.2.4.3 Date of birth.

11.3.15.2.4.4 Course completion certificate number.

11.3.15.2.4.5 Course test score.

11.3.15.2.4.6 A digital photograph of the student.

11.3.15.2.5 Training manager's name and signature.

11.3.15.3 Notification must be accomplished using any of the following methods: Written or electronic notification to the Secretary. Written and electronic notifications following lead-based paint

activities training courses can be accomplished by using the guidance and sample form provided on the Internet at **http://dhss.delaware.gov/dhss/dph/hsp/leadregcomm.html**. All written notifications must be delivered by U.S. Postal Service, fax, commercial delivery service, or hand delivery (persons submitting notification by U.S. Postal Service are reminded that they should allow three (3) additional business days for delivery in order to ensure that the Secretary receives the notification by the required date).

11.4 Minimum training curriculum requirements. To become accredited to offer lead-based paint courses in the specific disciplines listed in this Section, training programs must ensure that their courses of study include, at a minimum, the following course topics.

11.4.1 Renovator. Instruction in the topics described in 11.4.1.4, 11.4.1.6, 11.4.1.7 and 11.4.1.8 of this section must be included in the hands-on portion of the course.

11.4.1.1 Role and responsibility of a Renovator.

11.4.1.2 Background information on lead and its adverse health effects.

11.4.1.3 Background information on Federal, State of Delaware, and local regulations and guidance that pertains to lead-based paint and renovation activities.

11.4.1.4 Procedures for using acceptable test kits to determine whether paint is lead-based paint.

11.4.1.5 Procedures for collecting a paint chip sample and sending it to a laboratory recognized by EPA under section 405(b) of TSCA.

11.4.1.6 Renovation methods to minimize the creation of dust and lead-based paint hazards.

11.4.1.7 Interior and exterior containment and cleanup methods.

11.4.1.8 Methods to ensure that the renovation has been properly completed, including cleaning verification and clearance testing.

11.4.1.9 Waste handling and disposal.

11.4.1.10 Providing on-the-job training to other workers

11.4.1.11 Record preparation.

11.4.2 Dust Wipe Technician. Instruction in the topics described in 11.4.1.4 and 11.4.1.6 of this section must be included in the hands-on portion of the course.

11.4.2.1 Role and responsibility of a Dust Wipe Technician.

11.4.2.2 Background information on lead and its adverse health effects.

11.4.2.3 Background information on Federal, State of Delaware, and local regulations and guidance that pertains to lead-based paint and renovation activities.

11.4.2.4 Dust sampling methodologies.

11.4.2.5 Clearance standards and testing.

11.4.2.6 Record preparation.

11.5 Requirements for the accreditation of refresher training programs. A training provider may seek accreditation to offer refresher training courses in any of the following disciplines: Renovator and Dust Wipe Technician. To obtain accreditation to offer refresher training, a training provider must meet the following minimum requirements.

11.5.1 Refresher courses shall review the curriculum topics of the full-length course listed under 3.4, as appropriate. In addition, to become accredited to offer refresher training courses, training providers shall ensure their courses of study include, at a minimum, the following:

11.5.1.1 An overview of current safety practices relating to lead-based paint in general, as well as specific information pertaining to the appropriate discipline.

11.5.1.2 Current laws and regulations relating to lead-based paint in general, as well as specific information pertaining to the appropriate discipline.

11.5.1.3 Current technologies relating to lead-based paint in general, as well as specific information pertaining to the appropriate discipline.

11.5.2 Refresher course must last a minimum of four (4) training hours. Refresher courses must include a hands-on component.

11.5.3 For each refresher course offered, the training provider must conduct a hands-on assessment, and at the completion of the course, a course test.

11.5.4 A training provider may apply for accreditation of a refresher course concurrently with its application for accreditation of the corresponding initial training course as described in 11.2. If so, the Secretary shall use the approval process described in 11.2. In addition, the minimum requirements contained in 11.3.1 through 11.3.5 and 11.3.8 through 11.3.15, and 11.5.1.1 through 11.5.1.3 shall also apply to the refresher course.

11.5.5 A training provider seeking accreditation to offer refresher training courses only must submit to the Secretary a written application containing the following information:

11.5.5.1 The refresher course training provider's name, address, and telephone number.

11.5.5.2 A list of courses for which it is applying for accreditation.

11.5.5.3 The name and documentation of the qualifications of the training program manager.

11.5.5.4 The name(s) and documentation of the qualifications of the principal instructor(s).

11.5.5.5 A statement signed by the training program manager certifying that the refresher training program meets the requirements established in 11.3, except for the requirements in 11.3.6. If a training program uses EPA-recommended model training materials, or training materials approved by the Secretary, the training program manager shall include a statement certifying that, as well.

11.5.5.6 If the refresher training course materials are not based on EPA-developed training materials or training materials approved by the Secretary, the training provider's application for accreditation shall include:

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

11.5.5.6.2 A copy of the course agenda for each course.

11.5.5.7 All refresher training providers shall include in their application for accreditation the following:

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

11.5.5.7.2 The name, address and location of the training facility.

11.5.5.7.3 A description of the activities and procedures that will be used for conducting the assessment of hands-on skills for each course.

11.5.5.7.4 A copy of the quality control plan as described in 3.3.10.

11.5.5.7.5 A certified check or a check written on a business account in the appropriate amount as provided in section 10.0 made payable to the Division of Public Health.

11.5.5.7.6 A copy of the course test blueprint for each course.

11.5.5.8 The requirements in 11.3.1 through 11.3.5 and 11.3.8 through 11.3.15 apply to refresher training providers.

11.5.5.9 If a refresher training program meets the requirements in 11.5 the Secretary shall approve the application for accreditation no more than 90 days after receiving a complete application from the refresher training provider. In the case of approval, a certificate of accreditation shall be sent to the applicant. In the case of disapproval, a letter describing the reasons for disapproval shall be sent to the applicant. Prior to disapproval, the Secretary may, at the Secretary's discretion, work with the applicant to address inadequacies in the application for accreditation. The Secretary, within the 90 day period, may also request additional materials. If the Secretary requests additional materials, the time period for approval may extend beyond 90 days. The Secretary may also request additional materials retained by the refresher training program under paragraph 11.9 of this section. If a refresher training provider's application is disapproved, the program provider may reapply for accreditation at any time. Application fees for disapproved refresher training programs will not be refunded.

11.6 Re-accreditation of training programs.

11.6.1 Unless re-accredited, a training program's accreditation (including refresher training accreditation) shall expire two (2) years after the date of issuance. If a training program meets the requirements of this section, the training program shall be re-accredited.

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

11.6.3 The training provider's application for program re-accreditation shall contain:

11.6.3.1 The training provider's name, address, and telephone number.

11.6.3.2 A list of courses for which it is applying for re-accreditation.

11.6.3.3 The name and qualifications of the training program manager.

11.6.3.4 The name(s) and qualifications of the principal instructor(s).

11.6.3.5 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.

11.6.3.6 A statement signed by the program manager stating:

10.6.3.6.1 That the training program complies at all times with all requirements in 11.3 and 11.5, as applicable; and

10.6.3.6.2 The record keeping and reporting requirements in 11.9 shall be followed.

11.6.3.7 A certified check or a check written on a business account in the appropriate amount as provided in section 10.0 made payable to the Division of Public Health.

11.6.4 The Secretary has the authority to audit the training program to verify the contents of the application for reaccreditation as described in 11.6.3. The training provider shall allow the Secretary to audit the training program.

11.7 Suspension, revocation and modification of accredited training programs.

11.7.1 The Secretary may, after notice, and an opportunity for hearing, suspend, revoke, or modify training provider and/or program accreditation, including refresher training accreditation, if a training provider, training manager, or other person with supervisory authority over the training program has:

11.7.1.1 Misrepresented the contents of a training course to the Secretary and/or the student population.

11.7.1.2 Failed to submit required information or notifications in a timely manner.

11.7.1.3 Failed to maintain required records.

11.7.1.4 Falsified accreditation records, instructor qualifications, or other accreditation-related information or documentation.

11.7.1.5 Failed to comply with the training standards and requirements in this section.

11.7.1.6 Failed to comply with Federal, State of Delaware, or local lead-based paint statutes or regulations.

11.7.1.7 Made false or misleading statements in its application for accreditation or re-accreditation which the Secretary relied upon in approving the application.

11.7.1.8 Denied the Secretary access to enter premises or facilities where training providers and training programs conduct business to execute reasonable inspection to ensure compliance with regulations.

11.7.2 In addition to an administrative or judicial finding of violation in any jurisdiction, 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.

11.8 Procedures for suspension, revocation, or modification of training program accreditation.

11.8.1 Prior to taking action to suspend, revoke, or modify the accreditation of a training provider and/or program, the Secretary shall notify the affected entity in writing of the following:

11.8.1.1 The legal and factual basis for the suspension, revocation, or modification.

11.8.1.2 The anticipated commencement date and duration of suspension, revocation, or modification.

11.8.1.3 Actions, if any, which the affected entity may take to avoid suspension, revocation, or modification, or to receive accreditation in the future.

11.8.1.4 The opportunity and method for requesting a hearing prior to final action to suspend, revoke, or modify accreditation.

11.8.1.5 Any additional information which the Secretary may provide.

11.8.2 If a hearing is requested by the accredited training provider within 20 days of the postmarked date of the Secretary's notification in 11.8.1, the Secretary shall:

11.8.2.1 Provide the affected entity an opportunity to offer written statements in response to the Secretary's assertions of the legal and factual basis for its proposed action, and any other explanations, comments, and arguments it deems relevant to the proposed action.

11.8.2.2 Provide the affected entity such other procedural opportunities as the Secretary may deem appropriate to ensure a fair and impartial hearing.

11.8.2.3 Appoint an official Hearing Officer to conduct the hearing. No person shall serve as Hearing Officer if he or she has had any prior involvement with the specific matter.

11.8.3 The Hearing Officer appointed pursuant to 11.8.2 shall:

11.8.3.1 Conduct a fair, orderly, and impartial hearing within 90 days of the request for a hearing.

11.8.3.2 Consider all relevant evidence, explanation, comment, and argument submitted.

11.8.3.3 Notify the Secretary in writing within 45 days of completion of the hearing of his or her decision. The Secretary shall either accept or reject the decision. If accepted, the Secretary issues a final order within 45 days of receiving the Hearing Officer's decision. Such an order is a final agency action, which may be subject to judicial review by Superior Court.

11.8.4 If the Secretary determines that the public health, interest, or welfare warrants immediate action to suspend the accreditation of any training provider or program prior to the opportunity for a hearing, or if the training provider or program denies the Secretary access for purposes of inspection, the Secretary shall:

11.8.4.1 Notify the affected entity of its intent to immediately suspend training program accreditation for the reasons listed in 11.7.1. If a suspension, revocation, or modification notice has not previously been issued pursuant to 11.7.1, it shall be issued at the same time the emergency suspension notice is issued.

11.8.4.2 Notify the affected entity in writing of the grounds for the immediate suspension and why it is necessary to suspend the entity's accreditation before an opportunity for a suspension, revocation, or modification hearing.

11.8.4.3 Notify the affected entity of the anticipated commencement date and duration of the immediate suspension.

11.8.4.4 Notify the affected entity of its right to request a hearing on the immediate suspension within 15 days of the suspension taking place and the procedures for the conduct of such a hearing.

11.8.5 Any notice, decision, or order issued by the Secretary under this section, any transcripts or other verbatim record of oral testimony, and any documents filed by an accredited training provider in a hearing under this section shall be available to the public. Any such hearing at which oral testimony is presented shall be open to the public, except that the Hearing Officer may exclude the public to the extent necessary to allow presentation of information which may be entitled to confidential treatment.

11.8.6 The public shall be notified of the suspension, revocation, modification or reinstatement of a training program's accreditation through appropriate mechanisms.

11.8.7 The Secretary shall maintain a list of parties whose accreditation has been suspended, revoked, modified or reinstated.

11.9 Training program record keeping requirements.

11.9.1 Accredited training providers shall maintain, and make available to the Secretary, upon request, the following records:

11.9.1.1 All documents specified in 11.3.4 that demonstrate the qualifications of the training manager and principal instructors listed in 11.3.1 and 11.3.2.

11.9.1.2 Current curriculum/course materials and documents reflecting any changes made to these materials.

11.9.1.3 Information regarding how the hands-on assessment is conducted, including, but not limited to:

11.9.1.3.1 Who conducts the assessment.

11.9.1.3.2 How the skills are graded.

11.9.1.3.3 What facilities are used.

11.9.1.3.4 The pass/fail rate.

11.9.1.4 The quality control plan as described in 11.3.10.

11.9.1.5 Results of the students' hands-on skills assessments and course tests, and a record of each student's course completion certificate.

11.9.1.6 The course test blueprint.

11.9.1.7 Any other material not listed above in 11.9.1.1 through 11.9.1.6 that was submitted to the Secretary as part of the program's application for accreditation.

11.9.1.8 For Renovator refresher and Dust Wipe Technician refresher courses, a copy of each trainee's prior course completion certificate showing that each trainee was eligible to take the refresher course.

11.9.1.9 For course modules delivered in an electronic format, a record of each student's log-ins, launches, progress, and completion, and a copy of the electronic learning completion certificate for each student.

11.9.2 The training provider shall retain these records at the address specified on the training provider accreditation application [or as modified in accordance with 11.9.3] for a minimum of three years and six months.

11.9.3 The training provider shall notify the Secretary in writing within 30 days of changing the address specified on its training program accreditation application or transferring the records from that address.

11.10 Amendment of accreditation.

11.10.1 A training provider must amend its program accreditation within 90 days of the date a change occurs to information included in the program's most recent application. If the training provider fails to amend its program accreditation within 90 days of the date the change occurs, the program may not provide Renovator or Dust Wipe Technician training until its accreditation is amended.

11.10.2 To amend an accreditation, a training provider must submit a completed application form approved by the Secretary and signed by an authorized agent of the training provider, noting on the form that it is submitted as an amendment and indicating the information that has changed.

11.10.3 If the amendment includes a new training program manager, any new or additional principal instructor(s), or any new permanent training location(s), the training provider is not permitted to provide training under the new training manager or offer courses taught by any new principal instructor(s) or at the new training location(s) until the Secretary approves the amendment. Except:

11.10.3.1 If the amendment includes a new training program manager or new or additional principal instructor that was identified in a training provider accreditation application that EPA has already approved under this section, the training provider may begin to provide training under the new training manager or offer courses taught by the new principal instructor on an interim basis as soon as the provider submits the amendment to the Secretary. The training provider may continue to provide training under the new training manager or offer courses taught by the new principal instructor if the Secretary approves the amendment, or does not disapprove the amendment within 30 days.

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

12.0 Inspections

To execute reasonable inspections and ensure compliance with these regulations, the Secretary has the authority to enter premises or facilities where certified firms and training programs conduct business and training programs.

17 DE Reg. 735 (01/01/14)