Office of the Registrar of Regulations,
Legislative Council,
State of Delaware

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

DIVISION OF PUBLIC HEALTH

Statutory Authority: 16 Delaware Code, §122(3)t (16 **Del.C.**, §122(3)t)
16 **DE Admin. Code** 4459

PROPOSED

PUBLIC NOTICE

4459 Lead Based Paints Hazards

The Department of Health and Social Services, Division of Public Health, Health Systems Protection, is proposing revisions to the State of Delaware Regulations Governing Lead Based Paints Hazards. The proposed revisions establish standards for the regulation of lead-based paint hazard control activities for abatement firms, workers, and training programs. The revisions also correct technical errors and inconsistencies; clarify current requirements, such as the Secretary's authority to conduct on-site investigations and the recertification of firms; incorporate minor changes resulting from new Federal training requirements; add necessary definitions; and provide increased flexibilities for individual training, recertification and utilization of electronic methods of communication. Due to the extensive number of amendments the Division has concluded that the current regulations should be repealed and replaced in their entirety with the proposed regulations being published. On September 1, 2012, the Division plans to publish as proposed the amended regulations and hold them out for public comment per Delaware law.

Copies of the proposed regulations are available for review in the September 1, 2012 edition of the Delaware *Register of Regulations*, accessible online at: http://regulations.delaware.gov or by calling the Health Systems Protection Section at (302) 744-4705.

Any person who wishes to make written suggestions, testimony, briefs or other written materials concerning the proposed regulations must submit same to Deborah Harvey by Monday, October 1, 2012 at:

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Division of Public Health
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Dover, DE 19901
Email: Deborah.Harvey@state.de.us
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4459 Lead Based Paints Hazards

~~**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, excluding homeowners working about the site of their residence under proper state, county and local requirements, establish standards for regulation of lead-based paint hazard control activities, including the training and certification of companies and workers engaged in lead-based paint activities, the establishment of work standards for lead-based paint hazard control, the accreditation of lead-based paint hazard training programs and the establishment of procedures for their enforcement.~~

~~1.2 Purpose. These regulations shall be construed and applied to promote their underlying purpose of protecting the public health. They establish standards by which certified public or private organizations, firms, companies and individuals engaged in lead-based paint abatement activities in target housing and child occupied facilities shall adhere. Individuals and firms are encouraged to choose to require more stringent requirements.~~

~~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 Definitions~~

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

~~1.4.1 The removal of lead-based paint and lead-contaminated dust, the permanent enclosure or encapsulation of lead-based paint, the replacement of lead painted surfaces or fixtures and the removal or covering of lead-contaminated soil; and~~

~~1.4.2 All preparation, cleanup, disposal and post-abatement clearance testing activities associated with such measures.~~

~~1.4.3 Specifically, abatement includes, but is not limited to:~~

~~1.4.3.1 Projects for which there is a written contract or other documentation, which provides that an individual or firm will be conducting activities in or to a residential dwelling or a child-occupied facility that:~~

~~1.4.3.1.1 Shall result in the creation of or the permanent elimination of lead based paint hazards; or~~

~~1.4.3.1.2 Are designed to permanently eliminate lead-based paint hazards and are described in (1.4.1) and (1.4.2) of this definition.~~

~~1.4.3.2 Projects resulting in the permanent elimination of lead-based paint hazards, conducted by firms or individuals certified in accordance with Delaware Health and Social Services regulations for accreditation.~~

~~1.4.3.3 Projects resulting in the permanent elimination of lead-based paint hazards, conducted by firms or individuals who, through their company name or promotional literature represent, advertise, or hold themselves out to be in the business of performing lead-based paint activities as identified and defined by these regulations unless such projects are covered by 1.4.4 of this definition; or~~

~~1.4.3.4 Projects resulting in the permanent elimination of lead-based paint hazards, that are conducted in response to State or local abatement orders.~~

~~1.4.4 Abatement does not include renovation, remodeling, landscaping or other activities when such activities are not designed to permanently eliminate lead-based paint hazards, but instead, are designed to repair, restore or remodel a given structure or dwelling, even though these activities may incidentally result in a reduction or elimination of lead-based paint hazards. Furthermore, abatement does not include interim controls, operation and maintenance activities, or other measures and activities designed to temporarily, but not permanently, reduce lead-based paint hazards.~~

~~**"Accessible Surface"** means any interior or exterior surface, such as an interior window sill, that a young child can mouth or chew.~~

~~**"Accredited Training Program"** means a training program that has been accredited by the Secretary, Delaware Health and Social Services to provide lead-based paint activities training.~~

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

~~**"Certified Abatement Firm"** means a company, partnership, corporation, sole proprietorship, association, or other business entity that performs lead-based paint activities to which the Secretary, Delaware Health and Social Services has issued a certificate of approval.~~

~~**"Certified Inspector"** means an individual who has been trained by an accredited training program, to conduct inspections. A certified inspector also samples for the presence of lead in dust and soil for the purpose of abatement clearance testing.~~

~~**"Certified Abatement Worker"** means an individual who has been trained by an accredited training program, to perform abatements.~~

~~**"Certified Project Designer"** means an individual who has been trained by an accredited training program, to prepare abatement project designs, occupant protection plans, and abatement reports.~~

~~**"Certified Risk Assessor"** means an individual who has been trained by an accredited training program, to conduct risk assessments. A risk assessor also samples for the presence of lead in dust and soil for the purpose of abatement clearance testing.~~

~~**"Certified Supervisor"** means an individual who has been trained by an accredited training program, to supervise and conduct abatements, and to prepare occupant protection plans and abatement reports.~~

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

~~**"Clearance Levels"** are values that indicates the maximum amount of lead permitted in dust or on a surface following completion of an abatement activity.~~

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

~~**"Component or Building Component"** means specific design or structural elements or fixtures of a building, residential dwelling, or child-occupied facility that are distinguished from each other by form, function, and location. These include, but are not limited to, interior components such as: ceilings, crown 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, sliding handrails, stair risers and treads, stair stringers, columns, balustrades, window sills or stools and troughs, casings, sashes, and wells and air conditioners.~~

~~**"Containment"** means a process to protect workers, building occupants and the environment by controlling exposure to the lead-contaminated dust and debris created during an abatement.~~

~~**"Course Agenda"** means an outline of the key topics to be covered during a training **"Course Test"** means an evaluation that measures the overall effectiveness of the training which shall test the trainees' knowledge and retention of the topics covered during the course.~~

~~**"Course Test Blue Print"** means written documentation identifying the proportion of course test questions devoted to each major topic in the course curriculum.~~

~~**"Department"** means the Department of Health & Social Services as defined in 29 **Del.C.** 7904(a).~~

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

~~**"Discipline"** means one of the specific types of categories of lead-based paint activities identified in these regulations for which individuals may receive training from accredited programs and become certified by the Secretary, Delaware Health and Social Services. For example, "abatement worker" is a discipline.~~

~~**"Distinct Painting History"** means the application history, as indicated by its visual appearance or a record of application, over time, of paint or other surface coatings, to a component or room.~~

~~**"Documented Methodologies"** are methods or protocols used to sample for the presence of lead in paint, dust or soil.~~

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

~~**"Elevated Blood Level (EBL)"** means an excessive absorption of lead that is a concentration of lead in whole blood of 20 ug/dl (micrograms of lead per deciliter of whole blood) for a single venous test, or, of 15 - 19 ug/dl in two consecutive fingerstick blood level tests taken 3 to 4 months apart.~~

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

~~**"Encapsulation"** means the application of an encapsulant.~~

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

~~**"EPA"** means US Environmental Protection Agency.~~

~~**"Firm"** means any business company, whether or not incorporated.~~

~~**"Friction Surface"** means any interior or exterior surface such as a window or stair tread, that is subject to abrasion or friction.~~

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

~~**"Hands-on Skills Assessment"** means an evaluation which tests the trainees' ability to satisfactorily perform the work practices and procedures identified in these regulations as well as any other skill taught in a training course.~~

~~**"Hazardous Waste"** means any waste subject to Delaware Department of Natural Resources and Environmental Control regulation as required in 7 **Del.C.** Ch. 63.~~

~~**"HUD"** means U.S. Department of Housing and Urban Development.~~

~~**"Impact Surface"** means any interior or exterior surface such as surfaces on doors that is subject to damage by repeated impact or contact.~~

~~**"Inspection"** means a surface-by-surface investigation to determine the presence of lead-based paint and the provision of a written report explaining the results of the investigation.~~

~~**"Interim Controls"** means a set of measures designed to temporarily reduce human exposure or likely exposure to lead-based paint hazards, including specialized cleaning, repairs, maintenance, painting,~~

~~temporary containment, ongoing monitoring of lead-based hazards or potential hazards, and the establishment and operation of management and resident education programs.~~

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

~~**"Lead-based Paint Activities"** means, in the case of target housing and child-occupied facilities, inspection, risk assessment and abatement, as defined in these regulations.~~

~~**"Lead-based Paint Hazard"** means any condition that causes exposure to lead from lead-contaminated dust, lead-contaminated soil, or lead-contaminated paint that is deteriorated or present in accessible surfaces, friction surfaces, or impact surfaces that would result in adverse human health effects.~~

~~**"Lead-contaminated Dust"** means surface dust in residential dwellings, or child-occupied facilities that contains an area or mass concentration of lead at or in excess of levels identified by both the State and the EPA~~

~~**"Lead-contaminated Soil"** means bare soil on residential real property and on the property of a child-occupied facility that contains lead at or in excess of levels identified both by the State and the EPA.~~

~~**"Lead Hazard Screen"** means a limited risk assessment activity that involves limited paint and dust sampling.~~

~~**"Living Area"** means any area of residential dwelling used by one or more children age 6 and under, including, but not limited to, living rooms, kitchen areas, dens, play rooms, and children's bedrooms.~~

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

~~**"Paint in Poor Condition"** means 10 square feet or more of deteriorated paint on exterior components with large surface areas; or more than 2 square feet of deteriorated paint on interior components with large surface areas (e.g. walls, ceilings, floors, doors); or more than 10 percent of the total surface areas of the component is deteriorated on interior or exterior components with small surface areas (window sills, baseboards, soffits, trim).~~

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

~~**"Person"** means 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.~~

~~**"Play area"** means an area of frequent soil contact by children of less than 6 years of age as indicated by, but not limited to, such factors including the following: the presence of play equipment (e.g., sandboxes, swing sets, and sliding boards), toys, or other children's possessions, observations of play patterns, or information provided by parents, residents, care givers, or property owners.~~

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

~~**"Proficiency Test"** means an extensive written examination designed to validate a person's level of competence regarding Lead Abatement techniques and safety, to include: his/her knowledge of health hazards related to human exposure to lead dust and lead painted surfaces; construction safety; application of lead safe work practices; and, containments designed to reduce/minimize worker and building occupant exposure to lead hazards, specialized equipment designed to reduce lead exposure/hazards for workers and residence occupants, specialized lead-based paint removal using chemicals, hazardous waste management and specialized work practices.~~

~~**"Recognized Laboratory"** means an environmental laboratory recognized by the EPA as being capable of performing an analysis for lead compounds in paint, soil, and dust.~~

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

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

~~**"Risk Assessment"** means an on-site investigation to determine the existence, nature, severity, and location of lead-based paint hazards, and the provision of a written report by the individual or the firm conducting the risk assessment, explaining the results of the investigation and options for reducing lead-based paint hazards.~~

~~**"Room"** means a separate part of the inside of a building, such as a bedroom, living room, dining room, kitchen, bathroom, laundry room, or utility room. To be considered a separate room, the room must be separated from adjoining rooms by built-in walls or archways that extend at least 6 inches from an intersecting wall. Half walls or bookcases count as room separators if built-in. Movable or collapsible partitions or partitions consisting solely of shelves or cabinets are not considered built-in walls. A screened in porch that is used as a living area is a room.~~

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

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

~~**"Start date"** means the first day of any lead-based paint activities training course or lead-based paint abatement activity.~~

~~**"Start date provided to the Secretary"** means the start date included in the original notification or the most recent start date provided to the Secretary in an updated notification.~~

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

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

~~**"Training Hour"** means at least 50 minutes of actual learning, including, but not limited to, time devoted to lecture, learning activities, small group activities, demonstrations, evaluations, and, if applicable, hands-on experience.~~

~~**"Training Manager"** means the individual responsible for administering a training program and monitoring the performance of principal instructors and guest instructors.~~

~~**"Training Program"** means lead training curriculum accredited by the Secretary, Delaware Health and Social Services, and offered to the public by a training provider.~~

~~**"Training Provider"** means an individual or firm which has been approved by the Delaware Department of Education to provide training in Delaware and accredited by the Secretary, Delaware Health and Social Services to conduct accredited lead-based paint activities training program(s) to individuals engaged in lead-based paint activities.~~

~~**"Visual Inspection for Clearance Testing"** means the visual examination of a residential dwelling or a child-occupied facility following an abatement to determine whether or not the abatement has been successfully completed.~~

~~**"Visual Inspection for Risk Assessment"** means the visual examination of a residential dwelling or a child-occupied facility to determine the existence of deteriorated lead-based paint or other potential sources of lead-based paint hazards.~~

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

~~**11 DE Reg. 759 (12/01/07)**~~

~~2.0 Application and Renewal Requirements~~

~~2.1 Accreditation of training programs. After the implementation date of these regulations, January 1, 1999, it shall be unlawful for any person, to provide training or offer to provide training for any discipline of lead-based paint activity without first possessing an approval from the Secretary as an accredited training program.~~

~~2.1.1 Accredited training programs shall offer and provide only training for the disciplines for which they are approved.~~

~~2.1.2 The Secretary shall approve an accredited training program for any firm or business which applies and meets the qualifications specified in these regulations.~~

~~2.1.3 A training program may seek accreditation to offer lead-based paint activities courses in any of the following disciplines; Inspector, Risk Assessor, Supervisor, Project Designer, and Abatement Worker. A training provider may also seek accreditation to offer refresher courses for each of the above listed disciplines.~~

~~2.1.4 A training provider shall not provide, offer, or claim to provide accredited lead-based paint activities courses without applying for and receiving accreditation from the Secretary as required in these regulations.~~

~~2.2 Application process. The following are procedures a training provider shall follow to receive accreditation to offer lead-based paint activities courses:~~

~~2.2.1 A training provider seeking accreditation shall submit a written application to the Secretary containing the following information:~~

~~2.2.1.1 The training provider's business name, address, and telephone number.~~

~~2.2.1.2 Written evidence that the applicant has been approved by the Delaware Department of Education as a training provider~~

~~2.2.1.3 A list of courses for which it is applying for accreditation.~~

~~2.2.1.4 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 a State or Indian Tribe that has been authorized by EPA, the training program manager shall include a statement certifying that as well.~~

~~2.2.1.5 If a training provider does not use EPA recommended model training materials or training materials approved by the State, its application for accreditation shall also include:~~

~~2.2.1.5.1 A copy of the student and instructor manuals, or other materials to be used for each course.~~

~~2.2.1.5.2 A copy of the course agenda for each course.~~

~~2.2.1.6 All training providers shall include in their application for accreditation the following:~~

~~2.2.1.6.1 A description of the facilities and equipment to be used for lecture and hands-on training.~~

~~2.2.1.6.2 The name, address and location of the training facility.~~

~~2.2.1.6.3 A description of the activities and procedures that will be used for conducting the assessment of hands-on skills for each course.~~

~~2.2.1.6.4 A copy of the quality control plan [as described in 2.3.9]~~

~~2.2.1.6.5 A certified check or a check written on a business account in the appropriate amount made payable to the Division of Public Health.~~

~~2.2.1.6.6 A course test blue print for the course test.~~

~~2.2.2 If a training program meets the requirements in 2.3, then the Secretary shall 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 its 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 section 2.9. 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 program may reapply for accreditation at any time. Application fees for disapproved training programs will not be refunded.~~

~~2.2.3 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 program can demonstrate that it meets the requirements of this section.~~

~~2.3 Requirements for the accreditation of training programs. For a training provider to obtain accreditation from the Secretary to offer lead-based paint activities courses, the program shall meet the following requirements:~~

~~2.3.1 The training provider shall 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:~~

~~2.3.1.1 At least 2 years of experience, education, or training in teaching workers or adults, that is satisfactory to the Secretary; or~~

~~2.3.1.2 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~~

~~2.3.1.3 Two years of experience in managing a training program specializing in environmental hazards.~~

~~2.3.2 The training manager shall designate a qualified principal instructor for each course who has:~~

~~2.3.2.1 Demonstrated experience, education, or training in teaching workers or adults; and~~

~~2.3.2.2 Successfully completed at least 16 hours of any EPA-accredited or EPA-authorized State or Tribal-accredited lead-specified training; and~~

~~2.3.2.3 Demonstrated experience, education, or training in lead abatement, painting, carpentry, renovation remodeling, occupational safety and health, or industrial hygiene.~~

~~2.3.3 The principal instructor shall be responsible for the organization of the course and oversight of the teaching of all course material. The training manager may designate guest instructors as needed to provide instruction specific to the lecture, hands-on activities, or work practice components of a course.~~

~~2.3.4 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 sections 2.3.1 and 2.3.2. This documentation must be submitted with the accreditation application. Those documents include the following:~~

~~2.3.4.1 Official academic transcripts or diploma as evidence of meeting the education requirements.~~

~~2.3.4.2 Letters of reference, or documentation of work experience, as evidence of meeting the work experience requirements.~~

~~2.3.4.3 Certificates from train-the-trainer courses and lead-specific training courses, as evidence of meeting the training requirements.~~

~~2.3.5 The training provider 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.~~

~~2.3.6 To become accredited in the following disciplines, the training provider shall provide training courses that meet the following training hour requirements.~~

~~2.3.6.1 Inspector course - a minimum of 24 training hours, with a minimum of 8 hours devoted to hands-on training activities. The minimum curriculum requirements for the Inspector course are contained in section 2.4.1.~~

~~2.3.6.2 Risk Assessor course - a minimum of 16 training hours, with a minimum of 4 hours devoted to hands-on training activities. The minimum curriculum requirements for the Risk Assessor course are contained in section 2.4.2.~~

~~2.3.6.3 Supervisor course - a minimum of 32 training hours, with a minimum of 8 hours devoted to hands-on activities. The minimum curriculum requirements for the Supervisor course are contained in section 2.4.3.~~

~~2.3.6.4 Project Designer course - a minimum of 8 training hours. The minimum curriculum requirements for the Project Designer course are contained in section 2.4.4.~~

~~2.3.6.5 Abatement Worker course - a minimum of 16 training hours, with a minimum of 8 hours devoted to hands-on training activities. The minimum curriculum requirements for the Abatement Worker course are contained in section 2.4.5.~~

~~2.3.7 For each course offered, the training provider shall conduct either a course test at the completion of the course, and if applicable, a hands-on skills assessment, or in the alternative, a proficiency test for that discipline. Each individual must successfully complete the hands-on skills assessment and receive a passing score on the course test to pass any course, or successfully complete a proficiency test.~~

~~2.3.7.1 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. For quality assurance, there will be periodic revision of the course test.~~

~~2.3.7.2 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. The course test blue print shall be submitted to the secretary.~~

~~2.3.7.3 The course test shall be developed in accordance with the test blue print submitted with the training accreditation application.~~

~~2.3.8 The training provider shall issue unique course completion certificates to each individual who passes the training course. The course completion certificate shall include:~~

~~2.3.8.1 The name, unique identification numbers, and address of the individual.~~

~~2.3.8.2 The business name, address and phone number of the certified training provider and the name of the training manager.~~

~~2.3.8.3 The name of the particular course that the individual completed.~~

~~2.3.8.4 Dates of course completion/test passage.~~

~~2.3.8.5 Expiration date of certification.~~

~~2.3.9 The training manager shall develop and implement a quality control plan. The plan shall be used to maintain and improve the quality of the training program over time. This plan shall contain at least the following elements:~~

~~2.3.9.1 Procedures for periodic revision of training materials and the course test to reflect innovations in the field.~~

~~2.3.9.2 Procedures for the training manager's annual review of principal instructor competency.~~

~~2.3.10 The training provider shall offer courses that teach the work practice standards for conducting lead-based paint activities contained in Section 4.0. These standards shall be taught in the appropriate courses and training environments to provide trainees with the knowledge needed to perform the lead-based paint activities they are responsible for conducting.~~

~~2.3.11 The training manager shall be responsible for ensuring that the training program complies at all times with all of the requirements in this section.~~

~~2.3.12 The training provider and training manager shall allow the Secretary to conduct either announced or unannounced audits of the training program(s) to verify the contents of the application for accreditation.~~

~~2.3.13 The training manager shall allow the Secretary to audit the training program to verify the contents of the application for accreditation as described in paragraph (b) of this section.~~

~~2.3.14 The training manager must provide notification of lead-based paint activities courses offered.~~

~~2.3.14.1 The training manager must provide the Secretary with notification of all lead-based paint activities courses offered. The Secretary must receive the original notification at least 7 business days prior to the start date of any lead-based paint activities course.~~

~~2.3.14.2 The training manager must provide the Secretary updated notification when lead-based paint activities courses will begin on a date other than the start date specified in the original notification, as follows:~~

~~2.3.14.2.1 For lead-based paint activities courses beginning prior to the start date provided to the Secretary, an updated notification must be received by the Secretary at least 7 business days before the new start date.~~

~~2.3.14.2.2 For lead-based paint activities courses beginning after the start date provided to the Secretary an updated notification must be received by the Secretary at least 2 business days before the start date provided to the Secretary.~~

~~2.3.14.2.3 The training manager must update the Secretary of any change in location of lead-based paint activities courses at least 7 business days prior to the start date provided to the Secretary.~~

~~2.3.14.2.4 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 2 business days prior to the start date provided to the Secretary.~~

~~2.3.14.2.5 Each notification, including updates, must include the following:~~

~~2.3.14.2.5.1 Notification type (original, update, cancellation).~~

~~2.3.14.2.5.2 Training program name, the State accreditation number, address, and telephone number.~~

~~2.3.14.2.5.3 Course discipline, type (initial/ refresher), and the language in which instruction will be given.~~

~~2.3.14.2.5.4 Date(s) and time(s) of training.~~

~~2.3.14.2.5.5 Training location(s) telephone number, and address.~~

~~2.3.14.2.5.6 Principal instructor's name.~~

~~2.3.14.2.5.7 Training manager's name and signature.~~

~~2.3.14.2.6 Notification must be accomplished using any of the following methods: Written notification to the Secretary. Written notification of lead-based paint activities course schedules can be accomplished by using either the sample form titled "Lead-Based Paint Activities Training Course Schedule" or a similar form containing the information required in 2.3.14.2.5. 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 3 additional business days for delivery in order to ensure that the Secretary receives the notification by the required date). Instructions and sample forms can be obtained from the NLIC at 1–800–424–LEAD (5323), or on the Internet at *http://www.epa.gov/lead*.~~

~~2.3.14.2.7 Lead-based paint activities courses must not begin on a date, or at a location other than that specified in the original notification unless an updated notification identifying a new start date or location is submitted, in which case the course must begin on the new start date and/or location specified in the updated notification.~~

~~2.3.14.2.8No training program shall provide lead-based paint activities courses without first notifying the Secretary of such activities in accordance with the requirements of this paragraph.~~

~~2.3.15 The training manager must provide notification following completion of lead-based paint activities courses.~~

~~2.3.15.1 The training manager must provide the Secretary notification after the completion of any lead-based paint activities course. This notice must be received by the Secretary no later than 10 business days following course completion.~~

~~2.3.15.2 The notification must include the following:~~

~~2.3.15.2.1Training program name, the State accreditation number, address, and telephone number.~~

~~2.3.15.2.2Course discipline and type (initial/refresher).~~

~~2.3.15.2.3Date(s) of training.~~

~~2.3.15.2.4The following information for each student who took the course:~~

~~*(1)* Name.~~

~~*(2)* Address.~~

~~*(3)* Date of birth.~~

~~*(4)* Course completion certificate number.~~

~~*(5)* Course test score.~~

~~2.3.15.2.5Training manager's name and signature.~~

~~2.3.15.3 Notification must be accomplished using any of the following methods: Written notification to the Secretary. Written notification following lead-based paint activities training courses can be accomplished by using either the sample form titled "Lead-Based Paint Activities Training Course Follow-up" or a similar form containing the information required in 2.3.15.2 of this section. 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 3 additional business days for delivery in order to ensure that the Secretary receives the notification by the required date). Instructions and sample forms can be obtained from the NLIC at 1–800–424–LEAD (5323), or on the Internet at *http://www.epa.gov/lead*.~~

~~2.4 Minimum training curriculum requirements. To become accredited to offer lead-based paint courses instruction in the specific disciplines listed below, training programs must ensure that their courses of study include, at a minimum, the following course topics. Requirements ending in an asterisk (*) indicate areas that require hands-on activities as an integral component of the course.~~

~~2.4.1 Inspector.~~

~~2.4.1.1 Role and responsibilities of an Inspector.~~

~~2.4.1.2 Background information on lead and its adverse health effects.~~

~~2.4.1.3 Background information on Federal, State, and local regulations and guidance that pertains to lead-based paint and lead-based paint activities.~~

~~2.4.1.4 Liability and insurance issues relating to lead-based paint abatement.~~

~~2.4.1.5 Lead-based paint inspection methods, including selection of rooms, and components for sampling or testing.*~~

~~2.4.1.6 Paint, dust and soil sampling methodologies.*~~

~~2.4.1.7 Clearance standards and testing, including random sampling.*~~

~~2.4.1.8 Preparation of the final written inspection report.*~~

~~2.4.1.9 Record keeping.~~

~~2.4.2 Risk Assessor.~~

~~2.4.2.1 Role and responsibilities of a Risk Assessor.~~

~~2.4.2.2 Collection of background information to perform a risk assessment.~~

~~2.4.2.3 Sources of environmental lead contamination such as paint, surface dust and soil, water, air, packaging, and food.~~

~~2.4.2.4 Liability and insurance issues relating to lead-based paint abatement.~~

~~2.4.2.5 Visual inspection for the purposes of identifying potential sources of lead-based paint hazards.*~~

~~2.4.2.6 Lead hazard screen protocol.~~

~~2.4.2.7 Sampling for the other sources of lead exposure.*~~

~~2.4.2.8 Interpretations of lead-based paint and other lead sampling results, including all applicable State or Federal guidance or regulations pertaining to lead-based paint hazards.*~~

~~2.4.2.9 Development of hazard control options, the role of interim controls and operations and maintenance activities to reduce lead-based paint hazards.~~

~~2.4.2.10 Preparation of a final written risk assessment report.~~

~~2.4.3 Supervisor.~~

~~2.4.3.1 Role and responsibilities of a Supervisor.~~

~~2.4.3.2 Background information on lead and its adverse health effects.~~

~~2.4.3.3 Background information on Federal, State, and local regulations and guidance that pertain to lead-based paint abatement.~~

~~2.4.3.4 Liability and insurance issues relating to lead-based paint abatement.~~

~~2.4.3.5 Risk assessment and inspection report interpretation.*~~

~~2.4.3.6 Development and implementation of an occupant protection plan and abatement report.~~

~~2.4.3.7 Lead-based paint hazard recognition and control.*~~

~~2.4.3.8 Lead-based paint abatement and lead-based paint hazard reduction methods, including restricted practices.*~~

~~2.4.3.9 Interior dust abatement/cleanup or lead-based paint hazard control and reduction methods.*~~

~~2.4.3.10 Soil and exterior dust abatement or lead-based paint hazard control and reduction methods.*~~

~~2.4.3.11 Clearance standards and testing.*~~

~~2.4.3.12 Cleanup and waste disposal.~~

~~2.4.3.13 Record keeping.~~

~~2.4.4 Project Designer.~~

~~2.4.4.1 Role and responsibilities of a Project Designer.~~

~~2.4.4.2 Liability and insurance issues relating to lead-based paint abatement.~~

~~2.4.4.3 Development and implementation of an occupant protection plan for large scale abatement projects.~~

~~2.4.4.4 Lead-based paint abatement and lead-based paint hazard reduction methods, including restricted practices for large scale abatement projects.~~

~~2.4.4.5 Interior dust abatement/cleanup or lead hazard control and reduction methods for large scale abatement projects.~~

~~2.4.4.6 Clearance standards and testing for large scale abatement projects.~~

~~2.4.4.7 Integration of lead-based paint abatement methods with modernization and rehabilitation projects for large scale abatement projects.~~

~~2.4.5 Abatement Worker.~~

~~2.4.5.1 Role and responsibilities of an Abatement Worker.~~

~~2.4.5.2 Background information on lead and its adverse health effects.~~

~~2.4.5.3 Background information on Federal, State and local regulations and guidance that pertain to lead-based paint abatement.~~

~~2.4.5.4 Lead-based paint hazard recognition and control.*~~

~~2.4.5.5 Lead-based paint abatement and lead-based paint hazard reduction methods, including restricted practices.*~~

~~2.4.5.6 Interior dust abatement methods/cleanup or lead-based paint hazard reduction.*~~

~~2.4.5.7 Soil and exterior dust abatement methods or lead-based paint hazard reduction.*~~

~~2.5 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; Inspector, Risk Assessor, Supervisor, Project Designer, and Abatement Worker. To obtain accreditation to offer refresher training, a training provider must meet the following minimum requirements.~~

~~2.5.1 Refresher courses shall review the curriculum topics of the full-length course listed under section 2.4, as appropriate. In addition, to become accredited to offer refresher training courses, training providers shall ensure their course of study include, at a minimum, the following:~~

~~2.5.1.1 An overview of current safety practices relating to lead-based paint activities in general, as well as specific information pertaining to the appropriate discipline.~~

~~2.5.1.2 Current laws and regulations relating to lead-based paint activities in general, as well as specific information pertaining to the appropriate discipline.~~

~~2.5.1.3 Current technologies relating to lead-based paint activities in general, as well as specific information pertaining to the appropriate discipline.~~

~~2.5.2 Each refresher course, except for the project designer course, shall last a minimum of 8 training hours. The Project Designer refresher course shall last a minimum of 4 training hours.~~

~~2.5.3 For each refresher course offered, the training provider shall conduct both a hands-on assessment (if applicable), and at the completion of the course, a course test.~~

~~2.5.4 A training provider may apply for accreditation of a refresher course concurrently with its application for accreditation of the corresponding training course as described in section 2.2. If so the Department shall use the approval process described in section 2.2 of this section. In addition, the minimum requirements contained in section 2.3 [except for requirements in 2.3.6] and 2.5.1, 2.5.2 and 2.5.3 shall also apply.~~

~~2.5.5 A training provider seeking accreditation to offer refresher training courses shall submit to the Secretary a written application containing the following information:~~

~~2.5.5.1 The refresher course training provider 's name, address, and telephone number.~~

~~2.5.5.2 A list of courses for which it is applying for accreditation.~~

~~2.5.5.3 A statement signed by the training program manager certifying that the refresher training program meets the requirements established in these regulations. If a training program uses EPA recommended model training materials, or training materials approved by a State or Indian Tribe that has been authorized by EPA the training program manager shall include a statement certifying that, as well.~~

~~2.5.5.4 If the refresher training course materials are not based on EPA-developed training materials or training materials approved by an authorized State or Indian Tribe, the training provider's application for accreditation shall include:~~

~~2.5.5.4.1 A copy of the student and instructor manuals to be used for each course.~~

~~2.5.5.4.2 A copy of the course agenda for each course.~~

~~2.5.5.4.3 A copy of a course test blue print for each course in its application.~~

~~2.5.5.4.4 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:~~

~~2.5.5.4.4.1 Procedures for periodic revision of training materials and the course test to reflect innovations in the field.~~

~~2.5.5.4.4.2 Procedures for the training manager's annual review of principal instructor competency.~~

~~2.5.5.5 All refresher training providers shall include in their application for accreditation the following:~~

~~2.5.5.5.1 A description of the facilities and equipment to be used for lecture and hands-on training.~~

~~2.5.5.5.2 The name, address and location of the training facility.~~

~~2.5.5.5.3 A description of the activities and procedures that will be used for conducting the assessment of hands-on skills for each course.~~

~~2.5.5.5.4 A copy of the quality control plan [as described in 2.3.9.~~

~~2.5.5.5.5 A certified check or a check written on a business account in the appropriate amount made payable to the Division of Public Health.~~

~~2.5.5.5.6 A copy of the course test blue-print for each course.~~

~~2.5.5.6 The requirements in 2.3.1 through 2.3.5 and 2.3.7 through 2.3.12 apply to refresher training providers.~~

~~2.5.5.7 If a refresher training program meets these requirements, 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 its 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. 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.~~

~~2.6 Re-accreditation of training programs.~~

~~2.6.1 Unless re-accredited, a training provider'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 provider shall be re-accredited.~~

~~2.6.2 A training provider seeking re-accreditation shall submit an application no later than 180 days before its accreditation expires.~~

~~2.6.3 The training provider's application for re-accreditation shall contain:~~

~~2.6.3.1 The training provider's name, address, and telephone number.~~

~~2.6.3.2 A list of courses for which it is applying for re-accreditation.~~

~~2.6.3.3 A description of any material changes to the training facility, equipment or course materials since its last application was approved.~~

~~2.6.3.4 A statement signed by the program manager stating:~~

~~2.6.3.4.1 That the training program complies at all times with all requirements in sections 2.3 through 2.5, as applicable; and~~

~~2.6.3.4.2 The record keeping and reporting requirements of 2.9 shall be followed.~~

~~2.6.4 The Secretary has the authority to enter, through consent, warrant, or other authority, premises or facilities where lead-based paint activities violations may occur for purposes of conducting inspections.~~

~~2.6.4.1 State officials must be able to enter premises or facilities where those engaged in training for lead-based paint activities conduct business.~~

~~2.6.4.2 For the purposes of enforcing a pre-renovation notification program, State officials must be able to enter a renovator's place of business.~~

~~2.6.4.3 State officials must have authority to take samples and review records as part of the lead-based paint activities inspection process.~~

~~2.7 Suspension, revocation and modification of accredited training programs.~~

~~2.7.1 The Secretary may, after notice, and an opportunity for hearing, suspend, revoke, or modify training provider accreditation (including refresher training accreditation) if a training provider, training manager, or other person with supervisory authority over the training program has:~~

~~2.7.1.1 Misrepresented the contents of a training course.~~

~~2.7.1.2 Failed to submit required information or notifications in a timely manner.~~

~~2.7.1.3 Failed to maintain required records.~~

~~2.7.1.4 Falsified accreditation records, instructor qualifications, or other accreditation related information or documentation.~~

~~2.7.1.5 Failed to comply with the training standards and requirements in this section.~~

~~2.7.1.6 Failed to comply with Federal, State, or local lead-based paint statutes or regulations.~~

~~2.7.1.7 Made false or misleading statements in its application for accreditation or re-accreditation.~~

~~2.7.2 In addition to an administrative or judicial finding or 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.~~

~~2.8 Procedures for suspension, revocation, or modification of training program accreditation.~~

~~2.8.1 Prior to taking action to suspend, revoke, or modify the accreditation of a training provider, the Secretary shall notify the affected entity in writing of the following:~~

~~2.8.1.1 The legal and factual basis for the suspension, revocation, or modification.~~

~~2.8.1.2 The anticipated commencement date and duration of suspension, revocation, or modification.~~

~~2.8.1.3 Actions, if any, which the affected entity may take to avoid suspension, revocation, or modification, or to receive accreditation in the future.~~

~~2.8.1.4 The opportunity and method for requesting a hearing prior to final action to suspend, revoke, or modify accreditation.~~

~~2.8.1.5 Any additional information which the Secretary may provide.~~

~~2.8.2 If a hearing is requested by the accredited training provider, the Secretary shall:~~

~~2.8.2.1 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.~~

~~2.8.2.2 Provide the affected entity such other procedural opportunities as the Secretary may deem appropriate to ensure a fair and impartial hearing.~~

~~2.8.2.3 Appoint an official Hearing Officer. No person shall serve as Hearing Officer if he or she has had any prior involvement with the specific matter.~~

~~2.8.3 The Hearing Officer appointed pursuant to paragraph 2.8.2 shall:~~

~~2.8.3.1 Conduct a fair, orderly, and impartial hearing within 90 days of the request for a hearing.~~

~~2.8.3.2 Consider all relevant evidence, explanation, comment, and argument submitted.~~

~~2.8.3.3 Notify the Secretary in writing within 90 days of completion of the hearing of his or her decision. The Secretary shall either accept or reject the decision. If accepted, the Secretary shall issue a final order. Such an order is a final agency action, which may be subject to judicial review.~~

~~2.8.4 If the Secretary determines that the public health, interest, or welfare warrants immediate action to suspend the accreditation of any training provider prior to the opportunity for a hearing, it shall:~~

~~2.8.4.1 Notify the affected entity of its intent to immediately suspend training program accreditation for the reasons listed in 2.7.1. If a suspension, revocation, or modification notice has not previously been issued pursuant to 2.7.1, it shall be issued at the same time the emergency suspension notice is issued.~~

~~2.8.4.2 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.~~

~~2.8.4.3 Notify the affected entity of the anticipated commencement date and duration of the immediate suspension.~~

~~2.8.4.4 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.~~

~~2.8.5 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.~~

~~2.8.6 The public shall be notified of the suspension, revocation, modification or reinstatement of a training program's accreditation through appropriate mechanisms.~~

~~2.8.7 The Secretary shall maintain a list of parties whose accreditation has been suspended, revoked, modified or reinstated.~~

~~2.9 Training program record keeping requirements.~~

~~2.9.1 Accredited training providers shall maintain, and make available to the Secretary, upon request, the following records:~~

~~2.9.1.1 All documents specified in 2.3.4 that demonstrate the qualifications of the training manager and principal instructors listed in 2.3.1 and 2.3.2.~~

~~2.9.1.2 Current curriculum/course materials and documents reflecting any changes made to these materials.~~

~~2.9.1.3 Information regarding how the hands-on assessment is conducted, including, but not limited to:~~

- ~~Who conducts the assessment.~~
- ~~How the skills are graded.~~
- ~~What facilities are used.~~
- ~~The pass/fail rate.~~

~~2.9.1.4 The quality control plan as described in section 2.3.9.~~

~~2.9.1.5 Results of the students' hands-on skills assessments and course tests, and a record of each student's course completion certificate.~~

~~2.9.1.6 Any other material not listed above in 2.9.1 that was submitted to the Secretary as part of the program's application for accreditation.~~

~~2.9.2 The training provider shall retain these records at the address specified on the training provider accreditation application [or as modified in accordance with 2.9.3 of this section] for a minimum of 3 years and 6 months.~~

~~2.9.3 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.~~

~~2.9.4 There will be submittal/record keeping of course test blue prints.~~

~~**11 DE Reg. 759 (12/01/07)**~~

~~3.0 Certification of Individuals and Firms Engaged in Lead-based Paint Activities~~

~~3.1 Certification of individuals.~~

~~3.1.1 Individuals seeking certification to engage in lead-based paint activities must either:~~

~~3.1.1.1 Submit to the Secretary, an application demonstrating that they meet the requirements established in 3.2 and 3.3 for the particular discipline for which certification is sought; or~~

~~3.1.1.2 Submit to the Secretary, an application with a copy of a valid lead-based paint activities certification (or equivalent) from a State or Tribal program that has been authorized by the EPA.~~

~~3.1.2 Individuals may first apply to the Secretary for certification to engage in lead-based paint activities pursuant to this section on or after March 1, 1999.~~

~~3.1.3 Following the submission of an application demonstrating that all the requirements of this section have been met, the Secretary shall certify an applicant as a Inspector, Risk Assessor, Supervisor, Project Designer, or Abatement Worker, as appropriate.~~

~~3.1.4 Upon receiving certification from the Secretary, individuals conducting lead-based paint activities shall comply with the work practice standards for performing the appropriate lead-based paint activities as established in Section 4.0 of these regulations.~~

~~3.1.5 It shall be a violation for an individual to conduct any of the lead-based paint activities described in Section 4.0 after August 30, 1999, if that individual has not been certified by the Secretary, pursuant to this section to do so.~~

~~3.2 Inspector, Risk Assessor, Supervisor, Abatement worker and Project designer.~~

~~3.2.1 To become certified as an Inspector, Risk Assessor, or Supervisor, Abatement Worker or Project Designer an individual must:~~

~~3.2.1.1 Successfully complete an accredited course in the appropriate discipline and receive a course completion certificate from an accredited training provider.~~

~~3.2.1.2 Pass the course test in the appropriate discipline; and,~~

~~3.2.1.3 Meet or exceed the following experience and education requirements:~~

~~3.2.1.3.1Inspectors.~~

~~3.2.1.3.1.1 No experience or education requirements.~~

~~3.2.1.3.2Risk Assessors~~

~~3.2.1.3.2.1Successful completion of an accredited training course for Inspectors; and~~

~~3.2.1.3.2.2Bachelor's degree and 1 year of experience in a related field (e.g. lead, asbestos, environmental remediation work, or construction) or an Associates degree with 2 years experience in a related field; or~~

~~3.2.1.3.2.3Certification as an industrial hygienist, professional engineer, registered architect and/or certification in a related engineering/health/environmental field (e.g. safety professional, environmental scientist); or~~

~~3.2.1.3.2.4A high school diploma (or equivalent), and at least 3 years of experience in a related field (e.g. lead, asbestos, environmental remediation work or construction).~~

~~3.2.1.3.3Supervisor:~~

~~3.2.1.3.3.1One year of experience as meeting the standards of a certified lead-based paint Abatement Worker; or~~

~~3.2.1.3.3.2At least 2 years of experience in a related field (e.g. lead, asbestos, or environmental remediation work) or in the building trades.~~

~~3.2.1.3.4Abatement Workers:~~

~~3.2.1.3.4.1Successful completion of an accredited training course in the appropriated discipline and receive a course completion certificate from an accredited training provider.~~

~~3.2.1.3.4.2No additional experience or education requirements.~~

~~3.2.1.3.5Project Designers:~~

~~3.2.1.3.5.1Successful completion of an accredited training course for Supervisors.~~

~~3.2.1.3.5.2Bachelor's degree in engineering, architecture, or a related profession, and 1 year of experience in building construction and design or a related field; or,~~

~~3.2.1.3.5.3Four years of experience in building construction and design or a related field.~~

~~3.2.2 The following documents shall be recognized by the Secretary as evidence of meeting the requirements listed in 3.2:~~

~~3.2.2.1 Official academic transcripts or diploma, as evidence of meeting the education requirements.~~

~~3.2.2.2 Resumes, letters of reference, or documentation of work experience, as evidence of meeting the work experience requirements.~~

~~3.2.2.3 Course completion certificates from lead-specific or other related training courses, issued by accredited training programs, as evidence of meeting the training requirements.~~

~~3.2.3 In order to take the course test for a particular discipline an individual must:~~

~~3.2.3.1 Successfully complete an accredited course in the appropriate discipline and receive a course completion certificate from an accredited training provider.~~

~~3.2.3.2 Meet or exceed the education and experience requirements in 3.2.1.~~

~~3.2.4 After passing the appropriate course test (and third party examination for a lead inspector, risk assessor or supervisor) and submitting an application demonstrating that he/she meets the appropriate training, education, and experience prerequisites described in 3.2.1 and paying the associated fee, an individual shall be issued a certificate by the Secretary. To maintain certification, an individual must be re-certified as described in 3.4.~~

~~3.2.5 An individual may take the third party examination for a lead inspector, risk assessor or supervisor no more than two times within 6 months of the date of the initial course test for that discipline.~~

~~3.2.6 If an individual does not pass the third party examination for a lead inspector, risk assessor or supervisor within 6 months, the individual must retake the appropriate course from an accredited training program before reapplying for certification.~~

~~3.3 Certification based on prior training.~~

~~3.3.1 Any individual who received training in a lead-based paint activity prior to the March 1, 1999 shall be eligible for certification under the alternative procedures in this section. Individuals who have received lead-based paint activities training from an EPA authorized State or Tribal accredited training program, or from a State or Tribe with an EPA authorized program shall also be eligible for certification under the following alternative procedures.~~

~~3.3.1.1 Applicants for certification as an Inspector, Risk Assessor, or Supervisor shall:~~

~~3.3.1.1.1 Demonstrate that the applicant has successfully completed training or on-the-job training in the conduction of a lead based paint activity, and~~

~~3.3.1.1.2 Demonstrate that the applicant meets or exceeds the education and/or experience requirements in 3.2.1.3.1 through 3.2.1.3.3, and~~

~~3.3.1.1.3 Successfully completed an accredited refresher training course for the appropriate discipline, and~~

~~3.3.1.1.4 Pass a course test and a third party examination administered for the appropriate discipline.~~

~~3.3.1.2 Applicants for certification as an Abatement Worker or Project Designer shall:~~

~~3.3.1.2.1 Demonstrate that the applicant has successfully completed training or on-the-job training in the conduction of a lead based paint activity, and~~

~~3.3.1.2.2 Demonstrate that the applicant meets the education and/or experience requirements in 3.2.1.3.4 and 3.2.1.3.5, and~~

~~3.3.1.2.3 Successfully complete an accredited refresher training course for the appropriate discipline.~~

~~3.3.2 Individuals who received training in a lead-based paint activity prior to March 1, 1999 shall have until August 30, 1999 to apply for certification under the above procedures. After that date, all individuals wishing to obtain certification must do so through the procedures described in 3.1 according to the discipline for which certification is sought.~~

~~3.4 Re-certification of Individuals.~~

~~3.4.1 To maintain certification in a particular discipline, a certified individual shall apply to and be re-certified by the Secretary in that discipline either:~~

~~3.4.1.1 Every 2 years if the individual completed an approved training course with a course test and hands-on assessment; or~~

~~3.4.1.2 Every 5 years if the individual completed an approved training course with a proficiency test provided and that the individual has remained involved in the duties of that discipline as his/her primary means of income.~~

~~3.4.1.2.1 An individual desiring to sit for the proficiency test is to have completed three (3) lead abatement projects during the past 12 months without a potential lead license revocation/suspendable discrepancy issued by the Delaware Department of Health and Social Services.~~

~~3.4.1.2.2 The proficiency test is an essay type test with five (5) parts; (1) Safe Lead Abatement work practices; plus four (4) selected elements from the following list:~~

~~3.4.1.2.2.1 health hazards,~~

~~3.4.1.2.2.2 lead safe containment,~~

~~3.4.1.2.2.3 specialized equipment designed to minimize human exposure to lead,~~

~~3.4.1.2.2.4 waste disposal regulations and guidelines,~~

~~3.4.1.2.2.5 hazardous waste management policies and applications,~~

~~3.4.1.2.2.6 construction safety,~~

~~3.4.1.2.2.7scaffold safety,~~

~~3.4.1.2.2.8ladder safety,~~

~~3.4.1.2.2.9electrical safety, or~~

~~3.4.1.2.2.10 hand tool safety.~~

~~3.4.2 An individual shall be re-certified if the individual successfully completes the appropriate accredited refresher training course, submits a valid copy of the appropriate refresher course completion certificate and pays the associated fee.~~

~~3.4.3 An individual may maintain re-certification for multiple disciplines by successfully completing the appropriate highest discipline accredited refresher training course and meeting the experience and education parameters defined in 3.2 for those disciplines.~~

~~3.5 Certification of abatement firms.~~

~~3.5.1 All firms which perform or offer to perform any of the lead-based paint activities described in Section 4.0 after August 30, 1999 shall be certified by the Secretary.~~

~~3.5.2 A firm seeking certification shall submit to the Secretary, a letter attesting that the firm shall only employ appropriately certified employees to conduct lead-based paint activities, and that the firm and its employees shall follow the work practice standards in Section 4.0 for conducting lead-based paint activities.~~

~~3.5.3 From the date of receiving the firm's letter requesting certification and the associated fee, the Secretary shall have 45 days to approve or disapprove the firm's request for certification. Within that time, the Secretary shall respond with either a certificate of approval or a letter describing the reasons for a disapproval.~~

~~3.5.4 The firm shall maintain all records pursuant to requirements in Section 4.0.~~

~~3.5.5 After March 1, 1999 firms may apply to the Secretary for certification to engage in lead-based paint activities.~~

~~3.6 Suspension, revocation, and modification of certifications of individuals engaged in lead-based-paint activities.~~

~~3.6.1 The Secretary may, after notice and opportunity for hearing, suspend, revoke, or modify an individual's certification if an individual has:~~

~~3.6.1.1 Obtained training documentation through fraudulent means.~~

~~3.6.1.2 Gained admission to and completed an accredited training program through misrepresentation of admission requirements.~~

~~3.6.1.3 Obtained certification through misrepresentation of certification requirements of related documents dealing with education, training, professional registration, or experience.~~

~~3.6.1.4 Performed work requiring certification at a job site without having proof of certification.~~

~~3.6.1.5 Permitted the duplication or use of the individual's own certificate by another.~~

~~3.6.1.6 Performed work for which appropriate certification has not been received.~~

~~3.6.1.7 Failed to comply with the appropriate work practice standards for lead-based paint activities in Section 4.0.~~

~~3.6.1.8 Failed to comply with Federal, State or local lead-based paint statutes or regulations.~~

~~3.6.2 In addition to an administrative or judicial finding or violation, for purposes of this section only, execution of a consent agreement in settlement of an enforcement action constitutes evidence of a failure to comply with relevant statutes or regulations.~~

~~3.7 Suspension, revocation, and modification of certification of firms engaged in lead-based paint activities.~~

~~3.7.1 The Secretary may, after notice and opportunity for hearing, suspend, revoke, or modify a firm's certification if a firm has:~~

~~3.7.1.1 Performed work requiring certification at a job site with individuals who are not certified.~~

~~3.7.1.2 Failed to comply with the work practice standards established in Section 4.0.~~

~~3.7.1.3 Misrepresented facts in its letter of application or certification.~~

~~3.7.1.4 Failed to maintain required records.~~

~~3.7.1.5 Failed to comply with Federal, State, or local lead-based paint statutes or regulations.~~

~~3.7.2 In addition to an administrative or judicial finding of violation, for purposes of this section only, execution of a consent agreement in settlement of an enforcement action constitutes evidence of a failure to comply with relevant statutes or regulations.~~

~~3.8 Procedures for suspension, revocation, or modification of the certification of individuals or firms.~~

~~3.8.1 Prior to taking action to suspend, revoke, or modify the certification of any individual or firm, the Secretary shall notify the affected entity in writing of the following:~~

~~3.8.1.1 The legal and factual basis for the suspension, revocation, or modification.~~

~~3.8.1.2 The anticipated commencement date and duration of the suspension, revocation or modification.~~

~~3.8.1.3 Actions, if any, which the affected entity may take to avoid suspension, revocation, or modification or to receive certification in the future.~~

~~3.8.1.4 The opportunity and method for requesting a hearing prior to final action to suspend, revoke, or modify certification.~~

~~3.8.1.5 Any additional information which the Secretary may provide.~~

~~3.8.2 If a hearing is requested by the certified individual or firm, the Secretary shall:~~

~~3.8.2.1 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.~~

~~3.8.2.2 Provide the affected entity such other procedural opportunities as the Secretary may deem appropriate to ensure a fair and impartial hearing.~~

~~3.8.2.3 Appoint an official Hearing Officer. No person shall serve as Hearing Officer if he or she has had any prior involvement with the specific matter.~~

~~3.8.3 The Hearing Officer appointed pursuant to paragraph 3.8.2 shall:~~

~~3.8.3.1 Conduct a fair, orderly, and impartial hearing within 90 days of the request for a hearing.~~

~~3.8.3.2 Consider all relevant evidence, explanation, comment, and argument submitted.~~

~~3.8.3.3 Notify the Secretary in writing within 90 days of completion of the hearing of his or her decision. The Secretary shall either accept or reject the decision. If accepted, the Secretary shall issue a final order. Such an order is a final agency action, which may be subject to judicial review.~~

~~3.8.4 If the Secretary determines that the public health, interest, or welfare warrants immediate action to suspend the certification of any individual or firm prior to the opportunity for a hearing, it shall:~~

~~3.8.4.1 Notify the affected entity of its intent to immediately suspend certification for the reasons listed in 3.6.1 or 3.7.1. If a suspension, revocation, or modification notice has not previously been issued pursuant to 3.8.1, it shall be issued at the same time the immediate suspension notice is issued.~~

~~3.8.4.2 Notify the affected entity in writing of the grounds upon which the immediate suspension is based and why it is necessary to suspend the entity's certification before an opportunity for a hearing to suspend, revoke, or modify the individual's or firm's certification.~~

~~3.8.4.3 Notify the affected entity of the commencement date and duration of the immediate suspension notice is issued.~~

~~3.8.4.4 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.~~

~~3.8.5 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 a certified individual or firm 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 DE Reg. 759 (12/01/07)~~

~~4.0 Work Practice Standards For Conducting Lead-based Paint Activities: Target Housing and Child-occupied Facilities.~~

~~4.1 Effective date, applicability, and terms.~~

~~4.1.1 Beginning on January 5, 2001, all lead-based paint activities shall be performed pursuant to the work practice standards contained in this section.~~

~~4.1.2 When performing any lead-based paint activity described by a certified abatement firm or a certified individual as an inspection, lead-hazard screen, risk assessment or abatement, a certified individual must perform that activity in compliance with the appropriate requirements below.~~

~~4.1.3 Documented methodologies that are appropriate for this section are found in the following: The U. S. Department of Housing and Urban Development (HUD) Guidelines for the Evaluation and Control of Lead-based Paint Hazards in Housing; the EPA Guidance on Residential Lead-based Paint, Lead Contaminated Dust, and Lead-Contaminated Soil; the EPA Residential Sampling for Lead: Protocols for Dust and Soil Sampling (EPA report number 747-R-95-001); 40 CFR Part 745 subpart D - Lead Based Paint Hazards; and other methods and guidelines deemed equivalent by EPA or HUD.~~

~~4.1.4 *Determinations.*~~

~~4.1.4.1 Lead-based paint is present:~~

~~4.1.4.1.1 On any surface that is tested and found to contain lead equal to or in excess of 1.0 milligrams per square centimeter or equal to or in excess of 0.5% by weight; and~~

~~4.1.4.1.2 On any surface like a surface tested in the same room equivalent that has a similar painting history and that is found to be lead-based paint.~~

~~4.1.4.2 A paint-lead hazard is present:~~

~~4.1.4.2.1 On any friction surface that is subject to abrasion and where the lead dust levels on the nearest horizontal surface underneath the friction surface (e.g., the window sill or floor) is equal to or greater than the dust hazard levels identified in 4.2.~~

~~4.1.4.2.2 On any chewable lead-based paint surface on which there is evidence of teeth marks;~~

~~4.1.4.2.3 Where there is any damaged or otherwise deteriorated lead-based paint on an impact surface that is cause by impact from a related building component (such as a door knob that knocks into a wall or a door that knocks against its door frame; and~~

~~4.1.4.2.4 If there is any other deteriorated lead-based paint in any residential building or child-occupied facility or on the exterior of any residential building or child-occupied facility.~~

~~4.1.4.3 A dust-lead hazard is present in a residential dwelling or child occupied facility:~~

~~4.1.4.3.1 In a residential dwelling on floors and interior window sills when the weighted arithmetic mean lead loading for all single surface or composite samples of floors and interior window sills are equal to or greater than 40 $\mu g/ft^2$ for floors and 250 $\mu g/ft^2$ for interior window sills, respectively;~~

~~4.1.4.3.2 On floors or interior window sills in an unsampled residential dwelling in a multi-family dwelling, if a dust-lead hazard is present on floors or interior window sills, respectively, in at least one sampled residential unit on the property; and~~

~~4.1.4.3.3 On floors or interior window sills in an unsampled common area in a multi-family dwelling, if a dust-lead hazard is present on floors or interior window sills, respectively, in at least one sampled common area in the same common area group on the property.~~

~~4.1.4.4 A soil-lead hazard is present:~~

~~4.1.4.4.1 In a play area when the soil-lead concentration from a composite play area sample of bare soil is equal to or greater than 400 parts per million; or~~

~~4.1.4.4.2 In the rest of the yard when the arithmetic mean lead concentration from a composite sample (or arithmetic mean of composite samples) of bare soil from the rest of the yard (i.e., non-play areas) for each residential building on a property is equal to or greater than 1,200 parts per million.~~

~~4.1.5 Record keeping. All reports or plans required in this section shall be maintained by the certified firm or individual who prepared the report for no fewer than 3 years. The certified firm or individual also shall provide copies of these reports to the building owner who contracted for its services~~

~~4.1.6 Clearance levels that are appropriate for the purposes of this section may be found listed in 4.5.8.8; in the EPA Guidance on Residential Lead-based Paint, Lead-Contaminated Dust, and Lead-Contaminated Soil or other methods and guidelines deemed equivalent by the EPA or HUD.~~

~~4.2 Inspection.~~

~~4.2.1 An inspection shall be conducted only by a person certified by the Secretary as an Inspector or Risk Assessor and, if conducted, must be conducted according to the procedures in this section.~~

~~4.2.2 When conducting an inspection, the following locations shall be selected according to documented methodologies listed in 4.1 and tested for the presence of lead-based paint:~~

~~4.2.2.1 In a residential dwelling and child-occupied facility, each component with a distinct painting history and each exterior component with a distinct painting history shall be tested for lead-based paint, except those components that the Inspector or Risk Assessor determines to have been replaced after 1978, or not to contain lead-based paint; and~~

~~4.2.2.2 In a multi-family dwelling and in a child-occupied facility each component, in addition to the requirements of 4.2.1, every common area with a distinct painting history, except those components that the Inspector or Risk Assessor determines to have been replaced after 1978, or to not contain lead-based paint.~~

~~4.2.3 Paint shall be sampled in the following manner:~~

~~4.2.3.1 The analysis of paint to determine the presence of lead shall be conducted using documented methodologies listed in 4.1 which incorporate adequate quality control procedures; and/or~~

~~4.2.3.2 All collected paint chip samples shall be analyzed according to 4.6, to determine if they contain detectable levels of lead that can be quantified numerically.~~

~~4.2.4 The certified Inspector or Risk Assessor shall prepare an inspection report which shall include the following information:~~

~~4.2.4.1 Date of each inspection.~~

~~4.2.4.2 Address of building.~~

~~4.2.4.3 Date of construction.~~

~~4.2.4.4 Apartment numbers (if applicable).~~

~~4.2.4.5 Name, address, and telephone number of the owner or owners of each residential dwelling or child-occupied facility.~~

~~4.2.4.6 Name, signature, and certification number of each certified Inspector and/or Risk Assessor conducting testing.~~

~~4.2.4.7 Name, address and telephone number of the certified abatement firm employing each Inspector and/or Risk Assessor, if applicable.~~

~~4.2.4.8 Each testing method and device and/or sampling procedure employed for paint analysis, including quality control data and, if used, the serial number of any x-ray fluorescence (XRF) device.~~

~~4.2.4.9 Specific locations of each painted component tested for the presence of lead-based paint.~~

~~4.2.4.10 The results of the inspection expressed in terms appropriate to the sampling method used.~~

~~4.3 Lead hazard screen.~~

~~4.3.1 A lead hazard screen shall be conducted only by a person certified by the Secretary as a Risk Assessor.~~

~~4.3.2 If conducted, a lead hazard screen shall be conducted as follows:~~

~~4.3.2.1 Background information regarding the physical characteristics of the residential dwelling or a child-occupied facility and occupant use patterns that may cause lead-based paint exposure to one or more children age 6 years and under shall be collected.~~

~~4.3.2.2 A visual inspection of a residential dwelling or a child-occupied facility shall be conducted to:~~

~~4.3.2.2.1 Determine if any deteriorated paint is present, and~~

~~4.3.2.2.2 Locate at least two dust sampling locations.~~

~~4.3.2.3 If deteriorated paint is present, each surface with paint that is determined to be deteriorated, using documented methodologies listed in 4.1, to be in poor condition and to have a distinct painting history, shall be tested for the presence of lead.~~

~~4.3.2.4 In residential dwellings and child-occupied facilities, two composite dust samples shall be collected, one from the floors and the other from the windows, in rooms, hallways or stairwells where one or more children age 6 and under, are most likely to come in contact with dust.~~

~~4.3.2.5 In multi-family dwellings and in child-occupied facilities, in addition to the floor and window samples required in 4.3.2.4, the Risk Assessor shall collect composite dust samples from common areas where one or more children, age 6 and under, are most likely to come into contact with dust.~~

~~4.3.3 Dust samples shall be collected and analyzed in the following manner:~~

~~4.3.3.1 All dust samples shall be taken using documented methodologies listed in 4.1 that incorporate adequate quality control procedures.~~

~~4.3.3.2 All collected dust samples shall be analyzed according to 4.6 and 4.7 of this section to determine if they contain detectable levels of lead that can be quantified numerically.~~

~~4.3.4 Paint shall be sampled in the following manner:~~

~~4.3.4.1 The analysis of paint to determine the presence of lead shall be conducted using documented methodologies listed in 4.1 that incorporate adequate quality control procedures; and/or~~

~~4.3.4.2 All collected paint chip samples shall be analyzed according to 4.6 of this section to determine if they contain detectable levels of lead that can be quantified numerically.~~

~~4.3.5 The Risk Assessor shall prepare a lead hazard screen report, which shall include the following information:~~

~~4.3.5.1 The information required in a risk assessment report as specified in 4.4, including 4.4.11.1 through 4.4.11.14, and excluding 4.4.11.15 through 4.4.11.18. Additionally, any background information collected pursuant to 4.3.2.1 shall be included in the risk assessment report; and~~

~~4.3.5.2 Recommendations, if warranted, for a follow-up risk assessment, and as appropriate, any further actions.~~

~~4.4 Risk assessment.~~

~~4.4.1 A risk assessment shall be conducted only by a person certified by the Secretary as a Risk Assessor and, if conducted, must be conducted according to the procedures in this paragraph.~~

~~4.4.2 A visual inspection of risk assessment of the residential dwelling or a child-occupied facility shall be undertaken to locate the existence of deteriorated paint, assess the extent and causes of the deterioration, and other potential lead-based paint hazards.~~

~~4.4.3 Background information regarding the physical characteristics of the residential dwelling or the child-occupied facility and occupant use patterns that may cause lead-based paint exposure to one or more children age 6 years and under shall be collected.~~

~~4.4.4 The following surfaces which are determined, using documented methodologies, to have a distinct painting history, shall be tested for the presence of lead:~~

~~4.4.4.1 Each friction surface or impact surface with visibly deteriorated paint and~~

~~4.4.4.2 All other surfaces with visibly deteriorated paint.~~

~~4.4.5 In residential dwellings, dust samples (either composite or single-surface samples) from the interior window sills and floor shall be collected and analyzed in all living areas where one or more children, age 6 and under, are most likely to come into contact with dust.~~

~~4.4.6 For multi-family dwellings and child-occupied facilities, the samples required in 4.4.5 of this section shall be taken i.e. interior window sills and floor dust samples (either composite or single-surface samples) shall be collected and analyzed in the following locations:~~

~~4.4.6.1 Common areas adjacent to the sampled residential dwelling and child-occupied facility; and~~

~~4.4.6.2 Other common areas in the building where the risk assessor determines that one or more children, age 6 and under, are likely to come into contact with dust.~~

~~4.4.7 For child-occupied facilities, interior window sills and floor dust samples (either composite or single-surface samples) or stairwell utilized by one or more children, age 6 and under, and in other common areas in the child-occupied facility where the Risk Assessor determines one or more children, age 6 and under, are likely to come into contact with dust.~~

~~4.4.8 Soil samples shall be collected and analyzed for lead concentrations in the following locations:~~

~~4.4.8.1 Exterior play areas where bare soil is present; and~~

~~4.4.8.2 Dripline/foundation areas where bare soil is present.~~

~~4.4.8.3 Non-play areas where bare soil is present.~~

~~4.4.9 Any paint, dust, or soil sampling or testing shall be conducted using documented methodologies listed in 4.1 and 4.6 that incorporate adequate quality control procedures.~~

~~4.4.10 Any collected paint chip, dust or soil samples shall be analyzed according to 4.6 to determine if they contain detectable levels of lead that can be quantified numerically.~~

~~4.4.11 The certified Risk Assessor shall prepare a risk assessment report which shall include the following information:~~

~~4.4.11.1 Date of assessment.~~

~~4.4.11.2 Address of each building.~~

~~4.4.11.3 Date of construction of each building.~~

~~4.4.11.4 Apartment number (if applicable).~~

~~4.4.11.5 Name, address, and telephone number of each owner of each building.~~

~~4.4.11.6 Name, signature, and certification of the certified Risk Assessor conducting the assessment.~~

~~4.4.11.7 Name, address, and telephone number of the certified abatement firm employing each certified risk assessor, if applicable.~~

~~4.4.11.8 Name, address, and telephone number of each recognized laboratory conducting analysis of collected samples, if applicable.~~

~~4.4.11.9 Results of the visual inspection.~~

~~4.4.11.10 Testing method and sampling procedure for paint analysis employed.~~

~~4.4.11.11 Specific locations of each painted component tested for the presence of lead.~~

~~4.4.11.12 All data collected from on-site testing, including quality control data and, if used, the serial number of any XRF device.~~

~~4.4.11.13 All results of laboratory analysis on collected paint, soil, and dust samples.~~

~~4.4.11.14 Any other sampling results.~~

~~4.4.11.15 Any background information collected pursuant to 4.4.3 of this section.~~

~~4.4.11.16 To the extent that they are used as part of the lead-based paint hazard determination, the results of any previous inspections or analyses for the presence of lead-based paint, or other assessments of lead-based paint related hazards.~~

~~4.4.11.17 A description of the location, type, and severity of identified lead-based paint hazards and any other potential lead hazards.~~

~~4.4.11.18 A description of interim controls and/or abatement options for each identified lead-based paint hazard and a suggested prioritization for addressing each hazard. If the use of an encapsulant or enclosure is recommended, the report shall recommend a maintenance and monitoring schedule for the encapsulant or enclosure.~~

~~4.5 Abatement.~~

~~4.5.1 An abatement shall be conducted only by a certified individual and if conducted, shall be conducted according to the procedures in these regulations.~~

~~4.5.2 A certified Supervisor is required for each abatement project and shall be on site during all abatement work.~~

~~4.5.3 The certified Supervisor and the certified abatement firm employing that supervisor, if any, shall ensure that all abatement activities are conducted according to the requirements of these regulations and all other Federal, State and local requirements.~~

~~4.5.4 Written notification of the commencement of lead-based paint abatement activities in a residential dwelling or as a result of a Federal, State, or local order shall be given to the Secretary five (5) government working days prior to the commencement of abatement activities.~~

~~4.5.4.1 Notification for lead-based paint abatement activities required in response to an elevated blood lead level (EBL) determination, or Federal, State, or local emergency abatement order should be received by the Secretary as early as possible before, but must be received no later than the start date of the lead-based paint abatement activities. Should the start date and/or location provided to the Secretary change, an updated notification must be received by the Secretary on or before the start date provided to the Secretary. Documentation showing evidence of an EBL determination or a copy of the Federal/State/local emergency abatement order must be included in the written notification to take advantage of this abbreviated notification period.~~

~~4.5.4.2 Except as provided in section 4.5.4, updated notification must be provided the Secretary for lead-based paint abatement activities that will begin on a date other than the start date specified in the original notification, as follows:~~

~~4.5.4.2.1 For lead-based paint abatement activities beginning prior to the start date provided to the Secretary an updated notification must be received by the Secretary at least 5 business days before the new start date included in the notification.~~

~~4.5.4.2.2 For lead-based paint abatement activities beginning after the start date provided to the Secretary an updated notification must be received by the Secretary on or before the start date provided to the Secretary.~~

~~4.5.4.3 Except as provided in section 4.5.4, updated notification must be provided to the Secretary for any change in location of lead-based paint abatement activities at least 5 business days prior to the start date provided to the Secretary.~~

~~4.5.4.4 Updated notification must be provided to the Secretary when lead-based paint abatement activities are canceled, or when there are other significant changes including, but not limited to, when the square footage or acreage to be abated changes by more than 20%. This updated notification must be received by the Secretary on or before the start date provided to the Secretary, or if work has already begun, within 24 hours of the change.~~

~~4.5.4.5 The following must be included in each notification:~~

~~4.5.4.5.1 Notification type (original, updated, cancellation).~~

~~4.5.4.5.2 Date when lead-based paint abatement activities will start.~~

~~4.5.4.5.3 Date when lead-based paint abatement activities will end (approximation using best professional judgement).~~

~~4.5.4.5.4 Firm's name, State certification number, address, telephone number.~~

~~4.5.4.5.5 Type of building (e.g., single family dwelling, multi-family dwelling, child-occupied facilities) on/in which abatement work will be performed.~~

~~4.5.4.5.6 Property name (if applicable).~~

~~4.5.4.5.7 Property address including apartment or unit number(s) (if applicable) for abatement work.~~

~~4.5.4.5.8 Documentation showing evidence of an EBL determination or a copy of the Federal/State/Tribal/local emergency abatement order, if using the abbreviated time period as described in section 4.5.4.~~

~~4.5.4.5.9 Name and State certification number of the project supervisor.~~

~~4.5.4.5.10 Approximate square footage/acreage to be abated.~~

~~4.5.4.5.11 Brief description of abatement activities to be performed.~~

~~4.5.4.5.12 Name, title, and signature of the representative of the certified firm who prepared the notification.~~

~~4.5.4.6 Notification must be accomplished using any of the following methods: Written notification can be accomplished using either the sample form titled "Notification of Lead-Based Paint Abatement Activities" or similar form containing the information required in paragraph 4.5.4.5. 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 3 additional business days for delivery in order to ensure that the Secretary receives the notification by the required date). Instructions and sample forms can be obtained from the NLIC at 1–800–424–LEAD (5323), or on the Internet at *http://www.epa.gov/lead*.~~

~~4.5.4.7 Lead-based paint abatement activities shall not begin on a date, or at a location other than that specified in either an original or updated notification, in the event of changes to the original notification.~~

~~4.5.4.8 No firm or individual shall engage in lead-based paint abatement activities, as defined in section 1.4, prior to notifying the Secretary of such activities according to the requirements of this paragraph.~~

~~4.5.5 A written occupant protection plan shall be developed for all abatement projects and shall be prepared according to the following procedures:~~

~~4.5.5.1 The occupant protection plan shall be unique to each residential dwelling or a or child-occupied facility and be developed prior to the abatement. The occupant protection plan shall describe the measures and management procedures that will be taken during the abatement to protect the building occupants from exposure to any lead-based paint hazards.~~

~~4.5.5.2 A certified Supervisor or Project Designer shall prepare the occupant protection plan.~~

~~4.5.6 The work practices listed below shall be restricted during an abatement as follows:~~

~~4.5.6.1 Open-flame burning or torching of lead-based paint is prohibited;~~

~~4.5.6.2 Machine sanding or grinding or abrasive blasting or sandblasting of lead-based paint is prohibited unless used with High Efficiency Particulate Air (HEPA) exhaust control which removes particles of 0.3 microns or larger from the air at 99.97 percent or greater efficiency;~~

~~4.5.6.3 Dry scraping of lead-based paint is permitted only in conjunction with heat guns or around electrical outlets or when treating defective paint spots total no more than 2 square feet in any one room, hallway or stairwell or total no more than 20 square feet on exterior surfaces; and,~~

~~4.5.6.4 Operating a heat gun on lead-based paint is permitted only at temperatures below 1,100 degrees Fahrenheit.~~

~~4.5.7 If conducted, soil abatement shall be conducted in one of the following ways:~~

~~4.5.7.1 If soil is removed, the lead-contaminated soil shall be replaced with soil with a lead concentration as close to local background as practical but no >400 PPM.~~

~~4.5.7.2 If soil is not removed, the lead-contaminated soil shall be permanently covered, as defined in "Permanently covered soil".~~

~~4.5.7.3 Lead contaminated soil that is removed should not be used as top soil at other residential property or child-occupied facility.~~

~~4.5.8 The following post-abatement clearance procedures shall be performed only by a certified Inspector or Risk Assessor:~~

~~4.5.8.1 Following an abatement, a visual inspection shall be performed to determine if deteriorated painted surfaces and visible amounts of dust, debris or residue are present. If deteriorated painted surfaces or visible amounts of dust, debris or residue are present these conditions must be eliminated prior to the continuation of the clearance procedures.~~

~~4.5.8.2 Following the visual inspection and any post-abatement cleanup required by 4.5.8.1, clearance sampling for lead-contaminated dust shall be conducted. Clearance sampling may be conducted by employing single-surface sampling or composite sampling techniques.~~

~~4.5.8.3 Dust samples for clearance purposes shall be taken using documented methodologies listed in 4.1 that incorporate adequate quality control procedures.~~

4.5.8.4 Dust samples for clearance purposes shall be taken a minimum of 1 hour after completion of final post-abatement cleanup activities.

4.5.8.5 The following post-abatement clearance activities shall be conducted as appropriate based upon the extent or manner of abatement activities conducted in or to a residential dwelling or a child-occupied facility;

4.5.8.5.1 After conducting an abatement with containment between abated and unabated areas, one dust sample shall be taken from one interior window sill and window trough (if available) and one dust sample shall be taken from the floor of no less than four rooms, hallways or stairwells within the containment area. In addition, one dust sample shall be taken from the floor outside the containment area. If there are less than four rooms, hallways or stairwells within the containment area, then all rooms, hallways or stairwells shall be sampled.

4.5.8.5.2 After conducting an abatement with no containment, two dust samples shall be taken from no less than four rooms, hallways or stairwells in the residential dwelling or a child-occupied facility. One dust sample shall be taken from one interior window sill and window trough (if available) and one dust sample shall be taken from the floor of each room, hallway or stairwell selected. If there are less than four rooms, hallways, or stairwells within the residential dwelling or child-occupied facility then all rooms, hallways or stairwells shall be sampled.

4.5.8.5.3 Following an exterior paint abatement, a visible inspection shall be conducted. All horizontal surfaces in the outdoor living area closest to the abated surface shall be found to be cleaned of visible dust and debris. In addition, a visual inspection shall be conducted to determine the presence of paint chips on the dripline or next to the foundation below any exterior surface abated. If paint chips are present, they must be removed from the site and properly disposed of, according to all applicable Federal, State and local requirements.

4.5.8.6 The rooms, hallways, or stairwells selected for sampling shall be selected according to documented methodologies listed in 4.1.

4.5.8.7 The certified Inspector or Risk Assessor shall compare the residual lead levels (as determined by the laboratory analysis) from each single surface dust sample with clearance levels in 4.5.8.8 of this section for lead in dust on floors, interior window sills and window troughs or from each composite dust sample with the applicable clearance levels for lead in dust on floors, and interior window sills, and window troughs divided by half the number of subsamples in the composite sample. If the residual lead levels in a single surface dust sample equals or exceeds the applicable clearance level or if the residual lead level in a composite dust sample equals or exceeds the applicable clearance level divided by half the number of subsamples in the composite sample, the components represented by the failed sample shall be re-cleaned and retested.

4.5.8.8 The clearance levels for lead in dust are 40 µg/ft^2 for floors, 250 µg/ft^2 for interior window sills, and 400 µg/ft^2 for window troughs.

4.5.9 In a multi-family dwelling with similarly constructed and maintained residential dwellings, random sampling for the purposes of clearance may be conducted provided:

4.5.9.1 The certified individuals who abate or clean the residential dwellings do not know which residential dwelling will be selected for the random sample.

4.5.9.2 A sufficient number of residential dwellings are selected for dust sampling to provide a 95 percent level of confidence that no more than 5 percent or 50 of the residential dwellings (whichever is smaller) in the randomly sampled population exceed the appropriate clearance levels.

4.5.9.3 The randomly selected residential dwellings shall be sampled and evaluated for clearance according to the procedures found in 4.5.8.

4.5.10 An abatement report shall be prepared and signed by a certified supervisor or project designer. The abatement report shall include the following information:

4.5.10.1 Start and completion dates of abatement.

4.5.10.2 The names and address of each certified abatement firm conducting the abatement and the name of each Supervisor assigned to the abatement project.

4.5.10.3 The occupant protection plan prepared pursuant to 4.5.5.

4.5.10.4 The name, address, and signature of each certified Risk Assessor or Inspector conducting a clearance sampling and the date of clearance testing.

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

~~4.5.10.6 A detailed written report describing the abatement, including abatement methods used, locations of rooms and components where abatement occurred, reason for selecting particular abatement methods for each component, and any suggested monitoring of encapsulants or enclosures. The report shall also detail any deviations, changes or abnormalities from the original scope of work.~~

~~4.6 Collection and laboratory analysis of samples.~~

~~4.6.1 Any paint, chip, dust or soil samples collected pursuant to the work practice standards contained in this section shall be:~~

~~4.6.1.1 Collected by persons certified as an inspector or risk assessor; and,~~

~~4.6.1.2 Analyzed by a recognized laboratory that is accredited and proficient to perform analyses for lead compounds in paint chip, dust, and soil samples.~~

~~4.7 Composite dust sampling.~~

~~4.7.1 Composite dust sampling may only be conducted in the situations specified in sections 4.3 through 4.5. If such sampling is conducted, the following conditions shall apply:~~

~~4.7.1.1 Composite dust samples shall consist of at least two sub-samples;~~

~~4.7.1.2 Every component that is being tested shall be included in the sampling; and~~

~~4.7.1.3 Composite dust samples shall not consist of sub-samples from more than one type of component.~~

~~4.8 Record keeping.~~

~~4.8.1 All reports or plans required in this section shall be maintained by the certified individual and firm, if any, who prepared the report for no fewer than 3 years and six months. The certified individual or firm also shall provide a copy of these reports to the building owner who contracted for its services.~~

~~4.9 Inspections.~~

~~4.9.1 The Secretary shall have the authority to enter premises or facilities where those engaged in training for lead-based paint activities conduct business to execute reasonable inspection to ensure compliance with these regulations.~~

~~4.10 Reporting.~~

~~4.10.1 All reports or plans required in this section may become subject to quarterly reporting requirements as deemed necessary and appropriate by the Secretary after lawful notification.~~

~~**11 DE Reg. 759 (12/01/07)**~~

~~5.0 Certification, Fees And Reciprocity~~

~~5.1 Certification of Occupations and Accreditation of Other Training Programs~~

~~5.1.1 Lead-based paint activities as defined by these regulations shall only be conducted according to the procedures and work practice standards contained in these regulations.~~

~~5.1.2 No individual or firm shall make offer to perform or perform any lead-based paint activity as defined by these regulations unless certified to perform that activity according to the procedures.~~

~~5.2 Fees~~

~~5.2.1 Fees shall be remitted by certified check or money order and made payable to the Division of Public Health. Fees are not refundable.~~

~~5.2.2 The fee for an initial or a renewal of a certified Abatement Worker shall be $25.00.~~

~~5.2.3 The fee for an initial or a renewal of a Certified Abatement Firm, Contractor, Supervisor, Project Designer, Lead Inspector and Risk Assessor shall be $50.00.~~

~~5.2.4 The fee for an initial or a renewal of a accredited training program shall be $200.00 for each type of course for which training will be provided.~~

~~5.2.5 Applicants who submit a dishonored check will be charged a service fee in addition to the required application fee that is in accordance with department policy.~~

~~5.3 Reciprocity~~

~~5.3.1 The Secretary may enter into reciprocal agreements with other states and jurisdictions that have been authorized by the EPA.~~

~~**11 DE Reg. 759 (12/01/07)**~~

~~6.0 Compliance And Enforcement Procedures~~

~~6.1 General~~

~~6.1.1 The failure or refusal to comply with any requirement of these regulations is a prohibited act.~~

~~6.1.2 The failure or refusal to establish, maintain, provide copy or permit access to records or reports as required in these regulations is a prohibited act.~~

~~6.1.3 The failure or refusal to permit entry or inspection as required by these regulations is a prohibited act.~~

~~6.1.4 In addition to the above, any individual or certified abatement 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:~~

~~6.1.4.1 Obtaining certification through fraudulent representation.~~

~~6.1.4.2 Failing to obtain certification from the Secretary and performing work at a job site.~~

~~6.1.4.3 Fraudulently obtaining certification and engaging in any lead based paint activity requiring certification.~~

~~6.1.4.4 The State will fund at least one Environmental Health Specialist I to conduct compliance and enforcement procedures.~~

~~6.2 Penalty~~

~~6.2.1 Violators are subject to sanctions pursuant to 16 **Del.C.** 107 for each violation of the requirements established in these regulations.~~

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, which exclude homeowners working about the site of their residence under proper State of Delaware, county and local requirements and whose residence is not occupied by a person or persons other than the owner and the owner's immediate family and no child residing in the residence has been identified as having an elevated blood lead level, establish standards for regulation of lead-based paint activities, including the training and certification of companies and workers engaged in lead-based paint activities, the establishment of work standards for lead-based paint activities, the accreditation of lead-based paint activities training programs, and the establishment of procedures for enforcement.

1.2 Purpose. These regulations shall be construed and applied to promote their underlying purpose of protecting the public health. They establish standards by which certified public or private organizations, firms, companies and individuals engaged in lead-based paint activities in target housing and child-occupied facilities shall adhere. Individuals and firms are encouraged to choose to require more stringent requirements.

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.

2.0 Definitions

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

- The removal of lead-based paint and lead-contaminated dust, the permanent enclosure or encapsulation of lead-based paint, the replacement of lead painted surfaces or fixtures and the removal or covering of lead-contaminated soil; and
- All preparation, cleanup, disposal and post-abatement clearance testing activities associated with such measures.
- Specifically, abatement includes, but is not limited to:
  - Projects for which there is a written contract or other documentation, which provides that an individual or firm will be conducting activities in or to a residential dwelling or a child-occupied facility that:
    - Shall result in the permanent elimination of lead based paint hazards; or
    - Are designed to permanently eliminate lead-based paint hazards and are described in (2.1) and (2.2) of this definition.
- Projects resulting in the permanent elimination of lead-based paint hazards, conducted by firms or individuals certified by the Secretary pursuant to Section 4.0 of these regulations, unless such projects are covered by 2.4.
- Projects resulting in the permanent elimination of lead-based paint hazards, conducted by firms or individuals who, through their company name or promotional literature represent, advertise, or hold themselves out to be in the business of performing lead-based paint activities as identified and defined by these regulations unless such projects are covered by 2.4 of this definition; or
- Projects resulting in the permanent elimination of lead-based paint hazard, that are conducted in response to State of Delaware or local abatement orders.

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

"**Accessible Surface**" means any interior or exterior surface, such as an interior window sill, that a young child can mouth or chew.

"**Accredited Training Program**" means a training program that has been accredited by the Secretary, EPA, or a State or Tribal Program authorized by EPA to provide lead-based paint activities training.

"**Accredited Course**" means a lead-based paint activities training course that has been accredited by the Secretary, EPA, or a State or Tribal Program authorized by EPA.

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

"**Arithmetic Mean**" means the algebraic sum of data values divided by the number of data values (e.g., the sum of the concentration of lead in several soil samples divided by the number of samples).

"**Business Day**" means Monday through Friday with the exception of State of Delaware and Federal holidays.

"**Certification Examination**" means a test administered by the Secretary that measures an individual's knowledge of lead-based paint activities in a specific category or discipline.

"**Certified Firm**" means a company, partnership, corporation, sole proprietorship, association, or other business entity that performs lead-based paint activities to which the Secretary has issued a certificate of approval pursuant to Section 4.0.

"**Certified Inspector**" means an individual who has been certified by the Secretary to conduct inspections pursuant to Section 4.0. A certified inspector also samples for the presence of lead in dust and soil for the purpose of abatement clearance testing.

"**Certified Abatement Worker**" means an individual who has been certified by the Secretary to perform abatements pursuant to Section 4.0.

"**Certified Project Designer**" means an individual who has been certified by the Secretary, to prepare abatement project designs, occupant protection plans, and abatement reports pursuant to Section 4.0.

"**Certified Risk Assessor**" means an individual who has been certified by the Secretary to conduct risk assessments pursuant to Section 4.0.

"**Certified Supervisor**" means an individual who has been certified by the Secretary, to supervise and conduct abatements, and to prepare occupant protection plans and abatement reports pursuant to Section 4.0.

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

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

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

"**Common Area Group**" means a group of common areas that are similar in design, construction, and function.

"**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.

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

"**Containment**" means a process to protect workers, building occupants and the environment by controlling exposure to the lead-contaminated dust and debris created during an abatement.

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

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

"**Course Test Blue Print**" means written documentation identifying the proportion of course test questions devoted to each major topic in the course curriculum.

"**Department**" means the Department of Health & Social Services as defined in 29 **Del.C.** 7904(a).

"**Deteriorated Paint**" means any interior or exterior paint or other coating that is cracking, flaking, chipping, chalking, or peeling, or any paint or coating located on an interior or exterior surface or fixture that is otherwise damaged or separating from the substrate of a building component.

"**Discipline**" means one of the specific types or categories of lead-based paint activities identified in these regulations for which individuals may receive training from accredited programs and become certified by the Secretary. For example, "abatement worker" is a discipline.

"**Distinct Painting History**" means the application history, as indicated by its visual appearance or a record of application, over time, of paint or other surface coatings, to a component or room.

"**Documented Methodologies**" are methods or protocols used to sample for the presence of lead in paint, dust and soil.

"**Dripline**" means the area within three feet surrounding the perimeter of a building.

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

"**Elevated Blood Lead Level (EBLL)**" means an excessive absorption of lead that is a concentration of lead in whole blood of 20 µg/dL (micrograms of lead per deciliter of whole blood) for a single venous test, or of 15 - 19 µg/dL in two consecutive fingerstick blood level tests taken three to four months apart.

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

"**Encapsulation**" means the application of an encapsulant.

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

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

"**Firm**" means any business company or partnership, sole proprietorship or individual doing business, association, non-profit organization, or other business entity, whether or not incorporated.

"**Friction Surface**" means any interior or exterior surface that is subject to abrasion or friction, including, but not limited to window, floor, and stair tread surfaces.

"**Guest Instructor**" means an individual, who meets or exceeds the requirements in 3.3.2, has submitted documentation of these qualifications as provided in 3.3.4.1 through 3.3.4.3 to the training provider, and is designated by the training manager or principal instructor to provide instruction specific to the lecture, hands-on activities, or work practice components of a course.

"**Hands-on Skills Assessment**" means an evaluation which tests the trainees' ability to satisfactorily perform the work practices and procedures identified in these regulations, as well as any other skill taught in a training course.

"**Hazardous Waste**" means any waste subject to Delaware Department of Natural Resources and Environmental Control regulation as required in 7 **Del.C.** Ch. 63.

"**HUD**" means U.S. Department of Housing and Urban Development.

"**Impact Surface**" means any interior or exterior surface such as surfaces on doors that is subject to damage by repeated impact or contact.

"**Inspection**" means a surface-by-surface investigation to determine the presence of lead-based paint and the provision of a written report, or electronic equivalent, explaining the results of the investigation.

"**Interim Controls**" means a set of measures designed to temporarily reduce human exposure or likely exposure to lead-based paint hazards, including specialized cleaning, repairs, maintenance, painting,

temporary containment, ongoing monitoring of lead-based paint hazards or potential hazards, and the establishment and operation of management and resident education programs.

"**Interior Window Sill**" means the portion of the horizontal window ledge that protrudes into the interior of the room.

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

"**Lead-Based Paint Activities**" means, in the case of target housing and child-occupied facilities, inspection, risk assessment and abatement, as defined in these regulations.

"**Lead-Based Paint Activities Courses**" means initial and refresher training courses (worker, supervisor, inspector, risk assessor, project designer) provided by accredited training programs.

"**Lead-Based Paint Hazard**" means lead-contaminated dust, lead-contaminated soil, or lead-based paint that is deteriorated or present in accessible surfaces, friction surfaces, or impact surfaces that could result in adverse human health effects.

"**Lead-Contaminated Dust**" means surface dust in residential dwellings, or child-occupied facilities that contains an area or mass concentration of lead at or in excess of levels identified by both the State of Delaware and the EPA.

"**Lead-contaminated Soil**" means bare soil on residential real property and on the property of a child-occupied facility that contains lead at or in excess of levels identified both by the State of Delaware and the EPA.

"**Lead Hazard Screen**" means a limited risk assessment activity that involves limited paint and dust sampling as described in 5.3.

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

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

"**Local Government**" means a county, city, town, district, association, or other public body (including an agency comprised of two or more of the foregoing entities) created under State law.

"**Multi-Family Dwelling**" means a structure that contains more than one separate residential dwelling unit, which is used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of one or more persons.

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

"**Paint in Poor Condition**" means 10 square feet or more of deteriorated paint on exterior components with large surface areas; or more than two square feet of deteriorated paint on interior components with large surface areas (e.g. walls, ceilings, floors, doors); or more than 10 percent of the total surface areas of the component is deteriorated on interior or exterior components with small surface areas (window sills, baseboards, soffits, trim).

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

"**Person**" means 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.

"**Play Area**" means an area of frequent soil contact by children age six and under as indicated by, but not limited to, such factors including the following: the presence of play equipment (e.g., sandboxes, swing sets, and sliding boards), toys, or other children's possessions, observations of play patterns, or information provided by parents, residents, care givers, or property owners.

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

"**Proficiency Test**" means an extensive written examination designed to validate a person's level of competence regarding Lead Abatement techniques and safety, to include: his/her knowledge of health hazards related to human exposure to lead dust and lead painted surfaces; construction safety; application of lead safe work practices; and, containments designed to reduce/minimize worker and building occupant exposure to lead hazards, specialized equipment designed to reduce lead exposure/hazards for workers and residence occupants, specialized lead-based paint removal using chemicals, hazardous waste management and specialized work practices.

"**Recognized Laboratory**" means an environmental laboratory recognized by the EPA as being capable of performing an analysis for lead compounds in paint, soil, and dust.

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

"**Renovation**" means the modification of any existing structure, or portion thereof, that results in the disturbance of painted surfaces, unless that activity is performed as part of an abatement as defined by this part. The term renovation includes (but is not limited to): the removal, modification or repair of painted surfaces or painted components (e.g., modification of painted doors, surface restoration, window repair, surface preparation activity (such as sanding, scraping, or other such activities that may generate paint dust)); the removal of building components (e.g., walls, ceilings, plumbing, windows); weatherization projects (e.g., cutting holes in painted surfaces to install blown-in insulation or to gain access to attics, planing thresholds to install weather stripping) and interim controls that disturb painted surfaces. A renovation performed for the purpose of converting a building, or part of a building, into target housing or a child-occupied facility is a renovation. The term renovation does not include minor repair and maintenance activities, as defined by EPA regulations at 745.83.

"**Residential Building**" means a building containing one or more residential dwellings.

"**Residential Dwelling**" means a detached single family dwelling unit, including attached structures such as porches and stoops; or, a single family dwelling unit in a structure that contains more than one separate residential dwelling unit, which is used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of one or more persons.

"**Risk Assessment**" means an on-site investigation to determine the existence, nature, severity, and location of lead-based paint hazards, and the provision of a written report, or electronic equivalent, by the individual or the firm conducting the risk assessment, explaining the results of the investigation and options for reducing lead-based paint hazards.

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

"**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.

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

"**Start Date**" means the first day of any lead-based paint activities training course or lead-based paint abatement activity.

"**Start Date Provided to the Secretary**" means the start date included in the original notification or the most recent start date provided to the Secretary in an updated notification.

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

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

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

"**Training Hour**" means at least 50 minutes of actual learning, including, but not limited to, time devoted to lecture, learning activities, small group activities, demonstrations, evaluations, and, if applicable, hands-on experience.

"**Training Manager**" means the individual responsible for administering a training program and monitoring the performance of principal instructors and guest instructors.

"**Training Program**" means lead training curriculum accredited by the Secretary and offered to the public by a training provider.

"**Training Provider**" means a firm that has been approved by the Delaware Department of Education to provide training in Delaware and accredited by the Secretary to conduct accredited lead-based paint activities training program(s) to individuals engaged in lead-based paint activities.

"**Visual Inspection for Clearance Testing**" means the visual examination of a residential dwelling or a child-occupied facility following an abatement to determine whether or not the abatement has been successfully completed.

"**Visual Inspection for Risk Assessment**" means the visual examination of a residential dwelling or a child-occupied facility to determine the existence of deteriorated lead-based paint or other potential sources of lead-based paint hazards.

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

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

3.0 Accreditation of Training Programs and Application and Renewal Requirements

3.1 Accreditation of training programs. After the implementation date of these regulations, January 1, 1999, it shall be unlawful for any person or firm to provide training or offer to provide training for any discipline of lead-based paint activity without first possessing an approval from the Secretary as an accredited training program.

3.1.1 Accredited training programs shall offer and provide only training for the disciplines for which they are approved.

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

3.1.3 A training provider may seek accreditation to offer lead-based paint activities courses in any of the following disciplines: Inspector, Risk Assessor, Supervisor, Project Designer, and Abatement Worker. A training provider may also seek accreditation to offer refresher courses for each of the above listed disciplines.

3.2 Application process. The following are procedures a training provider shall follow to receive accreditation to offer lead-based paint activities courses:

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

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

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

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

3.2.1.4 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.

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

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

3.2.1.7 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:

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

3.2.1.7.2 A copy of the course agenda for each course.

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

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

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

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

3.2.1.8.4 A copy of the quality control plan [as described in 3.3.9]

3.2.1.8.5 A certified check or a check written on a business account in the appropriate amount made payable to the Division of Public Health.

3.2.1.8.6 A copy of the course test blue print for each course.

3.2.2 If a training program meets the requirements in 3.3, then the Secretary shall 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 3.9. 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.

3.2.3 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.

3.3 Requirements for the accreditation of training programs. For a training provider to obtain accreditation from the Secretary to offer lead-based paint activities courses, the program shall meet the following requirements:

3.3.1 The training program shall 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:

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

3.3.1.2 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

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

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

3.3.2.1 Demonstrated experience, education, or training in teaching workers or adults; and

3.3.2.2 Successfully completed at least 16 hours of any EPA-accredited or EPA-authorized State or Tribal-accredited lead-specified training; and

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

3.3.3 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 to 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.

3.3.4 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 3.3.1 and 3.3.2. This documentation must be submitted with the accreditation application. Those documents include the following:

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

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

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

3.3.5 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.

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

3.3.6.1 Inspector course - a minimum of 24 training hours, with a minimum of eight hours devoted to hands-on training activities. The minimum curriculum requirements for the Inspector course are contained in 3.4.1.

3.3.6.2 Risk Assessor course - a minimum of 16 training hours, with a minimum of four hours devoted to hands-on training activities. The minimum curriculum requirements for the Risk Assessor course are contained in 3.4.2.

3.3.6.3 Supervisor course - a minimum of 32 training hours, with a minimum of eight hours devoted to hands-on activities. The minimum curriculum requirements for the Supervisor course are contained in 3.4.3.

3.3.6.4 Project Designer course - a minimum of eight training hours. The minimum curriculum requirements for the Project Designer course are contained in 3.4.4.

3.3.6.5 Abatement Worker course - a minimum of 16 training hours, with a minimum of eight hours devoted to hands-on training activities. The minimum curriculum requirements for the Abatement Worker course are contained in 3.4.5.

3.3.7 For each course offered, the training program shall conduct either a course test at the completion of the course, and if applicable, a hands-on skills assessment, or in the alternative, a proficiency test for that discipline. Each 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.

3.3.7.1 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.

3.3.7.2 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 blue print shall be submitted to the Secretary.

3.3.7.3 The course test shall be developed in accordance with the test blue print submitted with the training accreditation application.

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

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

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

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

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

3.3.9 The training manager shall develop and implement a quality control plan. The plan shall be used to maintain and improve the quality of the training program over time. This plan shall contain at least the following elements:

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

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

3.3.10 The training program shall offer courses that teach the applicable work practice standards for conducting lead-based paint activities contained in Section 5.0. These standards must be taught in the appropriate courses and training environments to provide trainees with the knowledge needed to perform the lead-based paint activities they are responsible for conducting.

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

3.3.12 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 3.2 and to confirm compliance with all program accreditation requirements.

3.3.13 The training manager must provide notification of lead-based paint activities courses offered.

3.3.13.1 The training manager must provide the Secretary with notification of all lead-based paint activities courses offered. The Secretary must receive the original notification at least 7 business days prior to the start date of any lead-based paint activities course.

3.3.13.2 The training manager must provide the Secretary updated notification when lead-based paint activities courses will begin on a date other than the start date specified in the original notification, as follows:

3.3.13.2.1 For lead-based paint activities courses beginning prior to the start date provided to the Secretary, an updated notification must be received by the Secretary at least seven business days before the new start date.

3.3.13.2.2 For lead-based paint activities courses beginning after the start date provided to the Secretary, an updated notification must be received by the Secretary at least two business days before the start date provided to the Secretary.

3.3.13.2.3 The training manager must update the Secretary of any change in location of lead-based paint activities courses at least seven business days prior to the start date provided to the Secretary.

3.3.13.2.4 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 business days prior to the start date provided to the Secretary.

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

3.3.13.2.5.1 Notification type (original, update, cancellation).

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

3.3.13.2.5.3 Course discipline and type (initial/refresher).

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

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

3.3.13.2.5.6 Principal instructor's name.

3.3.13.2.5.7 Training manager's name and signature.

3.3.13.2.6 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/lead.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 additional business days for delivery in order to ensure that the Secretary receives the notification by the required date).

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

3.3.13.2.8 No training program shall provide lead-based paint activities courses without first notifying the Secretary of such activities in accordance with the requirements of 3.3.13.

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

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

3.3.14.2 The notification must include the following:

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

3.3.14.2.2 Course discipline and type (initial/refresher).

3.3.14.2.3 Date(s) of training.

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

3.3.14.2.4.1 Name.

3.3.14.2.4.2 Address.

3.3.14.2.4.3 Date of birth.

3.3.14.2.4.4 Course completion certificate number.

3.3.14.2.4.5 Course test score.

3.3.14.2.4.6 A digital photograph of the student.

3.3.14.2.5 Training manager's name and signature.

3.3.14.3 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/lead.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 additional business days for delivery in order to ensure that the Secretary receives the notification by the required date).

3.4 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. Requirements ending in an asterisk (*) indicate areas that require hands-on activities as an integral portions of the course.

3.4.1 Inspector.

3.4.1.1 Role and responsibilities of an Inspector.

3.4.1.2 Background information on lead and its adverse health effects.

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

3.4.1.4 Liability and insurance issues relating to lead-based paint abatement.

3.4.1.5 Lead-based paint inspection methods, including selection of rooms, and components for sampling or testing.*

3.4.1.6 Paint, dust and soil sampling methodologies.*

3.4.1.7 Clearance standards and testing, including random sampling.*

3.4.1.8 Preparation of the final written, or electronic equivalent, inspection report.*

3.4.1.9 Record keeping.

3.4.2 Risk Assessor.

3.4.2.1 Role and responsibilities of a Risk Assessor.

3.4.2.2 Collection of background information to perform a risk assessment.

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

3.4.2.4 Liability and insurance issues relating to lead-based paint abatement.

3.4.2.5 Visual inspection for the purposes of identifying potential sources of lead-based paint hazards.*

3.4.2.6 Lead hazard screen protocol.

3.4.2.7 Sampling for the other sources of lead exposure.*

3.4.2.8 Interpretations of lead-based paint and other lead sampling results, including all applicable State of Delaware or Federal guidance or regulations pertaining to lead-based paint hazards.*

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

3.4.2.10 Preparation of a final written, or electronic equivalent, risk assessment report.

3.4.3 Supervisor.

3.4.3.1 Role and responsibilities of a Supervisor.

3.4.3.2 Background information on lead and its adverse health effects.

3.4.3.3 Background information on Federal, State of Delaware, and local regulations and guidance that pertain to lead-based paint abatement.

3.4.3.4 Liability and insurance issues relating to lead-based paint abatement.

3.4.3.5 Risk assessment and inspection report interpretation.*

3.4.3.6 Development and implementation of an occupant protection plan and abatement report.

3.4.3.7 Lead-based paint hazard recognition and control.*

3.4.3.8 Lead-based paint abatement and lead-based paint hazard reduction methods, including restricted practices.*

3.4.3.9 Interior dust abatement/cleanup or lead-based paint hazard control and reduction methods.*

3.4.3.10 Soil and exterior dust abatement or lead-based paint hazard control and reduction methods.*

3.4.3.11 Clearance standards and testing.*

3.4.3.12 Cleanup and waste disposal.

3.4.3.13 Record keeping.

3.4.4 Project Designer.

3.4.4.1 Role and responsibilities of a Project Designer.

3.4.4.2 Liability and insurance issues relating to lead-based paint abatement.

3.4.4.3 Development and implementation of an occupant protection plan for large scale abatement projects.

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

3.4.4.5 Interior dust abatement/cleanup or lead hazard control and reduction methods for large scale abatement projects.

3.4.4.6 Clearance standards and testing for large scale abatement projects.

3.4.4.7 Integration of lead-based paint abatement methods with modernization and rehabilitation projects for large scale abatement projects.

3.4.5 Abatement Worker.

3.4.5.1 Role and responsibilities of an Abatement Worker.

3.4.5.2 Background information on lead and its adverse health effects.

3.4.5.3 Background information on Federal, State of Delaware and local regulations and guidance that pertain to lead-based paint abatement.

3.4.5.4 Lead-based paint hazard recognition and control.*

3.4.5.5 Lead-based paint abatement and lead-based paint hazard reduction methods, including restricted practices.*

3.4.5.6 Interior dust abatement methods/cleanup or lead-based paint hazard reduction.*

3.4.5.7 Soil and exterior dust abatement methods or lead-based paint hazard reduction.*

3.5 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: Inspector, Risk Assessor, Supervisor, Project Designer, and Abatement Worker. To obtain accreditation to offer refresher training, a training provider must meet the following minimum requirements.

3.5.1 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:

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

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

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

3.5.2 Each refresher course, except for the project designer course, shall last a minimum of eight training hours. The Project Designer refresher course shall last a minimum of four training hours. Refresher courses for all disciplines, except Project Designer, must include a hands-on portion.

3.5.3 For each refresher course offered (except Project Designer), the training provider shall conduct both a hands-on assessment (), and at the completion of the course, a course test.

3.5.4 A training provider may apply for accreditation of a refresher course concurrently with its application for accreditation of the corresponding training course as described in 3.2. If so, the Secretary shall use the approval process described in 3.2. In addition, the minimum requirements contained in 3.3 [except for requirements in 3.3.6] and 3.5.1, 3.5.2 and 3.5.3 shall also apply to the refresher course.

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

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

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

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

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

3.5.5.5 A statement signed by the training program manager certifying that the refresher training program meets the requirements established in 3.3, except for the requirements in 3.3.6. 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.

3.5.5.6 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:

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

3.5.5.6.2 A copy of the course agenda for each course.

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

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

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

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

3.5.5.7.4 A copy of the quality control plan [as described in 3.3.9].

3.5.5.7.5 A certified check or a check written on a business account in the appropriate amount made payable to the Division of Public Health.

3.5.5.7.6 A copy of the course test blue-print for each course.

3.5.5.8 The requirements in 3.3.1 through 3.3.5 and 3.3.7 through 3.3.14 apply to refresher training providers.

3.5.5.9 If a refresher training program meets these requirements, 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. 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.

3.6 Re-accreditation of training programs.

3.6.1 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.

3.6.2 A training provider seeking program re-accreditation shall submit an application no later than 180 days before its accreditation expires.

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

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

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

3.6.3.3 The name and qualifications of the training program manager.

3.6.3.4 The name(s) and qualifications of the principal instructors.

3.6.3.5 A description of any material changes to the training facility, equipment or course materials since its last application was approved.

3.6.3.6 A statement signed by the program manager stating:

3.6.3.6.1 That the training program complies at all times with all requirements in 3.3 and 3.5, as applicable; and

3.6.3.6.2 The record keeping and reporting requirements in 3.9 shall be followed.

3.6.3.7 A certified check or a check written on a business account in the appropriate amount made payable to the Division of Public Health.

3.6.4 The Secretary has the authority to audit the training program to verify the contents of the application for re-accreditation as described in 3.6.3. The training provider shall allow the Secretary to audit the training program.

3.7 Suspension, revocation and modification of accredited training programs.

3.7.1 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:

3.7.1.1 Misrepresented the contents of a training course.

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

3.7.1.3 Failed to maintain required records.

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

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

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

3.7.1.7 Made false or misleading statements in its application for accreditation or re-accreditation.

3.7.1.8 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.

3.7.2 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.

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

3.8.1 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:

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

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

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

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

3.8.1.5 Any additional information which the Secretary may provide.

3.8.2 If a hearing is requested by the accredited training provider, the Secretary shall:

3.8.2.1 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.

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

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

3.8.3 The Hearing Officer appointed pursuant to paragraph 3.8.2 shall:

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

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

3.8.3.3 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 of receiving the Hearing Officer's decision. Such an order is a final agency action, which may be subject to judicial review.

3.8.4 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:

3.8.4.1 Notify the affected entity of its intent to immediately suspend training program accreditation for the reasons listed in 3.7.1. If a suspension, revocation, or modification notice has not previously been issued pursuant to 3.7.1, it shall be issued at the same time the emergency suspension notice is issued.

3.8.4.2 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.

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

3.8.4.4 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.

3.8.5 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.

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

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

3.9 Training program record keeping requirements.

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

3.9.1.1 All documents specified in 3.3.4 that demonstrate the qualifications of the training manager and principal instructors listed in 3.3.1 and 3.3.2.

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

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

3.9.1.3.1 Who conducts the assessment.

3.9.1.3.2 How the skills are graded.

3.9.1.3.3 What facilities are used.

3.9.1.3.4 The pass/fail rate.

3.9.1.4 The quality control plan as described in 3.3.9.

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

3.9.1.6 The course test blueprint.

3.9.1.7 Any other material not listed above in 3.9.1.1 through 3.9.1.6 that was submitted to the Secretary as part of the program's application for accreditation.

3.9.2 The training provider shall retain these records at the address specified on the training provider accreditation application [or as modified in accordance with 3.9.3] for a minimum of three years and six months.

3.9.3 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.

3.10 Amendment of accreditation.

3.10.1 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 training until its accreditation is amended.

3.10.2 To amend an accreditation, a training provider must submit a completed ''Accreditation Application for Training Providers,'' signed by an authorized agent of the training provider, noting on the form that it is submitted as an amendment and indicating the information that has changed.

3.10.3 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 or 30 days have elapsed, whichever occurs earlier. Except:

3.10.3.1 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.

3.10.3.2 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.

3.11 Inspections.

3.11.1 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.

4.0 Certification of Individuals and Firms Engaged in Lead-based Paint Activities

4.1 Certification of individuals.

4.1.1 Individuals seeking certification to engage in lead-based paint activities must either:

4.1.1.1 Submit to the Secretary, an application demonstrating that they meet the requirements established in 4.2 and 4.3 for the particular discipline for which certification is sought; or

4.1.1.2 Pass the appropriate State of Delaware certification examination and submit to the Secretary, an application that includes:

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

4.1.1.2.2 A digital photo of the applicant; and

4.1.1.2.3 The associated certification fee.

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

4.1.3 Following the submission of an application demonstrating that all the requirements of this section have been met, the Secretary shall certify an applicant as an Inspector, Risk Assessor, Supervisor, Project Designer, or Abatement Worker, as appropriate.

4.1.4 Upon receiving certification from the Secretary, individuals conducting lead-based paint activities shall comply with the work practice standards for performing the appropriate lead-based paint activities as established in Section 5.0 of these regulations.

4.1.5 It shall be a violation of the work practice standards for conducting lead-based paint activities for an individual to conduct any of the lead-based paint activities described in Section 5.0 after August 30, 1999, if that individual has not been certified by the Secretary, pursuant to this section to do so.

4.2 Discipline Requirements.

4.2.1 To become certified as an Inspector, Risk Assessor, or Supervisor an individual must:

4.2.1.1 Successfully complete an accredited course in the appropriate discipline and receive a course completion certificate from an accredited training provider;

4.2.1.2 Pass the certification examination in the appropriate discipline; and,

4.2.1.3 Meet or exceed the following experience and education requirements:

4.2.1.3.1 Inspectors.

4.2.1.3.1.1 No additional experience or education requirements.

4.2.1.3.2 Risk Assessors.

4.2.1.3.2.1 Successful completion of an accredited training course for Inspectors; and

4.2.1.3.2.2 Bachelor's degree and one year of experience in a related field (e.g., lead, asbestos, environmental remediation work, or construction), or an Associate's degree with two years experience in a related field; or

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

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

4.2.1.3.3 Supervisor.

4.2.1.3.3.1 One year of experience as meeting the standards of a certified lead-based paint Abatement Worker; or

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

4.2.2 To become certified as an Abatement Worker or Project Designer an individual must:

4.2.2.1 Successfully complete an accredited course in the appropriate discipline and receive a course completion certificate from an accredited training provider; and

4.2.2.2 Meet or exceed the following experience and education requirements:

4.2.2.2.1 Abatement Workers.

4.2.2.2.1.1 No additional experience or education requirements.

4.2.2.2.2 Project Designers.

4.2.2.2.2.1 Successful completion of an accredited training course for Supervisors.

4.2.2.2.2.2 Bachelor's degree in engineering, architecture, or a related profession, and one year of experience in building construction and design or a related field; or,

4.2.2.2.2.3 Four years of experience in building construction and design or a related field.

4.2.3 The following documents shall be recognized by the Secretary as evidence of meeting the requirements listed in 4.2:

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

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

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

4.2.4 In order to take the certification examination for a particular discipline an individual must:

4.2.4.1 Successfully complete an accredited course in the appropriate discipline and receive a course completion certificate from an accredited training provider.

4.2.4.2 Meet or exceed the education and/or experience requirements in 4.2.1 and 4.2.2.

4.2.5 After passing the appropriate certification examination (if required); submitting an application demonstrating that he/she meets the appropriate training, education, and/or experience prerequisites described in 4.2.1 and 4.2.2; signing a statement that certified individuals must permit 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; and paying the associated fee, an individual shall be issued a certificate by the Secretary. To maintain certification, an individual must be re-certified as described in 4.4.

4.2.6 An individual may take the certification examination for a lead inspector, risk assessor or supervisor no more than two times within six months of the date of the initial accredited program course test for that discipline.

4.2.7 If an individual does not pass the certification examination for a lead inspector, risk assessor or supervisor within six months of the date of the initial accredited program course test, the individual must retake the appropriate course from an accredited training program before reapplying for certification.

4.3 Re-Certification of Individuals.

4.3.1 Except as provided in 4.3.2, to maintain certification in a particular discipline, a certified individual shall apply to and be re-certified by the Secretary in that discipline within two years from the date of successful completion of the initial or refresher training course, as applicable.

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

4.3.3 An individual shall be re-certified if the individual successfully completes the appropriate accredited refresher training course, submits a valid copy of the appropriate refresher course completion certificate, signs a statement that certified individuals must permit the Secretary access to enter premises or facilities where the certified individual performs lead-based paint activities, including work sites, to execute reasonable inspection, including taking samples, to ensure compliance with regulations, and pays the associated fee.

4.3.4 An individual may maintain re-certification for multiple disciplines by successfully completing the appropriate highest discipline accredited refresher training course and meeting the experience and education parameters defined in 4.2 for those disciplines.

4.4 Certification of firms.

4.4.1 All firms which perform or offer to perform any of the lead-based paint activities described in Section 5.0 after August 30, 1999 shall be certified by the Secretary.

4.4.2 A firm seeking certification shall submit to the Secretary, the required fee, a certification application, and a letter attesting the following:

4.4.2.1 The firm shall only employ appropriately certified employees to conduct lead-based paint activities;

4.4.2.2 The firm and its employees shall follow the work practice standards in Section 5.0 for conducting lead-based paint activities; and

4.4.2.3 The firm and its employees shall permit 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.

4.4.3 From the date of receiving the firm's certification application, letter, and the associated fee, the Secretary shall have 45 days to approve or disapprove the firm's request for certification. Within that time, the Secretary shall respond with either a certificate of approval or a letter describing the reasons for disapproval.

4.4.4 The firm shall maintain all records pursuant to requirements in Section 5.0.

4.4.5 After March 1, 1999 firms may apply to the Secretary for certification to engage in lead-based paint activities.

4.5 Recertification of firms.

4.5.1 To maintain certification, a firm must shall apply to and be re-certified by the Secretary every two years.

4.5.2 The recertification application shall be approved if it meets the requirements in Section 4.4.2 and includes the appropriate fee.

4.6 Suspension, revocation, and modification of certifications of individuals engaged in lead-based-paint activities.

4.6.1 The Secretary may, after notice and opportunity for hearing, suspend, revoke, or modify an individual's certification if an individual has:

4.6.1.1 Obtained training documentation through fraudulent means.

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

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

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

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

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

4.6.1.7 Failed to comply with the appropriate work practice standards for lead-based paint activities in Section 5.0.

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

4.6.1.9 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.

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

4.7 Suspension, revocation, and modification of certification of firms engaged in lead-based paint activities.

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

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

4.7.1.2 Failed to comply with the work practice standards established in Section 5.0.

4.7.1.3 Misrepresented facts in its certification application or letter.

4.7.1.4 Failed to maintain required records.

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

4.7.1.6 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.

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

4.8 Procedures for suspension, revocation, or modification of the certification of individuals or firms.

4.8.1 Prior to taking action to suspend, revoke, or modify the certification of any individual or firm, the Secretary shall notify the affected entity in writing of the following:

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

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

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

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

4.8.1.5 Any additional information which the Secretary may provide.

4.8.2 If a hearing is requested by the certified individual or firm, the Secretary shall:

4.8.2.1 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.

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

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

4.8.3 The Hearing Officer appointed pursuant to paragraph 4.8.2.3 shall:

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

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

4.8.3.3 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 of receiving the Hearing Officer's decision. Such an order is a final agency action, which may be subject to judicial review.

4.8.4 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 shall:

4.8.4.1 Notify the affected entity of its intent to immediately suspend certification for the reasons listed in 4.6.1 or 4.7.1. If a suspension, revocation, or modification notice has not previously been issued pursuant to 4.8.1, it shall be issued at the same time the immediate suspension notice is issued.

4.8.4.2 Notify the affected entity in writing of the grounds upon which the immediate suspension is based and why it is necessary to suspend the entity's certification before an opportunity for a hearing to suspend, revoke, or modify the individual's or firm's certification.

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

4.8.4.4 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.

4.8.5 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 a certified individual or firm 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.

4.9 To execute reasonable inspections, including taking samples, and ensure compliance with these regulations, the Secretary has the authority to enter premises where certified firms and certified individuals conduct business and perform work.

5.0 Work Practice Standards For Conducting Lead-based Paint Activities: Target Housing and Child-occupied Facilities.

5.1 Effective date, applicability, and terms.

5.1.1 Beginning on January 5, 2001, all lead-based paint activities shall be performed pursuant to the work practice standards contained in this section.

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

5.1.3 Documented methodologies that are appropriate for this section are found in the following: The U. S. Department of Housing and Urban Development (HUD) Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing; the EPA Guidance on Residential Lead-based Paint, Lead Contaminated Dust, and Lead-Contaminated Soil; the EPA Residential Sampling for Lead: Protocols for Dust and Soil Sampling (EPA report number 747-R-95-001); 40 CFR Part 745 subpart D – Lead Based Paint Hazards; and other methods and guidelines deemed equivalent by EPA or HUD.

5.1.4 Determinations.

5.1.4.1 Lead-based paint is present:

5.1.4.1.1 On any surface that is tested and found to contain lead equal to or in excess of 1.0 milligrams per square centimeter or equal to or in excess of 0.5% by weight; and

5.1.4.1.2 On any surface like a surface tested in the same room equivalent that has a similar painting history and that is found to be lead-based paint.

5.1.4.2 A paint-lead hazard is present:

5.1.4.2.1 On any friction surface that is subject to abrasion and where the lead dust levels on the nearest horizontal surface underneath the friction surface (e.g., the window sill or floor) are equal to or greater than the dust hazard levels identified in 5.5.8.8.

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

5.1.4.2.3 Where there is any damaged or otherwise deteriorated lead-based paint on an impact surface that is caused by impact from a related building component (such as a door knob that knocks into a wall or a door that knocks against its door frame); and

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

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

5.1.4.3.1 In a residential dwelling on floors and interior window sills when the weighted arithmetic mean lead loading for all single surface or composite samples of floors and interior window sills is equal to or greater than 40 $\mu g/ft^2$ for floors and 250 $\mu g/ft^2$ for interior window sills, respectively;

5.1.4.3.2 On floors or interior window sills in an unsampled residential dwelling in a multi-family dwelling, if a dust-lead hazard is present on floors or interior window sills, respectively, in at least one sampled residential unit on the property; and

5.1.4.3.3 On floors or interior window sills in an unsampled common area in a multi-family dwelling, if a dust-lead hazard is present on floors or interior window sills, respectively, in at least one sampled common area in the same common area group on the property.

5.1.4.4 A soil-lead hazard is present:

5.1.4.4.1 In a play area when the soil-lead concentration from a composite play area sample of bare soil is equal to or greater than 400 parts per million; or

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

5.1.5 Clearance levels that are appropriate for the purposes of this section may be found listed in 5.5.8.8; in the EPA Guidance on Residential Lead-based Paint, Lead-Contaminated Dust, and Lead Contaminated Soil or other methods and guidelines deemed equivalent by the EPA or HUD.

5.2 Inspection.

5.2.1 An inspection shall be conducted only by a person certified by the Secretary as an Inspector or Risk Assessor and, if conducted, must be conducted according to the procedures in this section.

5.2.2 When conducting an inspection, the following locations shall be selected according to documented methodologies listed in 5.1 and tested for the presence of lead-based paint:

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

5.2.2.2 In a multi-family dwelling and in a child-occupied facility, in addition to the requirements of 5.2.1, each component in every common area with a distinct painting history, except those components that the Inspector or Risk Assessor determines to have been replaced after 1978, or to not contain lead-based paint.

5.2.3 Paint shall be sampled in the following manner:

5.2.3.1 The analysis of paint to determine the presence of lead shall be conducted using documented methodologies listed in 5.1, which incorporate adequate quality control procedures; and/or

5.2.3.2 All collected paint chip samples shall be analyzed according to 5.6 to determine if they contain detectable levels of lead that can be quantified numerically.

5.2.4 The certified Inspector or Risk Assessor shall prepare an inspection report which shall include the following information:

5.2.4.1 Date of each inspection.

5.2.4.2 Address of building.

5.2.4.3 Date of construction.

5.2.4.4 Apartment numbers (if applicable).

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

5.2.4.6 Name, signature, and certification number of each certified Inspector and/or Risk Assessor conducting testing.

5.2.4.7 Name, address and telephone number of the certified firm employing each Inspector and/or Risk Assessor, if applicable.

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

5.2.4.9 Specific locations of each painted component tested for the presence of lead-based paint.

5.2.4.10 The results of the inspection expressed in terms appropriate to the sampling method used.

5.3 Lead hazard screen.

5.3.1 A lead hazard screen shall be conducted only by a person certified by the Secretary as a Risk Assessor.

5.3.2 If conducted, a lead hazard screen shall be conducted as follows:

5.3.2.1 Background information regarding the physical characteristics of the residential dwelling or a child-occupied facility and occupant use patterns that may cause lead-based paint exposure to one or more children age six years and under shall be collected.

5.3.2.2 A visual inspection of a residential dwelling or a child-occupied facility shall be conducted to:

5.3.2.2.1 Determine if any deteriorated paint is present, and

5.3.2.2.2 Locate at least two dust sampling locations.

5.3.2.3 If deteriorated paint is present, each surface with deteriorated paint, determined using documented methodologies listed in 5.1, to be in poor condition and to have a distinct painting history, shall be tested for the presence of lead.

5.3.2.4 In residential dwellings, two composite dust wipe samples shall be collected, one from the floors and the other from the windows, in rooms, hallways or stairwells where one or more children, age six and under, are most likely to come in contact with dust.

5.3.2.5 In multi-family dwellings and in child-occupied facilities, in addition to the floor and window samples required in 5.3.2.4, the Risk Assessor shall collect composite dust wipe samples from common areas where one or more children, age six and under, are most likely to come into contact with dust.

5.3.3 Dust wipe samples shall be collected and analyzed in the following manner:

5.3.3.1 All dust wipe samples shall be taken using documented methodologies listed in 5.1 that incorporate adequate quality control procedures.

5.3.3.2 All collected dust wipe samples shall be analyzed according to 5.6 and 5.7 to determine if they contain detectable levels of lead that can be quantified numerically.

5.3.4 Paint shall be sampled in the following manner:

5.3.4.1 The analysis of paint to determine the presence of lead shall be conducted using documented methodologies listed in 5.1 that incorporate adequate quality control procedures; and/or

5.3.4.2 All collected paint chip samples shall be analyzed according to 5.6 to determine if they contain detectable levels of lead that can be quantified numerically.

5.3.5 The Risk Assessor shall prepare a lead hazard screen report, which shall include the following information:

5.3.5.1 The information required in a risk assessment report as specified in 5.4, including 5.4.11.1 through 5.4.11.14, and excluding 5.4.11.15 through 5.4.11.18. Additionally, any background information collected pursuant to 5.3.2.1 shall be included in the risk assessment report; and

5.3.5.2 Recommendations, if warranted, for a follow-up risk assessment, and as appropriate, any further actions.

5.4 Risk assessment.

5.4.1 A risk assessment shall be conducted only by a person certified by the Secretary as a Risk Assessor and, if conducted, must be conducted according to the procedures in this paragraph.

5.4.2 A visual inspection for risk assessment of the residential dwelling or a child-occupied facility shall be undertaken to locate the existence of deteriorated paint, assess the extent and causes of the deterioration, and locate other potential lead-based paint hazards.

5.4.3 Background information regarding the physical characteristics of the residential dwelling or the child-occupied facility and occupant use patterns that may cause lead-based paint exposure to one or more children age six years and under shall be collected.

5.4.4 The following surfaces which are determined, using documented methodologies, to have a distinct painting history, shall be tested for the presence of lead:

5.4.4.1 Each friction surface or impact surface with visibly deteriorated paint and

5.4.4.2 All other surfaces with visibly deteriorated paint.

5.4.5 In residential dwellings, dust wipe samples (either composite or single-surface samples) from the interior window sills and floor shall be collected and analyzed for lead concentration in all living areas where one or more children, age six and under, are most likely to come into contact with dust.

5.4.6 For multi-family dwellings and child-occupied facilities, in addition to the requirements of 4.4.5, interior window sills and floor dust wipe samples (either composite or single-surface samples) shall be collected and analyzed for lead concentration in the following locations:

5.4.6.1 Common areas adjacent to the sampled residential dwelling and child-occupied facility; and

5.4.6.2 Other common areas in the building where the Risk Assessor determines that one or more children, age six and under, are likely to come into contact with dust.

5.4.7 For child-occupied facilities, interior window sills and floor dust wipe samples (either composite or single-surface samples) shall be collected and analyzed for lead concentration in each room, hallway or stairwell utilized by one or more children, age six and under, and in other common areas in the child-occupied facility where the Risk Assessor determines one or more children, age six and under, are likely to come into contact with dust.

5.4.8 Soil samples shall be collected and analyzed for lead concentrations in the following locations:

5.4.8.1 Exterior play areas where bare soil is present;

5.4.8.2 Dripline/foundation areas where bare soil is present; and

5.4.8.3 Non-play areas where bare soil is present.

5.4.9 Any paint, dust, or soil sampling or testing shall be conducted using documented methodologies listed in 5.1 and 5.6 that incorporate adequate quality control procedures.

5.4.10 Any collected paint chip, dust or soil samples shall be analyzed according to 5.6 to determine if they contain detectable levels of lead that can be quantified numerically.

5.4.11 The certified Risk Assessor shall prepare a risk assessment report which shall include the following information:

5.4.11.1 Date of assessment.

5.4.11.2 Address of each building.

5.4.11.3 Date of construction of each building.

5.4.11.4 Apartment number (if applicable).

5.4.11.5 Name, address, and telephone number of each owner of each building.

5.4.11.6 Name, signature, and State of Delaware certification number of the certified Risk Assessor conducting the assessment.

5.4.11.7 Name, address, and telephone number of the certified firm employing each certified risk assessor, if applicable.

5.4.11.8 Name, address, and telephone number of each recognized laboratory conducting analysis of collected samples, if applicable.

5.4.11.9 Results of the visual inspection.

5.4.11.10 Testing method and sampling procedure for paint analysis employed.

5.4.11.11 Specific locations of each painted component tested for the presence of lead.

5.4.11.12 All data collected from on-site testing, including quality control data and, if used, the serial number of any XRF device.

5.4.11.13 All results of laboratory analysis on collected paint, soil, and dust wipe samples.

5.4.11.14 Any other sampling results.

5.4.11.15 Any background information collected pursuant to 5.4.3.

5.4.11.16 To the extent that they are used as part of the lead-based paint hazard determination, the results of any previous inspections or analyses for the presence of lead-based paint, or other assessments of lead-based paint related hazards.

5.4.11.17 A description of the location, type, and severity of identified lead-based paint hazards and any other potential lead hazards.

5.4.11.18 A description of interim controls and/or abatement options for each identified lead-based paint hazard and a suggested prioritization for addressing each hazard. If the use of an encapsulant or enclosure is recommended, the report shall recommend a maintenance and monitoring schedule for the encapsulant or enclosure.

5.5 Abatement.

5.5.1 An abatement shall be conducted only by an individual certified by the Secretary and, if conducted, shall be conducted according to the procedures in this section.

5.5.2 A certified Supervisor is required for each abatement project and shall be on site during all abatement work.

5.5.3 The certified Supervisor and the certified firm employing that supervisor, shall ensure that all abatement activities are conducted according to the requirements of these regulations and all other Federal, State of Delaware and local requirements.

5.5.4 Written or electronic notification of the commencement of lead-based paint abatement activities in target housing or a child-occupied facilities or as a result of a Federal, State of Delaware, or local order shall be given to the Secretary five (5) business days prior to the commencement of abatement activities.

5.5.4.1 Notification for lead-based paint abatement activities required in response to an elevated blood lead level (EBL) determination, or Federal, State of Delaware, or local emergency abatement order should be received by the Secretary as early as possible before, but must be received no later than the start date of the lead-based paint abatement activities. Should the start date and/or location provided to the Secretary change, an updated notification must be received by the Secretary on or before the start date provided to the Secretary. Documentation showing evidence of an EBL determination or a copy of the Federal/State of Delaware/local emergency abatement order must be included in the written or electronic notification to take advantage of this abbreviated notification period.

5.5.4.2 Except as provided in 5.5.4.1 updated notification must be provided the Secretary for lead-based paint abatement activities that will begin on a date other than the start date specified in the original notification, as follows:

5.5.4.2.1 For lead-based paint abatement activities beginning prior to the start date provided to the Secretary an updated notification must be received by the Secretary at least five business days before the new start date included in the notification.

5.5.4.2.2 For lead-based paint abatement activities beginning after the start date provided to the Secretary an updated notification must be received by the Secretary on or before the start date provided to the Secretary.

5.5.4.3 Except as provided in 5.5.4.1, updated notification must be provided to the Secretary for any change in location of lead-based paint abatement activities at least five business days prior to the start date provided to the Secretary.

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

5.5.4.5 The following must be included in each notification:

5.5.4.5.1 Notification type (original, updated, cancellation).

5.5.4.5.2 Date when lead-based paint abatement activities will start.

5.5.4.5.3 Date when lead-based paint abatement activities will end (approximation using best professional judgment).

5.5.4.5.4 Firm's name, State of Delaware certification number, address, telephone number.

5.5.4.5.5 Type of building (e.g., single family dwelling, multi-family dwelling, child-occupied facilities) on/in which abatement work will be performed.

5.5.4.5.6 Property name (if applicable).

5.5.4.5.7 Property address including apartment or unit number(s) (if applicable) for abatement work.

5.5.4.5.8 Documentation showing evidence of an EBL determination or a copy of the Federal/State of Delaware/local emergency abatement order, if using the abbreviated time period as described in 5.5.4.

5.5.4.5.9 Name and Delaware certification number of the project supervisor.

5.5.4.5.10 Approximate square footage/acreage to be abated.

5.5.4.5.11 Brief description of abatement activities to be performed.

5.5.4.5.12 Name, title, and signature of the representative of the certified firm who prepared the notification.

5.5.4.6 Notification must be accomplished using any of the following methods: Written or electronic. Written and electronic notifications of lead-based paint abatement activities can be accomplished by using the guidance and sample form provided on the Internet at http://dhss.delaware.gov/dhss/dph/hsp/lead.html or similar form containing the information required in paragraph 5.5.4.5. 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 additional business days for delivery in order to ensure that the Secretary receives the notification by the required date).

5.5.4.7 Lead-based paint abatement activities shall not begin on a date or at a location other than that specified in either an original or updated notification, in the event of changes to the original notification.

5.5.4.8 No firm or individual shall engage in lead-based paint abatement activities, as defined in 2.4, prior to notifying the Secretary of such activities according to the requirements of 5.5.4.

5.5.5 A written occupant protection plan, or electronic equivalent, shall be developed for all abatement projects and shall be prepared according to the following procedures:

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

5.5.5.2 A certified Supervisor or Project Designer shall prepare the occupant protection plan.

5.5.6 The work practices listed below shall be restricted during an abatement as follows:

5.5.6.1 Open-flame burning or torching of lead-based paint is prohibited;

5.5.6.2 Machine sanding or grinding or abrasive blasting or sandblasting of lead-based paint is prohibited unless used with High Efficiency Particulate Air (HEPA) exhaust control that removes particles of 0.3 microns or larger from the air at 99.97 percent or greater efficiency;

5.5.6.3 Dry scraping of lead-based paint is permitted only in conjunction with heat guns or around electrical outlets or when treating defective paint spots totaling no more than two square feet in any one room, hallway or stairwell, or totaling no more than 20 square feet on exterior surfaces; and

5.5.6.4 Operating a heat gun on lead-based paint is permitted only at temperatures below 1,100 degrees Fahrenheit.

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

5.5.7.1 If soil is removed, the lead-contaminated soil shall be replaced with soil with a lead concentration as close to local background as practical, but not greater than 400 PPM.

5.5.7.2 If soil is not removed, the lead-contaminated soil shall be permanently covered, as defined in "Permanently covered soil".

5.5.7.3 Lead contaminated soil that is removed shall not be used as top soil at other residential property or child-occupied facility and shall be disposed of in accordance with applicable Federal, State, and local requirements.

5.5.8 The following post-abatement clearance procedures shall be performed only by a certified Inspector or Risk Assessor:

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

5.5.8.2 Following the visual inspection and any post-abatement cleanup required by 5.5.8.1, clearance sampling for lead-contaminated dust shall be conducted. Clearance sampling may be conducted by employing single-surface sampling or composite sampling techniques.

5.5.8.3 Dust wipe samples for clearance purposes shall be taken using documented methodologies listed in 5.1 that incorporate adequate quality control procedures.

5.5.8.4 Dust wipe samples for clearance purposes shall be taken a minimum of one hour after completion of final post-abatement cleanup activities.

5.5.8.5 The following post-abatement clearance activities shall be conducted as appropriate based upon the extent or manner of abatement activities conducted in or to a residential dwelling or a child-occupied facility:

5.5.8.5.1 After conducting an abatement with containment between abated and unabated areas -

5.5.8.5.1.1 Dust wipe samples shall be taken from no less than four rooms, hallways or stairwells within the containment area. If there are less than four rooms, hallways or stairwells within the containment area, then all rooms, hallways or stairwells shall be sampled.

5.5.8.5.1.2 For each room, one dust wipe sample shall be taken from one interior window sill, one dust wipe sample shall be taken from the floor and one dust wipe sample shall be taken from a window trough (if present). A window trough sample is not required if all windows within the containment area were closed and sealed with plastic during abatement activities.

5.5.8.5.1.3 In addition, one dust wipe sample shall be taken from the floor outside the containment area.

5.5.8.5.2 After conducting an abatement with no containment -

5.5.8.5.2.1 Dust wipe samples shall be taken from no less than four rooms, hallways or stairwells in the residential dwelling or a child-occupied facility. If there are less than four rooms, hallways, or stairwells within the residential dwelling or child-occupied facility then all rooms, hallways or stairwells shall be sampled.

5.5.8.5.2.2 For each room, one dust wipe sample shall be taken from one interior window sill, one dust wipe sample shall be taken from the floor and one dust wipe sample shall be taken from a window trough (if present). A window trough sample is not required if all windows were closed and sealed with plastic during abatement activities.

5.5.8.5.3 Following an exterior paint abatement, a visible inspection shall be conducted. All horizontal surfaces in the outdoor living area closest to the abated surface shall be found to be cleaned of visible dust and debris. In addition, a visual inspection shall be conducted to determine the presence of paint chips on the dripline or next to the foundation below any exterior surface abated. If paint chips are present, they must be removed from the site and properly disposed of, according to all applicable Federal, State of Delaware and local requirements.

5.5.8.6 The rooms, hallways, or stairwells selected for sampling shall be selected according to documented methodologies listed in 5.1.

5.5.8.7 The certified Inspector or Risk Assessor shall compare the residual lead level (as determined by the laboratory analysis) from each single surface dust wipe sample with clearance levels in 5.5.8.8 for lead in dust on floors, interior window sills and window troughs or from each composite dust wipe sample with the applicable clearance levels for lead in dust on floors, interior window sills, and window troughs divided by half the number of subsamples in the composite sample. If the residual lead level in a single surface dust wipe sample equals or exceeds the applicable clearance level or if the residual lead level in a composite dust wipe sample equals or exceeds the applicable clearance level divided by half the number of subsamples in the composite sample, the components represented by the failed sample shall be re-cleaned and retested.

5.5.8.8 The clearance levels for lead in dust are 40 $\mu g/ft^2$ for floors, 250 $\mu g/ft^2$ for interior window sills, and 400 $\mu g/ft^2$ for window troughs.

5.5.9 In a multi-family dwelling with similarly constructed and maintained residential dwellings, random sampling for the purposes of clearance may be conducted provided:

5.5.9.1 The certified individuals who abate or clean the residential dwellings do not know which residential dwelling will be selected for the random sample.

5.5.9.2 A sufficient number of residential dwellings are selected for dust sampling to provide a 95 percent level of confidence that no more than five percent or 50 of the residential dwellings (whichever is smaller) in the randomly sampled population exceed the appropriate clearance levels.

5.5.9.3 The randomly selected residential dwellings shall be sampled and evaluated for clearance according to the procedures found in 5.5.8.

5.5.10 An abatement report shall be prepared and signed by a certified supervisor or project designer. The abatement report shall include the following information:

5.5.10.1 Start and completion dates of abatement.

5.5.10.2 The names and address of each certified firm conducting the abatement and the name of each Supervisor assigned to the abatement project.

5.5.10.3 The occupant protection plan prepared pursuant to 5.5.5.

5.5.10.4 The name, address, and signature of each certified Risk Assessor or Inspector conducting a clearance sampling and the date of clearance testing.

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

5.5.10.6 A detailed written report, or electronic equivalent, describing the abatement, including abatement methods used, locations of rooms and components where abatement occurred, reason for selecting particular abatement methods for each component, and any suggested monitoring of encapsulants or enclosures. The report shall also detail any deviations, changes or abnormalities from the original scope of work.

5.6 Collection and laboratory analysis of samples.

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

5.6.1.1 Collected by persons certified as an Inspector or Risk Assessor by the Secretary; and,

5.6.1.2 Analyzed by a recognized laboratory that is accredited and proficient to perform analyses for lead compounds in paint chip, dust, and soil samples.

5.7 Composite dust wipe sampling.

5.7.1 Composite dust wipe sampling may only be conducted in the situations specified in 5.3 through 5.5. If such sampling is conducted, the following conditions shall apply:

5.7.1.1 Composite dust wipe samples shall consist of at least two sub-samples;

5.7.1.2 Every component that is being tested shall be included in the sampling; and

5.7.1.3 Composite dust wipe samples shall not consist of sub-samples from more than one type of component.

5.8 Record keeping.

5.8.1 All reports or plans required in this section shall be maintained by the certified individual or firm, if any, who prepared the report for no fewer than three years and six months. The certified individual or firm also shall provide a copy of these reports to the building owner who contracted for its services.

5.9 Inspections.

5.9.1 To ensure compliance with regulations, the Secretary has the authority to conduct inspections of and take samples at work sites and business premises of any firm and/or individual that conducts business in Delaware covered by these regulations.

5.10 Reporting.

5.10.1 All reports or plans required in this section may become subject to quarterly reporting requirements as deemed necessary and appropriate by the Secretary after lawful notification.

6.0 Certification, Fees And Reciprocity

6.1 Certification of Occupations and Accreditation of Other Training Programs.

6.1.1 Lead-based paint activities as defined by these regulations shall only be conducted according to the procedures and work practice standards contained in these regulations.

6.1.2 No individual or firm shall make offer to perform or perform any lead-based paint activity as defined by these regulations unless certified to perform that activity according to the procedures.

6.2 Fees.

6.2.1 Fees shall be remitted by certified check or money order and made payable to the Division of Public Health. Fees are not refundable.

6.2.2 The annual fee for an initial or a renewal of a certified Abatement Worker shall be $25.00.

6.2.3 The annual fee for an initial or a renewal of a Certified Firm, Supervisor, Project Designer, Lead Inspector and Risk Assessor shall be $50.00.

6.2.4 The annual fee for an initial or a renewal of a accredited training program shall be $200.00 for each type of course for which training will be provided. There is no fee for accreditation amendments.

6.2.5 Applicants who submit a dishonored check will be charged a service fee in addition to the required application fee that is in accordance with department policy.

6.3 Reciprocity.

6.3.1 The Secretary may enter into reciprocal agreements with other states and jurisdictions that have been authorized by the EPA.

7.0 Compliance And Enforcement Procedures

7.1 General.

7.1.1 The failure or refusal to comply with any requirement of these regulations is a prohibited act.

7.1.2 The failure or refusal to establish, maintain, provide copy or permit access to records or reports as required in these regulations is a prohibited act.

7.1.3 The failure or refusal to permit entry or inspection as required by these regulations is a prohibited act.

7.1.4 In addition to the above, any individual or certified abatement 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:

7.1.4.1 Obtaining certification through fraudulent representation.

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

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

7.2 Penalty.

7.2.1 Violators are subject to sanctions pursuant to 16 **Del.C.** 107 for each violation of the requirements established in these regulations.

11 DE Reg. 759 (12/01/07)
16 DE Reg. 238 (09/01/12) (Prop.)