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(4) A soil-lead hazard is present:

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

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

(i) *Recordkeeping.* All reports or plans required in this 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.

[61 FR 45813, Aug. 29, 1996, as amended at 64 FR 42852, Aug. 6, 1999; 66 FR 1239, Jan. 5, 2001; 69 FR 18496, Apr. 8, 2004]

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

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

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

### § 745.233 Lead-based paint activities requirements.

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

### § 745.235 Enforcement.

(a) Failure or refusal to comply with any requirement of §§745.225, 745.226, 745.227, or 745.233 is a prohibited act under sections 15 and 409 of TSCA (15 U.S.C. 2614, 2689).

(b) Failure or refusal to establish, maintain, provide, copy, or permit access to records or reports as required by §§745.225, 745.226, or 745.227 is a prohibited act under sections 15 and 409 of TSCA (15 U.S.C. 2614, 2689).

(c) Failure or refusal to permit entry or inspection as required by §745.237 and section 11 of TSCA (15 U.S.C. 2610) is a prohibited act under sections 15 and 409 of TSCA (15 U.S.C. 2614, 2689).

(d) In addition to the above, any individual or firm that performs any of the following acts shall be deemed to have committed a prohibited act under sections 15 and 409 of TSCA (15 U.S.C. 2614, 2689). These include the following:

(i) Obtaining certification through fraudulent representation;

(ii) Failing to obtain certification from EPA and performing work requiring certification at a job site; or

(iii) Fraudulently obtaining certification and engaging in any lead-based paint activities requiring certification.

(e) Violators are subject to civil and criminal sanctions pursuant to section 16 of TSCA (15 U.S.C. 2615) for each violation.

### § 745.237 Inspections.

EPA may conduct reasonable inspections pursuant to the provisions of section 11 of TSCA (15 U.S.C. 2610) to ensure compliance with this subpart.

### § 745.238 Fees for accreditation and certification of lead-based paint activities.

(a) *Purpose.* To establish and impose fees for certified individuals and firms engaged in lead-based paint activities and persons operating accredited training programs under section 402(a) of the Toxic Substances Control Act (TSCA).

(b) *Persons who must pay fees.* Fees in accordance with paragraph (c) of this section must be paid by:

(1) *Training programs.* (i) All non-exempt training programs applying to EPA for the accreditation and re-accreditation of training programs in one or more of the following disciplines: inspector, risk assessor, supervisor, project designer, abatement worker.

(ii) *Exemptions.* No fee shall be imposed on any training program operated by a State, federally recognized