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Subpart L—Lead-Based Paint Activities

SOURCE: 61 FR 45813, Aug. 29, 1996, unless otherwise noted.

§ 745.220 Scope and applicability.

(a) This subpart contains procedures and requirements for the accreditation of training programs for lead-based paint activities and renovations, procedures and requirements for the certification of individuals and firms engaged in lead-based paint activities, and work practice standards for performing such activities. This subpart also requires that, except as discussed below, all lead-based paint activities, as defined in this subpart, be performed by certified individuals and firms.

(b) This subpart applies to all individuals and firms who are engaged in lead-based paint activities as defined in § 745.223, except persons who perform these activities within residential dwellings that they own, unless the residential dwelling is occupied by a person or persons other than the owner or the owner's immediate family while these activities are being performed, or a child residing in the building has been identified as having an elevated blood lead level. This subpart applies only in those States or Indian Country that do not have an authorized State or Tribal program pursuant to § 745.324 of subpart Q.

(c) Each department, agency, and instrumentality of the executive, legislative, and judicial branches of the Federal Government having jurisdiction over any property or facility, or engaged in any activity resulting, or which may result, in a lead-based paint hazard, and each officer, agent, or employee thereof shall be subject to, and comply with, all Federal, State, interstate, and local requirements, both substantive and procedural, including the requirements of this subpart regarding lead-based paint, lead-based paint activities, and lead-based paint hazards.

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

[61 FR 45813, Aug. 29, 1996, as amended at 73 FR 21766, Apr. 22, 2008]

§ 745.223 Definitions.

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

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

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

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

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

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

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

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

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

(iii) Projects resulting in the permanent elimination of lead-based paint hazards, conducted by firms or individuals who, through their company name or promotional literature, represent, advertise, or hold themselves out to be in the business of performing lead-based paint activities as identified and defined by this section, unless such projects are covered by paragraph (4) of this definition; or

(iv) Projects resulting in the permanent elimination of lead-based paint

hazards, that are conducted in response to State or local abatement orders.

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

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

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

Business day means Monday through Friday with the exception of Federal holidays.

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

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

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

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

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

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

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

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

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

Component or building component means specific design or structural elements or fixtures of a building, residential dwelling, or child-occupied facility that are distinguished from each other by form, function, and location. These include, but are not limited to, interior components such as: ceilings, crown molding, walls, chair rails, doors, door trim, floors, fireplaces, radiators and other heating units, shelves, shelf supports, stair treads, stair risers, stair stringers, newel posts, railing caps,

balustrades, windows and trim (including sashes, window heads, jambs, sills or stools and troughs), built in cabinets, columns, beams, bathroom vanities, counter tops, and air conditioners; and exterior components such as: painted roofing, chimneys, flashing, gutters and downspouts, ceilings, soffits, fascias, rake boards, cornerboards, bulkheads, doors and door trim, fences, floors, joists, lattice work, railings and railing caps, siding, handrails, stair risers and treads, stair stringers, columns, balustrades, window sills or stools and troughs, casings, sashes and wells, and air conditioners.

Containment means a process to protect workers and the environment by controlling exposures to the lead-contaminated dust and debris created during an abatement.

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

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

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

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

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

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

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

Elevated blood lead level (EBL) means an excessive absorption of lead that is a confirmed concentration of lead in whole blood of 20 μg/dl (micrograms of lead per deciliter of whole blood) for a single venous test or of 15–19 μg/dl in two consecutive tests taken 3 to 4 months apart.

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

Encapsulation means the application of an encapsulant.

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

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

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

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

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

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

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

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

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

Lead-based paint 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 any condition that causes exposure to lead from lead-contaminated dust, lead-contaminated soil, or lead-contaminated paint that is deteriorated or present in accessible surfaces, friction surfaces, or impact surfaces that would result in adverse human health effects as identified by the Administrator pursuant to TSCA section 403.

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

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

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

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

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

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

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

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

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

Recognized laboratory means an environmental laboratory recognized by EPA pursuant to TSCA section 405(b) as being capable of performing an analysis for lead compounds in paint, soil, and dust.

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

Residential dwelling means (1) a detached single family dwelling unit, including attached structures such as porches and stoops; or (2) a single family dwelling unit in a structure that contains more than one separate residential dwelling unit, which is used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of one or more persons.

Risk assessment means (1) an on-site investigation to determine the existence, nature, severity, and location of lead-based paint hazards, and (2) the provision of a report by the individual or the firm conducting the risk assessment, explaining the results of the investigation and options for reducing lead-based paint hazards.

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

Start date provided to EPA means the start date included in the original notification or the most recent start date provided to EPA 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 Canal Zone, American Samoa, the Northern Mariana Islands, or any other territory or possession of the United States.

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

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

Training hour means at least 50 minutes of actual learning, including, but not limited to, time devoted to lecture, learning activities, small group activities, demonstrations, evaluations, and/or hands-on experience.

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

Training provider means any organization or entity accredited under § 745.225 to offer lead-based paint activities courses.

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.

[61 FR 45813, Aug. 29, 1996, as amended at 64 FR 31097, June 9, 1999; 66 FR 1239, Jan. 5, 2001; 69 FR 18495, Apr. 8, 2004]

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

(a) *Scope.* (1) A training program may seek accreditation to offer courses in any of the following disciplines: Inspector, risk assessor, supervisor, project designer, abatement worker, renovator, and dust sampling technician. A training program may also seek accreditation to offer refresher courses for each of the above listed disciplines.

(2) Training programs may first apply to EPA for accreditation of their lead-based paint activities courses or refresher courses pursuant to this section on or after August 31, 1998. Training programs may first apply to EPA for accreditation of their renovator or dust sampling technician courses or refresher courses pursuant to this section on or after April 22, 2009.

(3) A training program must not provide, offer, or claim to provide EPA-accredited lead-based paint activities courses without applying for and receiving accreditation from EPA as required under paragraph (b) of this section on or after March 1, 1999. A training program must not provide, offer, or claim to provide EPA-accredited renovator or dust sampling technician courses without applying for and receiving accreditation from EPA as required under paragraph (b) of this section on or after June 23, 2008.

(b) *Application process.* The following are procedures a training program must follow to receive EPA accreditation to offer lead-based paint activities courses, renovator courses, or dust sampling technician courses:

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

(i) The training program's name, address, and telephone number.

(ii) A list of courses for which it is applying for accreditation. For the purposes of this section, courses taught in different languages and electronic