

PROPOSED AMENDMENTS TO THE RULES OF THE
DEPARTMENT OF NATURAL RESOURCES
ENVIRONMENTAL PROTECTION DIVISION
LEAD-BASED PAINT HAZARD MANAGEMENT, CHAPTER 391-3-24

The Rules of the Department of Natural Resources, Chapter 391-3-24, Lead-Based Paint Hazard Management are hereby amended, added to, repealed in part, revised, as hereinafter explicitly set forth in the attached amendments, additions, partial repeals, and revisions for specific rules, or such subdivisions thereof as may be indicated.

[Note: Underlined text is proposed to be added. Lined-through text is proposed for deletion.]

Rule 391-3-24-.03, "Definitions," is amended to read as follows:

- (1) "Abatement" means any measures or set of measures designed to permanently eliminate lead-based paint or lead-based paint hazards. Abatement includes, but is not limited to:
- (a) 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 permanent covering of soil, when lead-based paint hazards are present in such paint, dust or soil; and
 - (b) All preparation, clean-up, disposal, and post-abatement clearance testing activities associated with such measures; and
 - (c) Specifically, abatement in target housing and child-occupied facilities includes, but is not limited to:
 - 1. Projects for which there are written contracts or other documentation, which provides that an individual or firm certified in accordance with Rule 391-3-24-.05 will be conducting activities in or to a residential dwelling or child-occupied facility that:
 - (i) Shall result in the permanent elimination of lead-based paint, or lead-based paint hazards; or
 - (ii) Are designed to permanently eliminate lead-based paint or lead-based paint hazards and are described in paragraphs (a) and (b) of this definition.
 - 2. Projects involving and/or resulting in the permanent elimination of a lead-based paint hazard, or intact lead-based paint equal to or greater than 1.0 milligram(s) per square centimeter (mg/cm²) or equal to or greater than 0.5 percent (0.5%) by weight, conducted by firms or persons certified in accordance with 391-3-24-.05, unless such projects are covered by subsection (d) of this definition;

3. Projects involving and/or resulting in the permanent elimination of a lead-based paint hazard, or intact lead-based paint equal to or greater than 1.0 milligram(s) per square centimeter (mg/cm²) or equal to or greater than 0.5 percent (0.5%) by weight, conducted by firms or persons who, through their company name or promotional literature, or otherwise represent, advertise, or hold themselves to be in the business of performing lead-based paint activities as defined by these Rules, unless such projects are covered by subsection (d) of this definition; or
4. Projects involving and/or resulting in the permanent elimination of lead-based paint hazards or lead-based paint, that are conducted in response to State or local abatement orders.

(d) 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.

(2) "Accessible surface" means an interior or exterior surface painted with lead-based paint that is accessible for a child, six (6) years of age or younger, to mouth or chew.

(3) "Accredited training program" means a training program that has been accredited by the Division pursuant to section 391-3-24-.04 to provide training for persons engaged in renovation or lead-based paint activities.

(4) "Adequate quality control" means a plan or design to ensure 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.

(5) "Agent-in-Charge" means the most responsible person at the location or activity being inspected with the direct responsibility for the property or the activity taking place, e.g., lead supervisor.

(6) "Arithmetic Mean" means the number obtained by dividing the sum of a set of quantities or concentrations (such as wipe sample concentrations) by the number of quantities or concentrations in the set.

(7) "Certificate of mailing" means proof of mailing and proof of delivery.

(8) "Certified Dust Sampling Technician" means an individual who has been trained by an accredited training program, passed the course test, and certified by the Division to conduct dust sampling following renovation activities to meet clearance standards in Rule 391-3-24-.07.

(9) "Certified Lead Firm" means a company, partnership, corporation, sole proprietorship, association, or other business entity that performs lead-based paint activities, to which the Division has issued a certificate of approval pursuant to section 391-3-24-.05.

(10) "Certified Lead Inspector" means an individual who has been trained by an accredited training program and certified by the Division to conduct inspections. A lead inspector also samples for the presence of lead in paint, dust, and soil for the purposes of abatement clearance testing.

(11) "Certified Lead Project Designer" means an individual who has been trained by an accredited training program, passed the course test, and certified by the Division to prepare abatement project designs, occupancy protection plans, and abatement reports.

(12) "Certified Lead Risk Assessor" means an individual who has been trained by an accredited training program and certified by the Division to conduct risk assessments. A lead risk assessor also samples for the presence of lead in paint, dust, and soil for the purposes of abatement clearance testing.

(13) "Certified Lead Supervisor" means an individual who has been trained by an accredited training program and certified by the Division to supervise and conduct abatements in target housing and child-occupied facilities and to prepare occupant protection plans and abatement reports.

(14) "Certified Lead Worker" means an individual who has been trained by an accredited training program, passed the course test, and certified by the Division to perform abatement activities.

(15) "Certified Renovation Firm" means a company, partnership, corporation, sole proprietorship, individual doing business, association, or other business entity; a Federal, State, Tribal, or local government agency; or a nonprofit organization that performs renovation activities to which the Division has issued a certificate of approval pursuant to Section 391-3-24-.09.

(16) "Certified Renovator" means an individual who either performs or directs workers who perform renovations. A certified renovator is a renovator who has successfully completed a renovator course by an accredited training program, passed the course test, and been certified by the Division to perform renovation activities.

(17) "Chewable surface" means an interior or exterior surface painted with lead-based paint that a child six (6) years of age or younger can mouth or chew. A chewable surface is the same as an "accessible surface" as defined in 42 U.S.C. 4851 b(2). Hard metal substrates and other materials that cannot be dented by the bite of a young child are not considered chewable.

(18) "Child-occupied facility" means a building, or portion of a building constructed prior to 1978, visited by the same child, six years of age or under, on at least two different days within

the same week (Sunday through Saturday period), provided each day's visit lasts at least three hours and the combined weekly visit lasts at least six hours. Child-occupied facilities include, but are not limited to, day-care centers, pre-schools and kindergarten classrooms.

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

(20) "Clearance levels" means a value that indicates the ~~maximum~~ amount of lead ~~permitted in dust on a surface in micrograms per square foot ($\mu\text{g}/\text{ft}^2$), or the values applicable to lead hazards abatement within the scope of the project, following completion of an abatement activity. To achieve clearance when dust sampling is required, values below these levels must be achieved.~~

(21) "Commissioner" means the Commissioner of the Board of Natural Resources, Department of Natural Resources.

(22) "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.

(23) "Completion date" means the date on which all activities on a permitted lead-based paint abatement project requiring the use of certified persons are complete, including, but not limited to, the complete disassembly of all removal area barriers, final clearance testing and disposal of all lead-based paint waste.

(24) "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, 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, 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, casings, sashes, wells and troughs, and air conditioners.

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

(26) "Containment" means a process to protect the public, occupants, workers and the environment by controlling exposures to the lead-contaminated dust and debris created during an abatement.

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

(28) "Course test" means an evaluation of the overall effectiveness of the training, which shall test the trainees' knowledge and retention of the topic covered during the course.

(29) "Course test blueprint" means written documentation identifying the proportion of course test questions devoted to each major topic in the course curriculum.

(30) "Deteriorated paint" means any interior or exterior paint or other coating that is peeling, chipping, chalking or cracking or any paint or coating located on an interior or exterior surface or fixture that is otherwise damaged or separating from the substrate.

(31) "Director" means the Director of the Environmental Protection Division of the Department of Natural Resources or his designees.

(32) "Discipline" means one of the specific types or categories of lead-based paint activities identified in these Rules for which persons may receive training from accredited training programs and become certified by the Division. For example, "Lead worker" is a discipline.

(33) "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.

(34) "Disturb" means to break up, burn, crush, cut into, dissolve, sand, scrape, abrade, remove, demolish, or otherwise manipulate a painted surface in a manner that generates dust, paint chips, or debris.

(35) "Division" means the Environmental Protection Division of the Department of Natural Resources and shall where applicable include any contractors selected by the Division to carry out any provisions of these Rules.

(36) "Documented methodologies" are current methods or protocols, e.g., ASTM E1728-03, used to sample for the presence of lead in paint, dust, and soil found in the following:

- (a) The U.S. Department of Housing and Urban Development (HUD);
- (b) The Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing;
- (c) The Environmental Protection Agency (EPA) Guidance on Residential Lead-Based Paint, Lead-Contaminated Dust, and Lead-Contaminated Soil and Residential Sampling for Lead: Protocols for Dust and Soil Sampling (EPA Report Number 7474-R-95- 001); and

(d) Regulations, guidance methods or protocols issued by States and Indian Tribes that have been authorized by the EPA; and other equivalent methods and guidelines.

(37) "Dripline" means the area within 3 feet surrounding the perimeter of a building.

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

(39) "Dust-lead hazard" means surface dust in a residential dwelling or child-occupied facility that contains a mass-per-area concentration of lead equal to or exceeding ~~4~~10 micrograms per square foot ($\mu\text{g}/\text{ft}^2$), on floors or equal to or exceeding ~~25~~100 micrograms per square foot ($\mu\text{g}/\text{ft}^2$), on interior window sills based on wipe samples.

(40) "Elevated blood lead level (EBL)" means an excessive absorption of lead that is a confirmed concentration of lead in whole blood of 20 $\mu\text{g}/\text{dl}$ (micrograms of lead per deciliter of whole blood) for a single venous test or of 15-19 $\mu\text{g}/\text{dl}$ in two consecutive venous tests taken 3 to 4 months apart.

(41) "Emergency lead-based paint abatement project" means a lead-based paint abatement project that has been determined by a lead risk assessor and the Division to be an imminent lead-based paint hazard to building occupants in a child-occupied facility.

(42) "Emergency renovation project" means a renovation activity that was not planned but resulted from a sudden, unexpected event (such as non-routine failures of equipment) that, if not immediately attended to presents a safety or public health hazard, or threatens equipment and/or property with significant damage.

(43) "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.

(44) "Encapsulation" means the application of an encapsulant.

(45) "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.

(46) "Floor" means the interior or exterior installed surface on which one stands, walks, crawls or plays. For exterior entrances, the term does not include sidewalks or uncovered porches (e.g. a porch with no roof).

(47) "Friction Surface" means an interior or exterior surface that is subject to abrasion or friction, including, but not limited to, certain windows, floors and stair surfaces.

(48) "Guest Instructor" means a person 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.

(49) "Hands-on skills assessment" means an evaluation, which tests the trainees' ability to satisfactorily perform the work practices and procedures identified in 391-3-24-.04 of these Rules.

(50) "Hazardous waste" means any solid waste which has been defined as hazardous waste in regulations promulgated by Board of Natural Resources, Chapter 391-3-11.

(51) "Health investigation" means the investigation of target housing or a child-occupied facility housing a child, six years of age or under, with an elevated blood lead level. The purpose of a health investigation is to identify a cause or causes for the lead poisoning of a child.

(52) "HEPA vacuum. means a vacuum cleaner, which has been designed with a high-efficiency particulate air (HEPA) filter as the last filtration stage. A HEPA filter is a filter that is capable of capturing particles of 0.3 microns with 99.97 percent (99.97%) efficiency. The vacuum cleaner must be designed, so that all the air drawn into the machine is expelled through the HEPA filter with none of the air leaking past it.

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

(54) "Inspection" means a surface-by-surface investigation conducted by a lead inspector to determine the presence of lead-based paint and the provision of a report explaining the results of the investigation.

(55) "Interim controls" means a set of measures designed to temporarily reduce human exposure or likely exposure to lead-based paint hazards including, but not limited to specialized cleaning, repairs, maintenance, painting, temporary containment, ongoing monitoring of lead-based paint hazards or potential hazards, standard treatments, and the establishment and operation of management and resident education programs.

(56) "Interior window sill" means the portion of the horizontal window ledge that protrudes into the interior of the room.

(57) "Lead-based paint (LBP)" means paint or other surface coatings that contain lead equal to or in excess of 1.0 milligram(s) per square centimeter (mg/cm²), or 0.5 percent (0.5%) by weight or 5000 parts per million (ppm).

(58) "Lead-based paint abatement project" means the abatement of lead-based paint or lead-based paint hazards from one or more residential dwelling units and/or child-occupied facilities located within the same local government jurisdiction and submitted under a common project notification.

(59) "Lead-based paint activities" means, in the case of target housing and child-occupied facilities, inspection, risk assessment, and abatement, as defined in this Rule. Lead-based paint activities do not include renovation, as defined in this Rule.

(60) "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 pursuant to Toxic Substance Control Act (TSCA) section 403.

(61) "Lead-contaminated dust" means surface dust in residential dwellings or in child-occupied facilities that contain an area or mass concentration of lead at or in excess of levels identified pursuant to Rule 391-3-24-.07.

(62) "Lead-contaminated soil" means bare soil on residential real property or on the property of a child-occupied facility that contains lead at or in excess of levels identified pursuant to Rule 391-3-24-.03(85).

(63) "Lead-hazard screen" is a limited risk assessment activity that involves limited paint and dust sampling as described in 391-3-24-.06(3) of these Rules.

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

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

(66) "Mid-yard" means an area of a residential yard approximately midway between the dripline of a residential building and the nearest property boundary or between the driplines of a residential building and another building on the same property.

(67) "Minor repair and maintenance activities" are activities, including minor heating, ventilation or air conditioning work, electrical work, and plumbing, that disrupt 6 square feet or less of painted surface per room for interior activities or 20 square feet or less of painted surface for exterior activities where none of the work practices prohibited or restricted in Rule 391-3-24-.10(3)(c) are used and where the work does not involve window replacement or demolition of painted surface areas. When removing painted components, or portions of painted components, the entire surface area removed is the amount of painted surface disturbed. Jobs, other than emergency renovations, performed in the same room within the same 30 days must be considered the same job for the purpose of determining whether the job is a minor repair and maintenance activity.

(68) "Multi-family dwelling" means a structure that has more than one separate 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.

(69) "Occupant Protection Plan" means a written plan which describes the measure and management procedures that will be taken during abatement to protect building occupants from exposure to lead-based paint hazards. The plan shall be unique to each residential dwelling unit or child-occupied facility. For projects less than five units, the plan shall be prepared by a certified lead supervisor or certified lead project designer. For projects with five or more units, the plan shall be prepared by a lead project designer. The plan shall include the preparer's signature and certification number.

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

(71) "Paint-lead hazard" means any of the following:

(a) Any lead-based paint on a friction surface that is subject to abrasion and where the lead dust levels on the nearest horizontal surface underneath the friction surface (e.g., the window sill, or floor) are equal to or greater than the dust-lead hazard levels identified in the definition of dust-lead hazard.

(b) 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).

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

(d) 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.

(72) "Pamphlet" means the EPA pamphlet titled Renovate Right: Important Lead Hazard Information for Families, Child Care Providers and Schools developed under section 406(a) of TSCA for use in complying with section 406(b) of TSCA or any Division pamphlet approved by EPA pursuant to 40 CFR 745.326 that is developed for the same purpose. This includes reproductions of the pamphlet when copied in full and without revision or deletion of material from the pamphlet except for the addition or revision of the Division's sources of information.

(73) "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.

(74) "Person" means the State of Georgia or any agency or instrumentality thereof, or any political subdivision, municipality, county, public or private corporation, authority, partnership, individual or association; any interstate body; or department, agency, or instrumentality of the Federal Government.

(75) "Play Area" means an area of frequent soil contact by children six (6) years of age or less 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.

(76) "Principal instructor" means the person who has the primary responsibility for organizing and teaching a particular course.

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

(78) "Recognized test kit" means a commercially available kit recognized by EPA under 40 Code of Federal Regulations 745.88 as being capable of allowing a user to determine the presence of lead at levels equal to or in excess of 1.0 milligrams per square centimeter (mg/cm²), or more than 0.5 percent (0.5%) lead by weight, in a paint chip, paint powder, or painted surface.

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

(80) "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 Rule. 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.

(81) "Renovation activities" mean any activities performed during a renovation including dust sampling following renovation.

(82) "Residential building" means a building containing one or more residential dwellings.

(83) "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.

(84) "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 person or the lead firm conducting the risk assessment, explaining the results of the investigation and options for reducing lead-based hazards.

(85) "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 (6) inches from an intersecting wall. Half walls or bookcases count as room separators if built-in. Moveable 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.

(86) "Soil-lead hazard" means bare soil on residential real property or on the property of a child-occupied facility that contains total lead equal to or exceeding 400 parts per million in a play area or average of 1,200 parts per million of bare soil in the rest of the yard based on soil samples.

(87) "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.

(88) "Start date" means the date on which activities begin on a notified lead-based paint abatement project requiring the use of certified persons, including the abatement area isolation and preparation or any other activity which may disturb lead-based paint. Start date also means the date on which activities begin on a permitted renovation project.

(89) "Target housing" means any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any child/children age six (6) years or under reside or is expected to reside in such housing for the elderly or persons with disabilities) or any zero (0)-bedroom dwelling.

- (90) "Third party certification exam" means a third party examination in a particular discipline which is recognized by the Division and administered by a third party certification exam administrator.
- (91) "Third party certification exam administrator" means an administrator which is accepted by the Division to conduct third party certification exams.
- (92) "Training course 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.
- (93) "Training hour" means at least 50 minutes of actual teaching, including, but not limited to, time devoted to lecture, learning activities, small group activities, demonstrations, evaluations, and/or hands-on experience.
- (94) "Training manager" means the person responsible for administering an accredited training program and monitoring the performance of principal instructors and guest instructors.
- (95) "TSCA" means the Toxic Substances Control Act, 15 U.S.C. 2601.
- (96) "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.
- (97) "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.
- (98) "Weighted Arithmetic Mean" means an arithmetic mean determined by assigning a multiplier to each quantity or concentration (such as a wipe sample concentration) to be averaged to indicate the relative importance of each quantity's contribution to the average. For example, multiplying each wipe sample concentration by the size of the area wiped, adding the resulting mathematical products, adding the size of the areas wiped, and dividing the sum of the mathematical products by the sum of the areas wiped.
- (99) "Wet disposable cleaning cloth" means a commercially available, pre-moistened white disposable cloth designed to be used for cleaning hard surfaces such as uncarpeted floors or counter tops.
- (100) "Wet mopping system" means a device with the following characteristics: A long handle, a mop head designed to be used with disposable absorbent cleaning pads, a reservoir for cleaning solution, and a built-in mechanism for distributing or spraying the cleaning solution onto a floor, or a method of equivalent efficacy.

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

(102) "Wipe sample" means the 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 E1792, "Standard Specification for Wipe Sampling Materials for Lead in Surface Dust."

(103) "Work area" means the area that the certified renovator establishes to contain the dust and debris generated by a renovation.

(104) "Working day" means any day Monday through Friday. Holidays falling on any of these days are included in this definition.

(105) "Zero (0)-bedroom dwelling" means any residential dwelling in which the living area is not separated from the sleeping area. The term includes efficiencies, studio apartments, dormitory housing, military barracks, and rentals of individual rooms in residential dwellings.

Rule 391-3-24-.06, "Standards for Conducting Lead-Based Paint Activities," is amended to read as follows:

(1) Scope.

(a) When performing any lead-based paint activities, a certified person must perform that activity in compliance with the requirements specified in this section.

(b) Persons performing lead-based paint activities shall work for a certified lead firm.

(c) No person or firm shall engage in a lead-based paint abatement project prior to notifying the Division and receiving a notice to proceed from the Division.

(d) For each inspection, risk assessment, or lead hazard screen conducted, the lead inspector or lead risk assessor shall submit an inspection report or risk assessment report to the party for which services are rendered, and the Division, if requested. The report shall be submitted within thirty (30) days of the activity.

(2) Inspection.

(a) An inspection shall be conducted only by a person certified by the Division as a lead inspector and/or a combined inspector/risk assessor. The inspection must be conducted according to the procedures in this section.

(b) When conducting an inspection, the following locations shall be selected according to documented methodologies and tested for the presence of lead-based paint:

1. In a residential dwelling and child-occupied facility, each interior 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 lead inspector or lead risk assessor determines to have been replaced after 1978, or to not contain lead-based paint; and
2. In a multi-family dwelling or child-occupied facility, each component with a distinct painting history in every common area, except those components that the lead inspector or lead risk assessor determines to have been replaced after 1978, or to not contain lead-based paint.

(c) Paint shall be sampled in the following manner:

1. The analysis of paint to determine the presence of lead shall be conducted using documented methodologies, which incorporate adequate quality control procedures; and/or
2. All collected paint chip samples shall be analyzed according to paragraph (6) of this section to determine if they contain detectable levels of lead that can be quantified numerically.

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

1. Date of each inspection.
2. Address of building.
3. Date of construction.
4. Apartment numbers (if applicable).
5. Name, address, and telephone number of the owner or owners of each residential dwelling or child-occupied facility.
6. Name, signature, and certification number of each certified inspector and/or risk assessor conducting testing.
7. Name, address, and telephone number of the certified lead firm employing each inspector and/or risk assessor, if applicable.
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.

9. Specific locations of each painted component tested for the presence of lead-based paint.
10. The results of the inspection expressed in terms appropriate to the sampling method used.

(3) Lead Hazard Screen.

(a) A lead hazard screen shall be conducted only by a person certified by the Division as lead risk assessor.

(b) If conducted, a lead hazard screen shall be conducted as follows:

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

2. A visual inspection of the residential dwelling or child-occupied facility shall be conducted to:

- (i) Determine if any deteriorated paint is present, and
- (ii) Locate at least two dust sampling locations.

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

4. In residential dwellings, at least two dust samples shall be collected, one from a floor and the other from a window, in rooms, hallways or stairwells where one or more children, age six (6) and under, are most likely to come in contact with dust.

5. In multi-family dwellings and child-occupied facilities, in addition to the floor and window samples required in paragraph (3)(b)4. of this section, the lead risk assessor shall collect dust samples from common areas where one or more children, age six (6) and under, are most likely to come into contact with dust.

(c) Dust samples shall be collected and analyzed in the following manner:

1. All dust samples shall be taken using documented methodologies that incorporate adequate quality control procedures.

2. All collected dust samples shall be analyzed according to paragraph (6) of this section to determine if they contain detectable levels of lead that can be quantified numerically.

(d) Paint shall be sampled in the following manner:

1. The analysis of paint to determine the presence of lead shall be conducted using documented methodologies which incorporate adequate quality control procedures; and/or

2. All collected paint chip samples shall be analyzed according to paragraph (6) of this section to determine if they contain detectable levels of lead that can be quantified numerically.

(e) The lead risk assessor shall prepare a lead hazard screen report, which shall include, but not be limited to, the following information.

1. The information required in a risk assessment report as specified in paragraph (4) of this section, including any background information collected pursuant to paragraph (b)1 of this section shall be included in the risk assessment report; and

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

(4) Risk Assessment.

(a) A risk assessment shall be conducted only by a person certified by the Division as a lead risk assessor and, if conducted, must be conducted according to the procedures in this section:

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

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

(d) The following surfaces, which are determined, using documented methodologies, to have a distinct painting history, shall be tested for the presence of lead.

1. Each friction surface or impact surface with visibly deteriorated paint; and

2. All other surfaces with visibly deteriorated paint.

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

(f) For multi-family dwellings and child-occupied facilities, the samples required in paragraph (4)(d) of this section shall be taken. In addition, interior window sill and floor dust samples (single-surface samples) shall be collected in the following locations:

1. Common areas adjacent to the sampled residential dwelling or child-occupied facility, and

2. Other common areas in the building where the lead risk assessor determines that one or more children age six (6) years and under, are likely to come into contact with dust.

(g) For child-occupied facilities, window and floor dust samples (single-surface samples) shall be collected in each room, hallway or stairwell utilized by one or more children, age six (6) and under, and in other common areas in the child-occupied facility where the lead risk assessor determines one or more children, age six (6) and under, are likely to come into contact with dust.

(h) Soil samples shall be collected and analyzed for lead concentrations in the following locations:

1. Exterior play areas where bare soil is present.
2. Dripline/ foundation areas where bare soil is present.
3. The rest of the yard (i.e., non-play areas) where bare soil is present.

(i) Any paint, dust or soil samples shall be taken using documented methodologies that incorporate adequate quality control procedures.

(j) Any collected paint chip, dust, or soil samples shall be analyzed according to paragraph (6) of this section to determine if they contain detectable levels of lead that can be quantified numerically.

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

1. Date of assessment.
2. Address of each building.
3. Date of construction of buildings.
4. Apartment number (if applicable).
5. Name, address, and telephone number of each owner of each building.
6. Name, signature, and certification of the lead risk assessor conducting the assessment.
7. Name, address, and telephone number of the lead firm employing each lead risk assessor.
8. Name, address, and telephone number of each recognized laboratory conducting analysis of collected samples.
9. Results of the visual inspection.

10. Testing method and sampling procedure for paint analysis employed.
 11. Specific locations of each painted component tested for the presence of lead.
 12. All data collected from on-site testing, including quality control data and, if used, the serial number of any XRF device.
 13. All results of laboratory analysis on collected paint, soil, and dust samples.
 14. Any other sampling results.
 15. Any background information collected pursuant to paragraph (4)(c) of this section.
 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.
 17. A description of the location, type, and severity of identified lead-based paint hazards and any other potential lead hazards.
 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) Abatement.
- (a) An abatement shall be conducted only by a person certified by the Division and shall be conducted in accordance with the procedures and requirements specified in this section.
 - (b) A lead supervisor is required for each abatement project and shall be on-site at all times when abatement is being conducted. This would include preparation, cleanup, disposal and testing activities associated with such measures.
 - (c) All abatement shall be conducted in accordance with the requirements of this section.
 - (d) Notification for a lead-based paint abatement project in a residential dwelling, child-occupied facility, or multi-family dwelling shall be made on forms supplied by the Division and submitted to the Division fifteen (15) calendar days prior to the start date of the lead-based paint abatement project.
 - (e) Abatement shall not commence until the Division has provided a notice to proceed in accordance with paragraph (11) of this section.

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

1. The occupant protection plan shall be unique to each residential dwelling, multi-family dwelling or child-occupied facility and 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.

2. A certified lead supervisor or certified lead project designer shall prepare the occupant protection plan.

(g) The work practices listed below shall be restricted during an abatement as follows:

1. Open-flame burning or torching of lead-based paint is prohibited;

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 capable of removing particles of 0.3 microns or larger from air at 99.97 percent or greater efficiency;

3. Operating a heat gun on lead-based paint is permitted only at a temperature below 1100 degrees Fahrenheit; and

4. Dry scraping of lead-based paint is permitted only in conjunction with heat guns or around electrical outlets or when treating defective painting spots no more than two (2) square feet in any one room, hallway or stairwell or totaling no more than twenty (20) square feet on exterior surfaces.

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

1. If soil is removed, the lead-contaminated soil shall be replaced with soil with a lead concentration less than 400 parts per million or background concentration of lead, whichever is lower; or

2. If soil is not removed, the lead-contaminated soil shall be permanently covered as defined in TSCA § 745.223.

3. If soil is removed, it shall not be used as top soil at another site.

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

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 still present. If deteriorated painted surfaces or visible amounts of dust, debris or residue are present, these conditions must be eliminated prior to the continuation of the clearance procedures.

2. Following the visual inspection and any post-abatement cleanup required by paragraph (5)(i)1. of this section, clearance sampling for lead-contaminated dust shall be conducted. Clearance sampling may be conducted by employing single-surface sampling techniques.
3. Dust samples for clearance purposes shall be taken using documented methodologies that incorporate adequate quality control procedures. Dust samples for clearance purposes shall be taken a minimum of one (1) hour after completion of final post-abatement cleanup activities.
4. The following post-abatement clearance activities shall be conducted based upon the extent or manner of abatement activities conducted in or to the residential dwelling or child-occupied facility:
 - (i) After conducting an interior abatement with containment between abated and unabated areas, one (1) dust sample shall be taken from one (1) interior window sill and from one (1) window trough (if available) and one dust sample shall be taken from the floors of each of no less than four (4) rooms, hallways or stairwells within the containment area. In addition, one (1) dust sample shall be taken from the floor outside the containment area. If there are less than four (4) rooms, hallways or stairwells within the containment area, then all rooms, hallways or stairwells shall be sampled.
 - (ii) After conducting an interior abatement with no containment, two (2) dust samples shall be taken from no less than four (4) rooms, hallways or stairwells in the residential dwelling or child-occupied facility. One (1) dust sample shall be taken from one (1) window (if available) and one (1) dust sample shall be taken from one (1) interior window sill and window trough (if present) and one (1) dust sample shall be taken from the floor of each room, hallway or stairwell selected. If there are less than four (4) rooms, hallways or stairwells within the residential dwelling or child-occupied facility, then all rooms, hallways or stairwells shall be sampled.
 - (iii) 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 in accordance with applicable standards set forth by the Division, and in compliance with all federal, state and local requirements. Clearance wipe samples must be collected from the exterior floors and concrete involved with the abatement project.
5. The rooms, hallways or stairwells selected for sampling shall be selected according to documented methodologies.
6. The lead inspector or risk assessor shall compare the residual lead dust level (as determined by the laboratory analysis) from each dust sample with applicable clearance levels for lead in dust on floors, concrete, windowsills, and window troughs as found in 391-3-24-.07. If the residual dust levels in a dust sample exceed the clearance levels, all the components represented by the failed sample shall be re-cleaned and retested until clearance levels are met.

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

1. The certified persons who abate or clean the residential dwelling do not know which residential dwellings will be selected for the random sample.
2. A sufficient number of residential dwellings are selected for dust sampling to provide a ninety-five percent (95%) level of confidence that no more than 5 percent (5%) or 50 of the residential dwellings (whichever is smaller) in the randomly sampled population exceed the appropriate clearance levels.
3. The randomly selected residential dwellings shall be sampled and evaluated for clearance according to the procedures found in paragraph (5)(i) of this section.

(k) An abatement project completion notification shall be prepared by a lead supervisor or lead project designer. The notification shall be prepared on forms supplied by the Division and shall include, but not be limited to, the following information:

1. Start and completion dates of abatement.
2. The name and address of each lead firm conducting the abatement and the name of each lead supervisor assigned to the abatement project.
3. The name and title of the lead supervisor or lead project designer who prepared the occupant protection plan pursuant to paragraph (5)(f) of this section.
4. The name, address, signature, and lead firm of each lead risk assessor or lead inspector conducting clearance sampling and the date of clearance testing.
5. The results of clearance testing and all soil analyses (if applicable) and the name of each recognized laboratory that conducted the analyses.
6. A detailed written description of the abatement, including abatement methods used, locations of rooms and/or components where abatement occurred, reason for selecting particular abatement methods for each component, and any monitoring of encapsulants or enclosures.

(l) Abatement project completion notifications shall be submitted to the Division no later than thirty (30) working days after the completion date of lead-based paint abatement project.

(6) Collection and Laboratory Analysis of Samples.

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

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

(7) A paint-lead hazard is present:

- (a) 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 391-3-24-.07;
- (b) On any chewable lead-based paint surface on which there is evidence of teeth marks;
- (c) 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
- (d) 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.

(8) A dust-lead hazard is present in a residential dwelling or child-occupied facility:

- (a) On floors and interior window sills when the weighted arithmetic mean lead loading for all single surface of floors and interior window sills are equal to or greater than 4~~1~~0 micrograms per square foot ($\mu\text{g}/\text{ft}^2$) for floors and equal to or greater than ~~25~~100 micrograms per square foot ($\mu\text{g}/\text{ft}^2$) for interior window sills respectively;
- (b) On floors or interior window sills in an un-sampled 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
- (c) On floors or interior window sills in an unsampled common area in a multi-family dwelling or child-occupied facility, 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.

(9) A soil-lead hazard is present:

- (a) 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
- (b) 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.

(10) Project Fees.

(a) A lead firm or lead supervisor shall submit to the Division a project fee for each lead-based paint abatement project at least fifteen (15) calendar days prior to the start date of each abatement project. Project fees shall be submitted electronically or in the form of a check or money order and made payable to the Environmental Protection Division - Lead Abatement Fees. Project fees shall be based upon the following formula:

1. \$50 per residential dwelling unit or child-occupied facility plus 2% (.02) of the total value of lead-based paint abatement work covered by the notification. Notifications submitted less than fifteen (15) calendar days prior to the state date, and with Division approval to commencement of lead-based paint abatement activities, are Emergency Notifications and must include an additional \$50 fee.

(11) Lead-Based Paint Abatement Project Notification.

(a) No person shall conduct abatement without a notice to proceed from the Division, except as provided for in paragraph (c)(2) of this section. All abatement activities shall be conducted by certified persons and certified lead firms.

(b) All notifications shall be made on forms provided by the Division. The notification shall include, but not be limited to, the following applicable information:

1. Name, address, contact name, and phone number of the owner and operator of the target housing or child-occupied facility;
2. Name, certification number, address, contact name and phone number of the lead firm;
3. Name, certification number, address, firm, and phone number of the lead inspector and lead risk assessor;
4. Name, certification number, address, firm, and phone number of the lead project designer;
5. Location and street address, including building number or name and floor or room number, city, county, and state of the building where the abatement is taking place;
6. Scheduled start and completion dates of active lead-based paint abatement work including preparation work and cleanup work;
7. Work schedule, including days of the week and hours to be worked;
8. Amount and locations of material to be abated;

9. Method(s) of abatement;
10. Waste transporter, address, contact name, and phone number;
11. Waste disposal site, address, contact name, and phone number;
12. For ordered abatements, the name, title, and authority of the State or local government representative who has ordered the abatement, the date that the order was issued, and the date the abatement was ordered to begin;
13. For emergency abatements, a description of the nature of the emergency and an explanation of how failure to correct the situation would cause a lead-based paint hazard;
14. Total value of the lead-based paint abatement work covered by the notification;
15. Total number of residential dwelling units and/or child occupied facilities abated; and
16. The original signature and date of the lead firm representative.
17. The person who developed the Occupant Protection Plan for the project.

(c) Notifications for lead-based paint abatement projects shall adhere to the following schedule:

1. Notifications for a lead-based paint abatement project shall be postmarked or delivered to the Division at least fifteen (15) calendar days prior to the scheduled start date;
2. The fifteen (15) calendar day notice may be waived if the abatement project is deemed an emergency lead-based paint abatement project by a lead risk assessor and approved by the Division prior to commencement of lead-based paint abatement activities. A notification involving an emergency lead-based paint abatement project shall be postmarked or hand delivered to the Division by the workday following the request for the emergency abatement project. Notifications for emergency abatement projects shall be submitted along with a letter from the owner or the lead risk assessor explaining the nature of the emergency.

(d) All notifications, both regular and emergency, for lead-based paint abatement shall be accompanied by a project fee in accordance with paragraph (10) of this section. Project fees shall be submitted electronically or in the form of check or money order and made payable to the Environmental Protection Division - Lead Abatement Fees.

(e) Revisions to lead-based paint abatement project notifications shall be made in writing on a form provided by the Division and shall be submitted to the Division for the following:

1. Revision to a start date for a project that will begin after the start date stated in the previous notification shall be received on or before the previously stated start date or previously revised start date;
2. Revision to a start date for a project that will begin before the start date stated in the previous notification or subsequent revisions shall be received at least fifteen (15) calendar days before the new start date;
3. Revision to a completion date that will be extended beyond the completion date stated in the previous notification shall be received by the original completion date or previously revised completion date;
4. Revision to a completion date that will be earlier than the completion date stated in the previous notification or subsequent revision shall be received by the new completion date; and
5. Revisions to notifications other than start or completion dates shall be submitted to the Division prior to initiating the activity which the revision addresses.

(f) The following shall be maintained on site during abatement activities and be immediately made available for review by the Division:

1. A copy of the project notification, notice to proceed and all revisions;
2. The occupant protection plan;
3. A copy of the applicable lead-based paint abatement design, risk assessment and inspection reports; and
4. Certifications issued by the Director for all certified persons and firms performing lead-based paint activities.

(g) All abatement shall be conducted in accordance with Rule 391-3-24-.06.

(h) All abatement shall be conducted under the direct supervision of a certified lead supervisor who shall be on-site at all times when abatement activities are being conducted.

(12) Recordkeeping.

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

Rule 391-3-24-.07, “Lead Clearance Levels,” is amended to read as follows:

Clearance procedures shall be conducted on all abatement projects by a certified inspector or lead risk assessor after appropriate cleaning has been completed. The following lead clearance levels must be met.

CLEARANCE DUST STANDARDS (Wipe Sampling Only)

Surface/ Medium	Level ($\mu\text{g}/\text{ft}^2$) (Equal to or less than)
Bare and carpeted floors	4 <u>10</u> $\mu\text{g}/\text{ft}^2$
Interior Window Sills	25 <u>100</u> $\mu\text{g}/\text{ft}^2$
Window Troughs	400 $\mu\text{g}/\text{ft}^2$
Exterior Concrete	800 $\mu\text{g}/\text{ft}^2$