

## Title 33

### ENVIRONMENTAL QUALITY

#### Part III. Air

#### **Chapter 28. Lead-Based Paint Activities—Recognition, Accreditation, Licensure, and Standards for Conducting Lead-Based Paint Activities**

##### **§2801. Scope and Applicability**

A. This Chapter contains procedures and requirements for the recognition of lead-based paint activities training providers, procedures and requirements for the accreditation of individuals, and licensure of contractors engaged in lead-based paint activities, project notifications, ~~and~~ work practice standards for performing such activities, data collection, and reporting of lead hazards at *child occupied facilities (COFs)*, as defined in LAC 33:III.2803 and as specified in LAC 33:III.2813.B and LAC 33:III.2815 (e.g., daycare centers, preschools, or public and nonpublic elementary school facilities). Except as discussed below, all *lead-based paint activities*, as defined in this Chapter, ~~must~~shall be performed by accredited individuals, laboratories, and licensed contractors.

B. This Chapter applies to all persons and contractors who are engaged in lead-based paint activities in *target housing*, as defined in LAC 33:III.2803, and ~~*child occupied facilities*, as defined in LAC 33:III.2803~~COFs, 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.

C. – G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1662 (December 1997), amended LR 24:1686 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:2335 (November 2002), amended by the Office of the Secretary, Legal Division, LR 39:\*\*.

### §2803. Definitions

A. The terms used in this Chapter are defined in LAC 33:III.111 of these regulations with the exception of those terms specifically defined in this Section as follows.

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*Child-Occupied Facility (COF)*—a building or portion of a building or common area, other than the child's principal residence, constructed prior to 1978, that: meets at least one of the following criteria.

a. ~~is~~ A building qualifies as a COF when visited regularly by the same child, age 6 years and under of age or younger, on at least two different days within any week (Sunday through Saturday period), provided that each day's visit lasts at least three hours, with the combined weekly visit lasting at least six hours, and that the combined annual visits last at least 60 hours. Examples of child-occupied facilities/common areas include, but are not limited to, public and nonpublic schools attended by children, age 6 years and under, day care centers, parks, playgrounds, and community centers;

b. ~~has~~ A building qualifies as a COF when it has been determined by the department, in conjunction with the state health officer, to be a significant risk because of its contribution to lead poisoning or lead exposure to children, age 6 years and under; or who are 6 years of age or younger.

c. ~~is~~ A building qualifies as a COF when used as a child-occupied unit and common area in a multi-use building.

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*Interim Controls*—a set of measures designed to temporarily prevent or reduce human exposure or likely exposure to lead-based paint hazards found in dust, paint, or soil, including specialized cleaning, repairs, maintenance, painting, temporary containment, temporary barriers for contaminated soils, the ongoing monitoring of lead-based paint hazards or potential hazards, and the establishment and operation of lead hazard management plans for buildings and grounds subject to the provisions of this Chapter and occupant education programs.

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*Lead Hazard Notification (LHN)*—the notification document required by the department to report lead hazards in accordance with LAC 33:III.2813.B.

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*Recognized Laboratory*—an environmental laboratory ~~recognized~~ accredited by EPA, in accordance with Toxic Substances Control Act (TSCA) Section 405(b) the Louisiana Environmental Laboratory Accreditation Program (LELAP) in accordance with LAC 33:I.Chapter 45 through 57, as being capable of and accredited to performing an analysis for of lead and lead compounds in paint, soil, and dust.

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1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:2335 (November 2002), amended by the Office of Environmental Assessment, LR 30:2022 (September 2004), amended by the Office of the Secretary, Legal Division, LR 39:\*\*.

### **§2807. Accreditation of Individuals**

A. – B.2. ...

~~C. — Accreditation Based on Prior Training~~

~~1. — Individuals in all disciplines who received training in a lead-based paint activity between January 1, 1995, and March 20, 1998, shall be eligible for accreditation by completing the following procedures:~~

~~a. — submit a completed and signed application form to the Office of Environmental Services;~~

~~b. — submit the appropriate certificate from an EPA-authorized state accredited training program; or~~

~~c. — submit documentation to demonstrate the applicant has successfully completed training or on-the-job training in the conduct of a lead-based paint activity, and submit evidence of completion of an approved refresher training course for the appropriate discipline;~~

~~d. — submit a 1" x 1¼" photograph of the applicant;~~

~~e. — meet the education and/or experience requirements listed in Subsection B of this Section; and~~

~~f. — submit the appropriate fees as required under LAC 33:III.223.~~

~~2. Individuals have until November 30, 1998, to apply for accreditation under the procedures in Paragraph C.1 of this Section. After that date all individuals wishing to obtain accreditation must do so through the procedures described in Subsection A of this Section.~~

DC. Reaccreditation

1. To maintain accreditation individuals ~~must~~shall be annually recertified by the Office of Environmental Services.

2. To maintain continuous accreditation, an individual shall perform the following:

a. successfully complete the appropriate refresher course given by a recognized training provider 60 days prior to the accreditation expiration date;

b. submit a copy of the refresher course completion certificate to the Office of Environmental Services;

c. submit a 1" x 1¼" photograph of the applicant issued by the recognized training provider;

d. submit a signed and completed application form; and

e. submit the appropriate fees as required in LAC 33:III.223.

3. If the individual seeking reaccreditation receives refresher training earlier than 60 days prior to expiration or any time after the expiration date on the accreditation certificate, then the individual will receive a new expiration date.

4. If the individual fails to receive refresher training within one year after the accreditation expiration date, the individual must complete a refresher training course with a course test and hands-on assessment, as applicable, for the appropriate discipline in order to become recertified.

5. If an individual has not completed a refresher course within three years, the department shall require the applicant to:

- a. pass the state lead certification examination in the appropriate discipline; or
- b. complete a refresher training course with a course test and hands-on assessment, as applicable.

6. If an individual has not completed a refresher course within five or more years, the department shall require the applicant to complete a refresher training course with a course test and hands-on assessment, as applicable, and pass the state lead certification examination in the appropriate discipline.

ED. Suspension and Revocation of Accreditations of Individuals Engaged in Lead-Based Paint Activities

1. The department may suspend or revoke an individual's accreditation if an individual has:

- a. obtained training documentation through fraudulent means;
- b. gained admission to and completed a recognized training course through misrepresentation of admission requirements;
- c. obtained accreditation through misrepresentation of accreditation requirements or related documents dealing with education, training, professional registration, or experience;
- d. performed work requiring accreditation at a job site without having proof of accreditation;

- e. permitted the duplication or use of the individual's own certificate or photo identification by another;
  - f. performed work for which accreditation is required, but for which appropriate accreditation has not been received;
  - g. failed to comply with state lead-based paint statutes or regulations;
- or
- h. failed to comply with the appropriate work practice standards for lead-based paint activities.

2. When suspension of accreditation credentials occurs, it shall be for no less than one year. When revocation occurs, it shall be for no less than three years. Penalties may also be assessed according to R.S. 30:2351.25(D).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1669 (December 1997), amended LR 24:2240 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2459 (November 2000), LR 28:2337 (November 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2446 (October 2005), LR 33:643 (April 2007), LR 33:2092 (October 2007), amended by the Office of the Secretary, Legal Division, LR 39:\*\*.

**§2811. Work Practice Standards for Conducting Lead-Based Paint Activities for Target Housing and Child-Occupied Facilities**

A. – B.4.i. ...

j. specific locations and the condition (i.e., good, fair, poor) of each painted component tested for the presence of lead-based paint;

B.4.k. – D.9. ...

10. Any collected paint chip, dust, or soil samples shall be analyzed by a recognized Louisiana Environmental Laboratory Accreditation Program (LELAP) laboratory accredited for the media and methods used to determine the concentration of lead. The program requirements are described in LAC 33:I.Subpart 3.

D.11. – E.4.a. ...

b. The project shall not start before the start date noted on the *Lead Project Notification (LPN) form*, as defined in LAC 33:III.2803. The Office of Environmental Services shall be notified if the operation will stop for a day or more during the project time noted on the LPN or if the project has been canceled or postponed. The firm shall also give notice 24 hours before the completion of a project. Notice shall be submitted to the department with written follow-up and fax notification to the appropriate regional office.

c. A notification of less than five working days constitutes an emergency notification ~~and must be submitted within 48 hours of the start of the project.~~ For emergencies during normal working hours, the contractor shall provide notification either by FAX or email to the Office of Environmental Services and the DEQ regional office responsible for inspecting the project site within 24 hours of the start of the project. After working hours, the contractor shall provide notification by FAX, email, or voice mail to the Office of Environmental Services and the DEQ regional office responsible for inspecting the project site within 24 hours of the start of the project. The completed notification form must shall be submitted within five working days and shall be accompanied by the appropriate processing fees (LAC 33:III.223).



d. An amended LPN shall be submitted to the department and appropriate regional office when changes occur in the completion dates, methodology, and square footage.

~~e.~~ Failure to submit a complete and accurate notification or failure to submit appropriate fees will cause the notification to be rejected and constitutes a failure to notify.

5. – 7. ...

8. If conducted, soil abatement shall be conducted in one of the following ways:

a. ~~If~~ soil is removed, the lead-contaminated soil shall be replaced with soil that is not lead-contaminated. Any lead-contaminated soil that is removed shall not be used as top soil at another residential property or ~~COF-child-occupied facility; or~~

b. ~~If~~ soil is not removed, soil abatement shall be conducted in one of the following ways.

i. ~~The~~ lead-contaminated soil shall be *permanently covered*, as defined in LAC 33:III.2803.

ii. An interim control of a permeable barrier shall be applied and covered with 3 to 6 inches of clean top soil per EPA and The Department of Housing and Urban Development guidelines, as described in Paragraph F.1 of this Section.

9. – 10.c. ...

11. An abatement report shall be prepared by an accredited lead project supervisor or an accredited project designer and submitted to the department within 30 days of the completion of the project. The abatement report shall include the following information:

11.a. – 13. ...

F. Interim Controls

1. Interim controls, which require monitoring to maintain lead-safe conditions, may be used in lieu of abatement to manage lead hazards in paint, dust, and soil. Various types of interim controls are outlined in the HUD guidelines: *The Evaluation and Control of Lead-based Paint in Public Housing*; and EPA guidelines, (e.g. the *Superfund Lead-Contaminated Residential Sites Handbook* (August 2003)).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1672 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2459 (November 2000), repromulgated LR 27:39 (January 2001), amended LR 28:2338 (November 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2446 (October 2005), LR 33:644 (April 2007), LR 33:2092 (October 2007), amended by the Office of the Secretary, Legal Division, LR 39:\*\*.

**§2813. Recordkeeping and Reporting Requirements for Lead-Based Paint Activities**

A. All records, reports, and plans required by this Chapter for inspections, hazard screens, risk assessments, and abatements shall be maintained by the owner of the residence, in the case of target housing, or the owner or operator of a residential dwelling or ~~child-occupied building~~ COF, during the life of the facility and no less than 3 years thereafter, and by the contractor or accredited individual who conducted the activities, for ~~at least three years~~. The contractor or accredited individual shall provide copies of these reports to the owner/operator who contracted for its services. Any person who is required by this Chapter to maintain records

may utilize the services of competent organizations such as industry trade associations and employee associations to maintain such records.

B. For a licensed day care center, preschool, or public or nonpublic elementary school facility that qualifies as a COF, the owner, inspector, or risk assessor shall jointly provide notification using Form LHN-7348 to DEQ within 90 days of receipt of reports of lead hazards, lead abatement activities, or any lead testing performed that exceeds the clearance standards outlined in this Chapter. A copy of the notification shall be displayed in a prominent location at the COF.

C. A licensed day care center, preschool, or public or nonpublic elementary school facility that qualifies as a COF shall provide notification to all parents or legal guardians of each child enrolled at the facility of lead abatement activities, lead testing that exceeds the clearance standards outlined in this Chapter, or lead hazard reduction activities performed at the facility or on its grounds. The notification shall be made by written or electronic means (e.g., email, posting on the facility's website, or posting on a bulletin board).

D. The notifications required in Subsections B and C of this Section shall not be required if a facility or its grounds has been inspected or has been subject to lead abatement or remediation prior to August 1, 2012. If a portion of the facility or its grounds has not been inspected or been the subject of lead abatement or remediation prior to August 1, 2012, then that portion of the facility or its grounds shall be subject to the provisions of this Section. The owner or operator of the facility shall maintain documentation that the inspection, lead abatement, or remediation activities were conducted in accordance with applicable requirements outlined in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1676 (December 1997), amended by the Office of the Secretary, Legal Affairs Division, LR 33:644 (April 2007), amended by the Office of the Secretary, Legal Division, LR 39:\*\*.

**§2815. Data Collection**

A. The owner of any licensed day care center, preschool, or public or nonpublic elementary school facility that qualifies as a COF and that was first placed in operation after August 1, 2012, shall have an inspector or risk assessor conduct a thorough inspection of the facility and grounds for the presence of lead hazards within 30 days of starting operation. No inspection shall be required if the facility or its grounds has been inspected or has been the subject of lead abatement or remediation since 1978. If a portion of the facility or its grounds has not been inspected or been the subject of lead abatement or remediation since 1978, then those portions of the facility or its grounds shall be subject to the provisions of this Section. The owner or operator of the facility shall maintain documentation that the inspection, lead abatement, or remediation activities were conducted in accordance with the applicable standards outlined in this Chapter.

B. The owner or operator of COFs that are licensed day care centers, preschools, and elementary schools shall maintain documentation that the inspection, lead abatement, or remediation activities were conducted in accordance with LAC 33:III.Chapter 28 and LAC 33:VI. If a lead hazard is found to be present, the inspector and the owner shall report those findings to the Inspection Division, Office of Environmental Compliance using the Lead Hazard

Notification (LHN) for Child Occupied Facilities, Form 7348. These records shall be maintained at COFs for the life of the facility to show that the hazards were removed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011 and 2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Division, LR 39:\*\*.

### **§2817. Enforcement**

[Formerly §2815]

A. For failure to comply with the regulations of this Chapter, knowingly submitting false or inaccurate information, or directing others in such actions, civil and criminal penalties may be assessed under R.S. 30:2025 and R.S. 30:2351.25.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025, 2054, and 2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1676 (December 1997), amended by the Office of the Secretary, Legal Division, LR 39:\*\*.

### **§2819 Reciprocity**

[Formerly §2817]

A. Individuals seeking accreditation from the department for a specific discipline, based upon accreditation by EPA or an EPA-approved state or Indian tribal program, shall submit copies of the following documents:

1. ~~a valid lead-based paint activities certification (or equivalent) from EPA or an EPA-approved state or tribal program;~~

~~21. a current training course completion certificate, issued by a training provider who, at the time the training certificate was issued, was from an EPA or EPA-approved authorized state or tribal program ~~authorized training provider~~, and all subsequent ~~annual refresher training certificates~~;~~

~~2. a copy of the photo identification card (or equivalent) issued upon receipt of current accreditation; and~~

~~3. certification of a passing score on the applicable accreditation examination, if applicable;~~

~~4. an official academic transcript or diploma that meets the educational requirements in LAC 33:III.2807; and~~

~~53. a completed application for accreditation in the specific discipline and one 1" x 1 1/4" photograph of the applicant, with the appropriate fees.~~

B. Exception. An individual who seeks accreditation as a lead project supervisor for the purpose of obtaining a letter of approval (LAC 33:III.2809) ~~must~~shall take the Louisiana state examination for that discipline.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1676 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:2339 (November 2002), amended by the Office of the Secretary, Legal Division, LR 39:\*\*.

## **§2821. Fees**

[Formerly §2819]

A. Fees are defined in R.S. 30:2351.59 and listed in LAC 33:III.223.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1676 (December 1997), amended by the Office of the Secretary, Legal Division, LR 39:\*\*.