Rhode Island Department of Health

PUBLIC NOTICE

The Director of the Rhode Island Department of Health has determined to amend the rules and regulations listed below to remove the specific dollar value of all fees for licensing, laboratory and administrative services provided by the Department of Health from the individual regulations and reference all such fees to a new consolidated fee regulation (to be promulgated separately). These amendments are proposed pursuant to the authority contained in Public Law 2012-241, enacted by the General Assembly on 15 June 2012, and the relevant sections of the respective professional practice and licensure acts.

The following seventy-five (75) regulations are proposed to be amended:

1. Food Code
2. Rules and Regulations Establishing Educational and Experience Requirements for Registration as a Sanitarian
3. Rules and Regulations for Asbestos Control
4. Rules and Regulations for Bottled Water
5. Rules and Regulations for Certifying Analytical Laboratories
6. Rules and Regulations for Determination of Need for New Health Care Equipment and New Institutional Health Services
7. Rules and Regulations for Lead Poisoning Prevention
8. Rules and Regulations for Licensing Assisted Living Residences
9. Rules and Regulations for Licensing Athletic Trainers
10. Rules and Regulations for Licensing Birth Centers
11. Rules and Regulations for Licensing Chemical Dependency Professionals
12. Rules and Regulations for Licensing Clinical Laboratories and Stations
13. Rules and Regulations for Licensing Clinical Social Workers and Independent Clinical Social Workers
14. Rules and Regulations for Licensing Doctors of Acupuncture and Acupuncture Assistants
15. Rules and Regulations for Licensing Home Nursing Care Providers and Home Care Providers
16. Rules and Regulations for Licensing Hospice Care
17. Rules and Regulations for Licensing Interpreters for the Deaf
18. Rules and Regulations for Licensing Kidney Disease Treatment Centers
19. Rules and Regulations for Licensing Massage Therapists
20. Rules and Regulations for Licensing Mental Health Counselors and Marriage and Family Therapists
21. Rules and Regulations for Licensing Occupational Therapists and Occupational Therapy Assistants
22. Rules and Regulations for Licensing of Hospitals
23. Rules and Regulations for Licensing of Midwives
24. Rules and Regulations for Licensing of Nursing Facilities
25. Rules and Regulations for Licensing of Nursing Home Administrators
26. Rules and Regulations for Licensing Physical Therapists and Physical Therapist Assistants
27. Rules and Regulations for Licensing Psychologists
28. Rules and Regulations for Licensing Rehabilitation Hospital Centers

29. Rules and Regulations for Licensing Respiratory Care Practitioners
30. Rules and Regulations for Licensing Speech Pathologists and Audiologists
31. Rules and Regulations for Licensing Swimming and Wading Pools, Hot Tubs, and Spas
32. Rules and Regulations for Licensure and Discipline of Chiropractic Physicians
33. Rules and Regulations for Limited Medical Registration
34. Rules and Regulations for Radon Control
35. Rules and Regulations for the Certification of Administrators of Assisted Living Residences
36. Rules and Regulations for the Certification of Health Plans
37. Rules and Regulations for the Control of Radiation
38. Rules and Regulations for the Licensing of Freestanding Ambulatory Surgical Centers
39. Rules and Regulations for the Licensing of Freestanding Emergency Care Facilities
40. Rules and Regulations for the Licensing of Nurses and Standards for the Approval of Basic Nursing Education Programs
41. Rules and Regulations for the Licensing of Nursing Service Agencies
42. Rules and Regulations for the Licensing of Organized Ambulatory Care Facilities
43. Rules and Regulations for the Licensing of Podiatrists
44. Rules and Regulations for the Licensing of Radiographers, Nuclear Medicine Technologists, Radiation Therapists and Radiologist Assistants
45. Rules and Regulations for the Licensure and Discipline of Physicians
46. Rules and Regulations for the Licensure of Barbers, Hairdressers/Cosmeticians, Manicurists, Estheticians, and Instructors
47. Rules and Regulations for the Licensure of Clinical Laboratory Science Practitioners
48. Rules and Regulations for the Licensure of Physician Ambulatory Surgery Centers and Podiatry Ambulatory Surgery Centers
49. Rules and Regulations for the Licensure of Physician Assistants
50. Rules and Regulations for the Licensure of Veterinarians
51. Rules and Regulations for the Registration of Body Piercing Technicians and Body Piercing Establishments
52. Rules and Regulations for the Registration of Distributors of Controlled Substances in Rhode Island
53. Rules and Regulations for the Registration of Tanning Facilities
54. Rules and Regulations for the Registration of Tattoo Artists and Tattoo Parlors
55. Rules and Regulations for the Utilization Review of Health Care Services
56. Rules and Regulations Governing Vital Statistics
57. Rules and Regulations Pertaining to Certification of Managers in Food Safety
58. Rules and Regulations Pertaining to Dentists, Dental Hygienists, and Dental Assistants
59. Rules and Regulations Pertaining to Embalmers, Funeral Directors, and Funeral Service Establishments
60. Rules and Regulations Pertaining to Opticians
61. Rules and Regulations Pertaining to Optometrists
62. Rules and Regulations Pertaining to Permits for Screening Programs
63. Rules and Regulations Pertaining to Pharmacists, Pharmacies and Manufacturers, Wholesalers, and Distributors
64. Rules and Regulations Pertaining to Public Drinking Water
65. Rules and Regulations Pertaining to Rhode Island Certificates of Registration for Nursing Assistants, Medication Aides, and the Approval of Nursing Assistant and Medication Aide Training Programs
66. Rules and Regulations Pertaining to the Certification of Public Drinking Water Supply Treatment and Public Water Supply Transmission and Distribution Operators

67. Rules and Regulations Pertaining to the Licensing of Dietitians/Nutritionists
68. Rules and Regulations Pertaining to the Medical Examiner System
69. Rules and Regulations Pertaining to the Newborn Metabolic, Endocrine, and Hemoglobinopathy Screening Program and the Newborn Hearing Loss Screening Program
70. Rules and Regulations Pertaining to the Processing and Distribution of Shellfish
71. Rules and Regulations Prescribing Minimum Standards for Processing, Storage and Transportation of Fish and Fishery Products
72. Rules and Regulations Related to the Licensure of Hearing Aid Dealers and Fitters
73. Rules and Regulations Related to the Medical Marijuana Program
74. Rules and Regulations Related to the Practice of Electrolysis
75. Rules and Regulations Relating to Emergency Medical Services

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Notice is hereby given in accordance with the provisions of §42-35-3(a)(2) of the Rhode Island General Laws, as amended, that the Director is affording all interested persons the opportunity to submit data, views, or arguments in writing on this matter. Opportunity for public hearing shall be granted if requested by twenty-five (25) persons, by a government subdivision or agency, or by an association having not less than twenty-five (25) members. *Otherwise, no hearing shall be convened*. Should a hearing be requested by twenty-five (25) persons, by a government subdivision or agency, or by an association having not less than twenty-five (25) members, *a hearing shall be scheduled only for the regulation(s) for which the request for hearing was received*. All regulations for which a public hearing is not requested will be filed with the Rhode Island Secretary of State pursuant to Chapter 42-35 of the Rhode Island General Laws, as amended, shortly after the 10 September 2012 deadline (as below).

Such input or requests for public hearing must be received in writing **no later than Monday, 10 September 2012**. Such input or requests should be addressed to: Michael Fine, M.D., Director, Rhode Island Department of Health, Three Capitol Hill, Room #401, Providence, Rhode Island 02908-5097.

In the development of these amendments, consideration was given to the following: (1) alternative approaches; and (2) overlap or duplication with other statutory and regulatory provisions. No alternative approach, duplication, or overlap was identified based upon available information.

Copies of all regulations are available for public inspection in the Cannon Building, Room #201, Rhode Island Department of Health, Three Capitol Hill, Providence, Rhode Island 02908-5097, on the Secretary of State's website: http://www.sos.ri.gov/rules/, by calling 401-222-7767, or by e-mail to Bill.Dundulis@health.ri.gov.

Signed this 3rd day of August 2012

Original signed by Michael Fine, MD

Michael Fine, M.D., Director of Health

RULES AND REGULATIONS FOR LEAD POISONING PREVENTION

[R23-24.6-PB]

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

DEPARTMENT OF HEALTH

February 1992 (E)

AS AMENDED:

March 1992 (E)
July 1992 (E)
October 1992
February 1993 (E)
May 1993
July 1993 (E)
November 1993 (E)
March 1994 (E)
October 1994
August 1995
October 1997
June 2000 (E)
October 2000 (E)
December 2000
May 2001
June 2001 (E)
October 2001 (E)
November 2001
January 2002 (re-filing in accordance with the provisions of §42-35-4.1 of the Rhode Island General Laws, as amended)
January 2005
January 2007 (re-filing in accordance with the provisions of §42-35-4.1 of the Rhode Island General Laws, as amended)
June 2007
August 2007
March 2010
January 2012 (re-filing in accordance with the provisions of §42-35-4.1 of the Rhode Island General Laws, as amended)
August 2012 (Proposed)

Compiler's Notes:
Proposed Additions: Underlined
Proposed Deletions: ~~Strikeouts~~

SUMMARY OF MOST RECENT AMENDMENT ACTIONS

These amended *Rules and Regulations for Lead Poisoning Prevention* (*R23-24.6-PB*) are promulgated pursuant to the authority conferred under §§23-24.6-5, 23-24.6-7, 23-24.6-10, 23-24.6-12, 23-24.6-14, 23-24.6-17, 23-24.6-20, and 23-24.6-26 of the General Laws of Rhode Island, as amended, for the purpose of establishing policies and procedures necessary to implement Title 23, Chapter 24.6 of the General Laws of Rhode Island, as amended.

Pursuant to the provisions of §§42-35-3(c)(3) and (c)(4) of the General Laws of Rhode Island, as amended, the following were given consideration in arriving at these amended regulations:

(1) Alternative approaches to the regulations; and

(2) Overlap or duplication with other state regulations.

Based on the available information, no known overlap, duplication, or alternative approach was identified.

These amended regulations shall supersede all previous *Rules and Regulations for Lead Poisoning Prevention* promulgated by the Department of Health and filed with the Secretary of State.

All references to section numbers shall refer to sections in these *Rules and Regulations for Lead Poisoning Prevention*, unless otherwise specified

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PART I DEFINITIONS AND APPLICABILITY

SECTION 1.0 DEFINITIONS

Whenever used in these rules and regulations, the following terms shall be construed as follows:

Abatement - See Lead Hazard Reduction.

Abrasive Blasting - The procedure of removing paint from a surface by using mechanical force to apply an abrasive material (e.g. sand, grit, or other similar material) to the painted surface.

Acceptable Lead Level - See Lead-Free.

Act - Title 23, Chapter 24.6 of the General Laws of the State of Rhode Island, 1956, as amended, entitled "Lead Poisoning Prevention".

Agent - Any person authorized, in writing or otherwise, by an owner to act on behalf of or represent the interests of the owner. For purposes of §9.0, an agent is any person who enters into a contract with a seller or lessor with the objective of selling or leasing real estate, but does not include a buyer's agent who receives no compensation from the seller.

Business day - Monday through Friday with the exception of Federal or State holidays when the Department offices are closed.

Child Care Facility - Any building and/or area whose primary purpose is or will be to educate or care for children under six (6) years of age, including, but not limited to, preschools, daycares, nursery schools, public and private elementary schools, playgrounds, foster homes, and shelters. Common areas in public or commercial buildings that contain child care facilities, where children under six (6) years of age only pass through (e.g., hallways, stairways and garages), shall not be considered a child care facility for the purpose of these Regulations.

Childhood Lead Poisoning - A confirmed blood lead level greater than or equal to ten (10) micrograms of lead per deciliter of whole blood (µg/dl) in a child under six (6) years of age.

Child-Occupied Facility – See Child Care Facility

Common Area(s) - A portion of a building or premises generally accessible to residents/guests including, but not limited to, hallways, stairways, porches, and exterior areas as well as basements and laundry areas if frequently used by children under six (6) years of age.

Comprehensive Environmental Lead Inspection - A surface-by-surface investigation of any structure or premises for the presence of current or potential lead exposure hazards in paint, dust, soil, and water, conducted by an Environmental Lead Inspector/Inspector Technician in accordance with §4.0 of these Regulations, in order to determine compliance with standards for being lead safe or lead free.

Confirmatory Blood Lead Test(ing) - Analysis of a blood sample obtained by venipuncture to determine quantitative blood lead levels for the purpose of confirming childhood lead poisoning in a child presumptively identified as lead poisoned by a screening test for lead.

Confirmed Blood Lead Level - A blood lead level obtained by diagnostic blood lead testing.

Containment Barriers - Plastic sheeting installed around windows, doors, or other openings in order to isolate abatement areas from areas not subject to lead hazard reduction work.

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1.0

Damaged Painted Surface - Surface which has loose, delaminating, flaking, peeling, chipping or chalking paint, or paint which is abraded by friction, shows evidence of teeth marks, or is damaged by water. For the purposes of these Regulations, painted surfaces shall not be considered damaged if the paint is adhered to the substrate and the surface contains only minor impact damage (e.g., a nail hole), minor stress fractures, or other minor damage which is not related to deteriorated paint. See also Intact Painted Surface.

Department - The Rhode Island Department of Health. Correspondence shall be directed to the appropriate Office specified in §22.0.

Diagnostic Blood Lead Testing - Analysis of a blood sample to determine quantitative blood lead levels for a sample: (1) obtained by venipuncture for the purpose of confirming childhood lead poisoning as a confirmatory blood lead test, or in a child showing signs or symptoms of lead poisoning, or in a child suspected of having sustained a significant lead exposure; and (2) analyzed in a laboratory licensed by the Director to perform such testing or in the Department laboratory.

Diagnostic Evaluation - A history, physical examination, diagnostic blood lead testing, and/or evaluation of iron status.

Director - The Director of the Rhode Island Department of Health or his/her duly authorized agent. Unless otherwise specified in these Regulations, the term Department shall be synonymous with Director.

Dwelling - Any enclosed space which is wholly or partially used or intended to be used for living or sleeping by human occupants.

Dwelling Unit - Any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating.

Emergency Renovation Operations – Lead hazard control activity that was not planned but resulted from a sudden, unexpected event (e.g., non-routine failure of equipment) that, if not immediately attended to, presents a safety or public health hazard, or threatens equipment and/or property with significant damage.

Encapsulation - A process of coating and sealing of surfaces with durable coatings formulated to be elastic, long-lasting, and resistant to impact, cracking, peeling, growth of algae, and growth of fungus or other microbiological agents after proper surface preparation.

Enclosure - A process of resurfacing or covering of surfaces, and sealing with mechanically affixed, durable materials.

Environment Intervention Blood Lead Level (EIBLL) – See Significant Childhood Lead Poisoning.

Environmental Lead Assessment - A lead inspection, conducted by an Environmental Lead Assessor, which is limited in scope and testing methods.

Environmental Lead Assessor - A person, either authorized to act as an enforcing officer under the Housing Code or a designated employee of a federal, state or municipal agency with jurisdiction over housing, occupational health, child welfare and/or environmental standards, who has obtained a valid certification in accordance with §17.0 to conduct Environmental Lead Assessments in regulated facilities.

Environmental Lead Inspection - Any type of inspection specified in §4.0 in which an Environmental Lead Inspector/Inspector Technician or Environmental Lead Assessor conducts an investigation for the presence of lead exposure hazards in accordance with these Regulations.

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1.0

Environmental Lead Inspection Report - Any report which contains the results of an environmental lead inspection, including recommendations for lead hazard reduction, conducted at a regulated facility.

Environmental Lead Inspector - An individual who has been trained by a certified training program and certified in accordance with §16.0 to conduct environmental lead inspections in regulated facilities.

Environmental Lead Inspector Technician - An individual who has been trained by a certified training program and certified in accordance with §16.0 to conduct environmental lead inspections in regulated facilities under the supervision of an Environmental Lead Inspector.

EPA - The United States Environmental Protection Agency.

Feathering - Light sanding, performed after damaged material has been removed by scraping, to soften abrupt transitions between: bare substrate and remaining intact paint; or exposed layers of intact paint; or patching materials and the surrounding surface. Proper feathering will produce a surface which, after painting, has no edges that can be lifted with a fingernail.

First-Draw Sample - A one (1) liter sample of tap water that has been collected prior to the use of any household water within the last six (6) hours.

Flushed Sample - A one (1) liter sample of tap water collected after the tap has been allowed to run at its maximum flow rate for a minimum of one (1) minute before the sample collection.

Friction Surface - Any painted which may generate dust from abrasion during normal use. Such surfaces include, but are not limited to, interior stair treads and components of windows and doors.

HEPA Filtration - High-efficiency particulate air filtration, found in respirators and vacuum systems, capable of filtering 0.3 micron particles with 99.97% efficiency.

HEPA Vacuum - An industrial/commercial vacuum cleaner equipped with HEPA filtration.

Housing Code - The Housing Maintenance and Occupancy Code (RIGL Ch. 45-24.3).

Housing for the Elderly or Persons With Disabilities - Any residential housing which is either reserved for persons sixty-two (62) years of age or older or persons with disabilities at the time of initial occupancy.

HUD - The United States Department of Housing and Urban Development.

HVAC - Heating, ventilation and air conditioning system.

Insurer - (1) Any medical service corporation, hospital service corporation, health maintenance organization, or other insurance company offering and/or insuring health services. (2) Any entity defined as an insurer under §42-62-4 of the General Laws of the State of Rhode Island, 1956, as amended.

Intact Painted Surface - Surface which does not have loose, delaminating, flaking, peeling, chipping or chalking paint, and is not abraded by friction, and does not show evidence of teeth marks or water damage. See also Damaged Painted Surface.

Lead-Based Paint - Any paint or other surface coating that contains lead in excess of the lead-free standard specified in §6.0.

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1.0

Lead-Containing Waste Material - Any waste, debris, or material intended for disposal, including, but not limited to, disposable equipment and clothing, that contains lead in excess of lead-free levels established in these Regulations.

Lead-Free - A surface, material, substance, or medium (e.g., water, soil, dust) that either contains no lead or contains lead in amounts less than the maximum acceptable environmental lead levels established in these Regulations. The identification of a regulated facility as being lead-free indicates that, at the time it is certified lead-free, it did not contain sufficient available lead to pose a significant health risk to children under six (6) years of age who might potentially be exposed to lead at the property. A lead-free condition does not require lead hazard reduction and would be expected to persist indefinitely unless additional lead is added. For the purposes of these Regulations, the term acceptable lead level shall be synonymous with lead-free.

Lead Hazard Control - The removal, modification or repair of painted surfaces or painted components pursuant to §14.0 of these Regulations.

Lead Hazard Control Firm - A business or other entity that is licensed in accordance with §20.0 to perform lead hazard control activity in regulated facilities.

Lead Hazard Reduction - Any activity which reduces the risk of human exposure to lead-based paint or lead-containing materials or substances in a regulated facility through environmental modification. Such activity includes, but is not limited to: repair, enclosure, encapsulation, removal and/or replacement of lead-based paint or painted surfaces, materials, or components in a building or structure. Lead hazard reduction shall also include any measures which reduce the concentration of lead in lead-contaminated dust, soil or drinking water, unless exempt by §11.1(b). For the purposes of these Regulations, the term abatement shall be synonymous with lead hazard reduction.

Lead Hazard Reduction Contractor - A business or other entity that is licensed in accordance with §15.0 to conduct lead hazard reduction work in regulated facilities.

Lead Hazard Reduction Contractor Agent - A person licensed in accordance with §15.0 who has the knowledge, skills, and training to conduct and supervise lead hazard reduction work and who is authorized by the Lead Hazard Reduction Contractor to act as its agent.

Lead Hazard Reduction Site-Supervisor - A person licensed in accordance with §15.0 who has the knowledge, skills, and training to conduct and supervise lead hazard reduction work.

Lead Hazard Reduction Worker - A person licensed in accordance with §15.0 who has the knowledge, skills, and training to conduct lead hazard reduction work.

Lead Hazard Reduction Worker-in-Training - A person licensed in accordance with §15.0 who has completed the training to become a Lead Hazard Reduction Worker, but has not demonstrated proficiency through successful completion of a state examination.

Lead-Safe - A surface, material, substance, or medium (e.g., water, soil, dust) that contains lead in amounts less than the unacceptable environmental lead levels established in these Regulations and/or does not contain lead in a condition which is readily accessible to children under six (6) years of age. The identification of a regulated facility as being lead-safe indicates that, at the time it is certified lead-safe, it did not contain significant environmental lead hazards and would not be expected to pose a significant health risk to children under six (6) years of age. A lead-safe condition does not require lead hazard reduction, but does require routine maintenance and an annual reinspection. For the purposes of these Regulations, the term permissible lead level shall be synonymous with lead-safe.

1.0

Lead Safe Remodeler/Renovator - A person licensed in accordance with §20.0 who has the knowledge, skills, and training to perform and supervise lead hazard control activity.

Lead Screening-related Services - (1) Materials and supplies used to obtain blood specimens for quantitative blood lead and/or erythrocyte protoporphyrin (EP) analysis; (2) Laboratory analysis of submitted samples for quantitative blood lead and/or EP; and (3) Evaluation of results obtained from laboratory analysis of samples submitted for quantitative blood lead and/or EP analysis, as well as related consultation, referral and follow-up of potentially lead poisoned children.

Lease - Any agreement, written or oral, between a lessor and lessee concerning the use and occupancy of a residential dwelling subject to the provisions of the Residential Landlord and Tenant Act (RIGL Ch. 34-18).

Lessee - Any person or entity that leases, rents, or subleases a residential dwelling.

Lessor - Any person or entity that offers to lease, rent, or sublease a residential dwelling.

Manager - A person authorized by an owner to manage the owner's property and to conduct or arrange for routine maintenance and repair of the property.

Mechanical Paint Removal - The use of any mechanical force to remove paint from a surface, including, but not limited to, electrical or other power equipment or abrasive blasting.

Mortgagee - A person or entity which holds an interest in a property and/or buildings for the primary purpose of assuring repayment of a financial obligation.

MSHA - The Mine Safety and Health Administration of the United States Department of Labor.

Notice to Abate - A notice for owners of regulated facilities to abate any significant environmental lead hazards in accordance with these Regulations upon receipt of notice of significant environmental lead hazards following an environmental lead inspection or lead assessment.

Notice of Violation - A notice and order of the Director of Health to abate significant environmental lead hazards in accordance with these Regulations.

NIOSH - The National Institute for Occupational Safety and Health.

OSHA - The Occupational Safety and Health Administration of the United States Department of Labor.

Owner - Any person or entity who alone, jointly, or severally with others: (1) Has legal title to property and/or buildings with or without accompanying actual possession; or (2) Has charge, care, or control of property and/or buildings as agent of the owner or as executor, administrator, trustee, or guardian of the estate of the owner. For purposes of publicly owned property only, the owner shall be defined to be the chief executive officer of the State or municipal agency which owns, leases or controls the use of the property. A mortgagee shall not be considered an owner unless such person has taken full legal title through foreclosure, deed in lieu of foreclosure or otherwise. For child care facilities, the term owner refers to the person that owns the child care business regardless of whether that person owns the building in which the business operates. See also Mortgagee.

Paint - Any substance applied to a surface as a surface coating, including, but not limited to, household paints, varnishes and stains.

Person - Any individual, firm, corporation, association, or partnership and, including but not limited to, municipal and State agencies.

1.0

Purchaser - Any person or entity that purchases or enters into a contractual agreement to purchase legal title to a residential dwelling.

Premises - A platted lot or part thereof or unplatted lot or parcel of land, or plot of land, occupied by a dwelling or structure and includes any building, rooming house, accessory structure or other structure thereon which is or will be used by children under six (6) years of age as: (1) A primary residence; or (2) a secondary residence for at least fourteen (14) days per year (e.g. vacation home, home of a divorced or separated parent who does not have primary custody of the child, or home of a family member or relative at which a given child spends time regularly); or 3) a child-care facility or a playground.

Regulated Facility - Any dwelling, dwelling unit, or premises, as specified in §2.1, which is subject to the requirements in these Regulations. See also Dwelling; Dwelling Unit; Premises.

Regulations - The *Rules and Regulations for Lead Poisoning Prevention* [*R23-24.6-PB*], as amended.

Rental Unit - Any dwelling or dwelling unit let, leased or rented to a person for the purposes of living, sleeping, cooking or eating therein.

Representative Area - An area representative of surfaces for which the type of surface coating and color of surface coating is the same and for which there is no evidence of a variable painting history.

Residential Dwelling - A single-family dwelling, including attached structures such as porches and stoops, or a single-family dwelling unit in a building that contains 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 individuals.

Residential Rental Unit - Any residential dwelling which is used or occupied, or intended to be used or occupied, by one or more tenants pursuant to the Residential Landlord and Tenant Act (RIGL 34-18).

RIGL - The Rhode Island General Laws, as amended.

Risk Assessment - An on-site investigation to determine and report the existence, nature, severity and location of lead exposure hazards, including information gathering about the age and history of the property and occupancy by children under six (6) years of age, visual inspection, limited wipe sampling or other environmental sampling techniques, and a report on the results of the investigation. A risk assessment shall only be conducted by an Environmental Lead Inspector/Inspector Technician certified in accordance with these Regulations. For the purposes of these Regulations, a risk assessment shall be synonymous with a Limited Environmental Lead Inspection.

Room - Any habitable area of a building, dwelling, dwelling unit or structure, including, but not limited to, family rooms, playrooms, dens, bedrooms, living rooms, dining areas, kitchens, food preparation areas, bathrooms, laundry rooms, hallways, or enclosed porches. Closets, cupboards and storage areas may be considered as part of a room.

Screening - A method for identifying an asymptomatic child at high risk of having childhood lead poisoning from a population of children not previously diagnosed as having lead poisoning or in a child not exhibiting signs or symptoms believed to be related to lead poisoning, including the obtaining of the necessary specimen(s) for a blood lead screening test, and specimen handling and preparation.

Screening Test - A blood sample obtained, either by venipuncture or finger-stick (capillary), from an asymptomatic child not known to be lead poisoned in order to identify the child's risk of lead poisoning.

Seller - Any person or entity that transfers or intends to transfer legal title to a residential dwelling.

1.0

Significant Childhood Lead Poisoning - A confirmed blood lead level greater than or equal to twenty (20) micrograms of lead per deciliter of whole blood (µg/dl) in a child under six (6) years of age. Alternatively, two (2) samples from a child under six (6) years of age, separated by at least ninety (90) days but no more than three hundred and sixty-five (365) days, with a blood lead level greater than or equal to fifteen (15) µg/dl shall also be deemed to constitute Significant Childhood Lead Poisoning. For the purposes of these Regulations, Environment Intervention Blood Lead Level (EIBLL) shall be synonymous with Significant Childhood Lead Poisoning.

Significant Environmental Lead Hazard - An environmental source or vehicle of lead exposure which exceeds the lead-safe standard established in these Regulations and requires lead hazard reduction. For the purposes of these Regulations, the term unacceptable lead level shall be synonymous with significant environmental lead hazard.

Spot Removal - Removal of interior lead-based paint which is not considered lead hazard reduction when the amount of paint to be removed is less than the amounts specified in §11.1(b)(1).

Target Housing – Any housing constructed prior to 1978, except housing for the elderly or persons with disabilities or a 0-bedroom dwelling in which no child under six (6) years of age resides for fourteen (14) or more days per year.

Temporary Lead Hazard Control Measures - Measures designed to temporarily reduce human exposure to lead hazards, including, but not limited to, wet cleaning of horizontal surfaces, duct taping window wells and other accessible areas with chipping paint, and temporarily blocking access to lead exposure hazards with barriers such as furniture or plastic sheeting.

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

Unacceptable Lead Level - See Significant Environmental Lead Hazard.

Visual assessment means looking for deteriorated paint, visible surface dust, debris and residue as part of a risk assessment or clearance examination.

Wet Cleaning - A process of eliminating lead contamination from surfaces and objects, including, but not limited to, floors, walls, windows, and window wells by using water or detergent solutions.

Wet Vacuuming - A process of cleaning conducted with a vacuum cleaner that: (1) Vacuums previously wetted materials (i.e. Wet/Dry vacuum cleaner); or (2) Uses water as a filter medium (e.g. "Rainbow" vacuum cleaner); or (3) Forces water from the vacuum wand onto the surface to be cleaned and vacuums the water back up (e.g. rug cleaner).

Window Sill - The portion of the horizontal window ledge that protrudes into the interior of a room, adjacent to the window sash when the window is closed.

Window Trough - Shall have the same meaning as Window Well for the purposes of these regulations.

Window Well - The portion of the horizontal window sill that receives the window sash when the window is closed. When a storm window is present, it is the area located between the storm window and the interior window sill. For the purposes of these Regulations, the term window trough shall be synonymous with window well.

XRF - An instrument used to determine lead concentration by X-ray fluorescence

1.0

0-Bedroom Dwelling - Any residential dwelling in which the living area is not separated from the sleeping area, including, but not limited to, efficiencies, studio apartments, dormitory housing, military barracks, and rentals of individual rooms in residential dwellings.

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SECTION 2.0 APPLICABILITY AND SCOPE

Regulated Facilities. The following are regulated facilities and are subject to the requirements in these Regulations, unless otherwise exempted:

Residential rental units, as defined by these Regulations, whether occupied or vacant, including common areas;

Single family residential dwellings and owner-occupied dwelling units in which one or more children under six (6) years of age resides or is expected to reside within the next twelve (12) months;

Licensed child care facilities whose primary purpose is or will be to educate or care for children under six (6) years of age, including, but not limited to, preschools, daycare facilities, nursery schools, public or private elementary schools, playgrounds, foster homes, and shelters;

Any other property in which a child under six (6) years of age resides or is expected to reside within the next twelve (12) months for fourteen (14) or more days per year.

Persons Subject to These Regulations. The following persons shall comply with the requirements in these Regulations, unless otherwise exempted:

Owners of any regulated facility specified in §2.1 of these Regulations;

Sellers and lessors of residential dwellings, and their agents, who are subject to the Real Estate Notification and Disclosure requirements in §9.0 of these Regulations;

Any individual or entity that has a license or certification pursuant to §§15.0, 16.0, 17.0, 18.0, 19.0 or 20.0 of these Regulations;

Any individual or entity that conducts lead hazard reduction work or environmental lead inspection work, as defined in §1.0 of these Regulations;

Physicians and other health care providers who are subject to the Childhood Lead Poisoning Screening requirements in §3.0 of these Regulations and school and child-care facilities that are subject to the entry requirements in §3.1(d) of these Regulations.

Persons Exempt From These Regulations. The following persons are exempt from the requirements of these Regulations and shall not be considered owners of regulated facilities:

Owners of residential dwellings used exclusively to house the elderly or persons with disabilities, provided that no child under six (6) years of age resides in such dwellings for fourteen (14) or more days per year;

Owners of 0-bedroom residential dwellings in which no child under six (6) years of age resides for fourteen (14) or more days per year.

Owners performing lead hazard mitigation pursuant to the *Rules and Regulations Governing Lead Hazard Mitigation* promulgated by the Rhode Island Housing Resources Commission, and who are not otherwise subject to the provisions of these Regulations.

Applicability.

Lead Hazard Reduction. The following categories of regulated facilities shall be required to comply with all requirements pertaining to lead hazard reduction:

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2.4(a)(1)

The owner is in receipt of a Notice of Violation or Order from the Department or other judicial, housing or building official with jurisdiction over the dwelling unit or dwelling. This requirement shall be applicable to all dwelling units within the dwelling during all periods of time the Notice of Violation or Order is in effect, regardless of occupancy or blood lead levels.

[RESERVED]

The owner has been cited by the Department during the most recent seven (7) year [eighty-four (84) month] period for significant childhood lead poisoning involving three (3) or more children under six (6) years of age at units in which the owner has or had a financial interest.

The funding agency specifically requires this level of lead hazard reduction.

This level of lead hazard reduction is requested by the owner.

Lead Hazard Control. The following categories of regulated facilities shall be required to comply with the Lead Hazard Control standard established by §14.0 of these regulations, unless the owner is otherwise required to comply with the provisions of §2.4(a) of these Regulations:

The owner is in receipt of a Notice to Abate issued by a Certified Environmental Lead Inspector.

The owner is required to demonstrate compliance with the lead hazard control provisions required by the U.S. Department of Housing and Urban Development (HUD) in 24 CFR Part 35.

The funding agency specifically requires this level of lead hazard control.

This level of lead hazard control is requested by the owner.

Licensed child care facilities as defined in §2.1(c).

The anticipated scope of work exceeds six square feet (6 ft^2) per room on the interior or twenty square feet (20 ft^2) on the exterior.

Responsibilities of Owners.

Owners of regulated facilities subject to §2.4(a) shall:

Maintain their property in a lead-free or lead-safe condition, as defined by these Regulations; and

Prior to undertaking any renovation or remodeling project or any other activity which may disturb a surface containing lead-based paint in a regulated facility built before 1978:

Obtain a Comprehensive Environmental Lead Inspection in accordance with §4.2 and perform all work in accordance with these Regulations in all areas identified as containing lead in excess of the acceptable levels specified in §6.0; or

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2.5(a)(2)(ii)

Obtain a Limited Environmental Lead Inspection in accordance with §4.3 in the area(s) where work is to be conducted and perform all work in accordance with these Regulations in all areas identified as containing lead in excess of the acceptable levels specified in §6.0; or

Assume that all building components and surfaces in areas where work is to be conducted contain lead in excess of the acceptable levels specified in §6.0 and perform all work in accordance with the lead hazard reduction requirements established by these Regulations.

Owners of regulated facilities subject to §2.4(b) shall:

Maintain their property in accordance with the Lead Hazard Control standard established by §14.0; and

Prior to undertaking any renovation or remodeling project or any other activity which may disturb a surface containing lead-based paint in a regulated facility built before 1978:

(i) Obtain a Limited Environmental Lead Inspection in accordance with §4.3 in the area(s) where work is to be conducted and perform all work in accordance with the Lead Hazard Control standard established by §14.0; or

(ii) Have a visual assessment conducted in the area(s) where work is to be conducted and perform all work in accordance with the Lead Hazard Control standard established by §14.0; or

(iii) Assume that all building components and surfaces in the area(s) where work is to be conducted contain lead in excess of the acceptable levels specified in §6.0 and perform all work in accordance with the Lead Hazard Control standard established by §14.0.

Compliance with Notice of Violation and Notice to Abate.

Any environmental lead inspection or environmental lead assessment in which significant environmental lead hazards are identified in a regulated facility shall serve as a Notice to Abate the significant environmental lead hazards in accordance with these Regulations and within the compliance periods specified in §2.6(b) of these Regulations.

Compliance Periods. The following compliance periods shall apply to all owners of regulated facilities:

30 Day Notice of Violation. Owners of regulated facilities subject to §2.4(a) of these Regulations who receive a Notice of Violation and/or Order from the Department shall correct all violations in accordance with the lead hazard reduction requirements established by these Regulations within thirty (30) days of receipt of the Notice of Violation, Notice to Abate and/or Order, unless a shorter period is specified, or an extension is granted by the Department in accordance with §2.6(b)(4) of these Regulations. Exterior lead hazards identified between 1 November and 1 March shall be corrected by the following 1 June.

90 Day Notice to Abate. Owners of regulated facilities subject to §2.4(b) of these Regulations who receive notice of significant environmental lead hazards at their property shall correct such lead hazards in accordance with the Lead Hazard Control standard established by §14.0 within ninety (90) days of receipt of notice of the lead hazards. Exterior lead hazards identified between 1 November and 1 March shall be corrected by the following 1 June.

2.6(b)(3)

Immediate Compliance. Nothing contained in this Section shall limit the Department from specifying a shorter compliance period and/or specifying additional provisions in a Notice of Violation, Notice to Abate or Order when, in the discretion of the Department, circumstances present an immediate risk to the health or safety of a child under six (6) years of age.

Extensions. Requests for extensions to the compliance period specified in a Notice of Violation, Notice to Abate or Order shall be made in writing on forms approved by the Department. Extensions may be granted at the discretion of the Department based on the circumstances of a particular case and if an extension is not considered to pose a threat to the health or safety of a child under six (6) years of age. Owners who request an extension must agree to take temporary lead hazard control measures, as defined in §1.0, in the dwelling unit and common areas if the dwelling unit is occupied. If the dwelling unit subject to the Notice of Violation, Notice to Abate or Order is not occupied, owners who request an extension must agree to leave the dwelling unit vacant and take temporary lead hazard control measures in any common areas used by other occupants in the building.

Failure to Comply. Owners subject to §2.6(a) of these Regulations who fail to comply with a Notice of Violation, Notice to Abate or Order within the compliance periods specified in this Section shall be subject to the compliance and enforcement procedures specified in §21.0.

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PART II CHILDHOOD LEAD POISONING SCREENING

SECTION 3.0 CHILDHOOD LEAD POISONING SCREENING

General Requirements.

Applicability. The following persons/organizations shall make reasonable efforts to ensure that all their patients/clients under six (6) years of age receive screening for lead poisoning using an approved laboratory method specified by these Regulations and at intervals specified in §3.1(b) of these Regulations:

Each primary care physician or provider licensed in Rhode Island; and

Each licensed, registered or approved health care facility, including but not limited to, hospitals, clinics and health maintenance organizations; and

Each health care program funded in whole or in part with State funds or administered by any State agency and having child health components. These programs include, but are not limited to, Special Supplemental Food Program for Women, Infants & Children (WIC); Preventive Pediatric Services Program; Medicaid; General Public Assistance and RIte Care.

Screening Schedule. All children in Rhode Island shall be screened for blood lead in accordance with the following schedule:

Each child between nine (9) and seventy two (72) months of age shall be screened for lead at least annually;

Each child less than thirty-six (36) months of age shall be screened for blood lead:

(i) Initially between nine (9) and fifteen (15) months of age; and

(ii) At least twelve (12) months later, between twenty-one (21) and twenty-seven (27) months of age;

(iii) More frequent blood lead screening of asymptomatic children less than thirty-six (36) months of age may be justified based on the child's residence, the condition of the housing where the child resides, and the prevalence of lead poisoning in the child's neighborhood.

Between thirty-three (33) and thirty-nine (39) months of age each child shall be evaluated with respect to their developmental age, signs and symptoms consistent with lead poisoning[1] and screening history;

Between thirty-six (36) and seventy two (72) months of age each child shall be screened for lead poisoning using a blood lead test or a Risk Assessment Questionnaire.

A blood lead test shall be used for any child who, prior to thirty-six (36) months of age, has had a blood lead level equal to or greater than ten micrograms of lead per deciliter (10 µg/dL) of whole blood.

[1] Signs and symptoms consistent with lead poisoning include: unusual loss of appetite, abdominal pain, or constipation; ingestion of non-food items (pica); seizures without fever; loss of developmental milestones; or unusual changes in behavior.

3.1(b)(3)(ii)

A Risk Assessment Questionnaire may be used in place of a blood lead test for children between thirty-six (36) months and seventy-two (72) months of age ONLY if all of the following conditions are met. If one or more of the following conditions are not met, a blood lead test shall be used.

All of the child's blood lead screening tests (a minimum of two (2) tests) conducted during the first thirty-six (36) months of life were less than ten micrograms of lead per deciliter (10 µg/dL) of whole blood; and

The child's developmental and chronological ages are appropriate; and

The child has no signs and symptoms consistent with lead poisoning1; and

The child has not moved to another residence; and

The child's parent or guardian has not reported conditions at the residence which may pose a lead hazard. Such conditions include, but are not limited to, uncontrolled power sanding of a neighbor's house, renovation of the child's home involving generation of dust, or proximity to a known or suspected source of lead contamination.

Discontinuance of Annual Blood Lead Screening. Annual blood lead screening may be discontinued when the child reaches seventy-two (72) months of age:

School and Child-Care Facility Entry Requirements.

Public and private kindergartens and day-cares, preschools, early childhood education programs, or other child care facilities shall require a certificate indicating compliance with the screening requirements in this Section as a condition for initial enrollment.

The certificate required by §3.1(d)(1) of these Regulations shall be completed by the child's health care provider or other individual who conducted the screening on forms approved by the Department.

Exemption to Screening Requirement. The screening requirements in this Section shall not apply if a child's parent or legal guardian signs a sworn statement indicating that blood lead screening is contrary to his/her religious tenets and practices.

Childhood Blood Lead Screening. Health care providers shall ensure that childhood blood lead screening is conducted either by venipuncture or by capillary blood lead sampling in accordance with the following requirements:

Screening Samples. All blood lead screening test samples, including venipuncture screening samples and capillary blood lead samples, taken from children under six (6) years of age at the request of a physician or other health care provider licensed in Rhode Island, or as part of a child health program partially or fully funded by State funds or administered by any State agency, shall be submitted to the Department laboratory for analysis, unless the Department has approved use of another laboratory.

Non-Screening Samples. All non-screening blood lead samples taken from children under six (6) years of age shall be considered diagnostic blood lead testing and shall be sent to any clinical laboratory licensed by the Department to perform routine chemistry analysis. All results of diagnostic blood lead testing performed by laboratories other than the Department laboratory shall be reported to the Department using forms approved by the Department or by any other reporting method approved by the Department.

3.2(c)

[RESERVED]

Samples Submitted to Department Laboratory. All blood samples submitted to the Department laboratory for analysis shall be accompanied by a completed laboratory requisition form, including all data necessary for reimbursement by insurers, and shall be packaged in accordance with procedures established by the Department laboratory.

Designation of Childhood Blood Lead Screening as a Covered Health Benefit. Pursuant to provisions of §23-24.6-9 of the Act:

Screening for lead poisoning and lead screening-related services required by these Regulations for children under six (6) years of age, as well as diagnostic evaluations for lead poisoning for children under six (6) years of age, including diagnostic blood lead testing, shall be a covered health benefit and shall be reimbursable under any general or blanket policy of accident or health insurance offered by an insurer, except for supplemental policies which only provide coverage for specific diseases, hospital indemnity medical supplements, or other supplemental policies.

The Rhode Island Department of Human Services shall pay for screening for lead poisoning and lead screening-related services required by these Regulations for children under six (6) years of age, as well as diagnostic evaluations for lead poisoning for children under six (6) years of age, including diagnostic blood lead testing, for any child who is eligible for medical assistance under the provisions of Title 40, Chapter 8 of the General Laws of the State of Rhode Island, 1956, as amended.

The Department shall provide the following services for children under six (6) years of age who are not covered by any health insurance: screening for lead poisoning, lead screening-related services required by these Regulations, and diagnostic evaluations for lead poisoning including diagnostic blood lead testing. The Department shall not be required to reimburse third parties for such of these services as are not provided by the Department.

The Department may charge for screening for lead poisoning and lead screening-related services required by these Regulations for children under six (6) years of age, as well as diagnostic evaluations for lead poisoning for children under six (6) years of age, including diagnostic blood lead testing, performed by the Department laboratory.

Fees For Lead Poisoning Screening.

The fee for any lead poisoning screening or lead screening-related services provided by the Department laboratory shall be determined on the basis of rates paid by health care insurers to private laboratories for blood lead analysis.

The Department may by regulation designate new or additional lead poisoning screening or lead screening related services, and associated fees, at any time.

The Department has established the ~~following~~ fee schedule for lead poisoning screening and lead screening-related services provided by the Department in the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health.*

~~Clinical Test/Service~~	~~CPT-4 Code~~	~~Fee~~
~~Erythrocyte Protoporphyrin (EP)~~	~~84202~~	~~$10.00~~
~~Quantitative Blood Lead (PbB)~~	~~83655~~	~~$25.00~~

3.4(d)

Payment for all screening for lead poisoning and lead screening-related services performed by the Department shall be submitted to the Department by check or money order made payable to the General Treasurer, State of Rhode Island, within thirty (30) days of receipt of the invoice.

Reporting of Cases of Childhood Lead Poisoning.

Each physician licensed in Rhode Island by the Department and any employee of a licensed, registered, or approved health care facility making the diagnosis of childhood lead poisoning shall report such diagnosis to the Department within ten (10) business days of the diagnosis using a form approved by the Department or by any other reporting method approved by the Department.

Utilization of the Department laboratory shall constitute compliance with these reporting requirements.

All reports required by this Section shall be submitted in accordance with the Department's *Rules and Regulations Pertaining to the Reporting of Communicable, Environmental and Occupational Diseases* (*R23-5-6, 10, 11, 23-24.6-CD/ERD*) (*R23-24.5 ASB*).

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PART III LEAD INSPECTIONS, METHODS OF MEASUREMENT, AND STANDARDS

SECTION 4.0 ENVIRONMENTAL LEAD INSPECTIONS

General Requirements.

Determining Lead-Free or Lead-Safe Status. A Comprehensive Environmental Lead Inspection shall be required for determining lead-safe or lead-free status. Comprehensive Environmental Lead Inspections shall be conducted only by an Environmental Lead Inspector or Environmental Lead Inspector Technician certified in accordance with these Regulations.

Notice to Abate. Any inspection report conducted pursuant to this Section which identifies significant environmental lead hazards in a regulated facility shall serve as a Notice to Abate upon receipt by the owner or owner's agent.

Use of Certified Lead Inspector. The notification and reporting requirements specified in §8.0 of these Regulations, as well as any recommendations to owners or occupants regarding lead hazard reduction, shall only be performed by an Environmental Lead Inspector or Environmental Lead Assessor.

Use of Licensed Laboratory. Environmental Lead Inspectors/Inspector Technicians and Environmental Lead Assessors shall only utilize a laboratory licensed in accordance with §19.0 for analysis of samples collected pursuant to this Section.

Reporting Requirement. Environmental Lead Inspectors and Environmental Lead Assessors shall report the results of all environmental lead inspections or assessments conducted pursuant to this Section in accordance with the requirements in §8.0.

Annual Reinspection. An Environmental Lead Inspector who issues a Certification of Lead-Safe Status (Form PBLC-15) shall prepare a Notification of Annual Reinspection Options (Form PBLC-22), available from the Department, and submit it to the owner along with the Certification of Lead-Safe Status. A copy of the Notification form shall also be provided to the tenants/occupants who reside in the inspected unit as well as to the Department.

Educational Materials. Environmental Lead Inspectors/Inspector Technicians shall attach educational materials, approved by the Department, to all Environmental Lead Inspection Reports and shall distribute these educational materials to tenants/occupants who reside in the inspected unit.

Conflict of Interest. Environmental Lead Inspectors/Inspector Technicians and their employers shall not have any interest, financial or otherwise, direct or indirect, or engage in any business or employment, with regard to any:

Regulated facility that is the subject of an environmental lead inspection or assessment conducted by the Environmental Lead Inspector/Inspector Technician; or

Lead Hazard Reduction Contractor or owner who conducted the lead hazard reduction work at a regulated facility which is the subject of a clearance inspection conducted by the Environmental Lead Inspector/Inspector Technician; or

Laboratory that is used to analyze environmental lead samples for lead inspections conducted by the Environmental Lead Inspector/Inspector Technician unless the Environmental Lead Inspector/Inspector Technician or his/her employer discloses his/her connection to the laboratory to the person requesting the inspection and on the inspection report.

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4.2

Comprehensive Environmental Lead Inspections.

Applicability and Scope. Environmental Lead Inspectors/Inspector Technicians shall perform Comprehensive Environmental Lead Inspections to identify significant environmental lead hazards which require lead hazard reduction in accordance with these Regulations and conditions which are considered lead-safe when properly maintained. A Comprehensive Environmental Lead Inspection shall be conducted in regulated facilities as follows:

The Department or its designee shall conduct Comprehensive Environmental Lead Inspections of:

The homes of significantly lead poisoned children as part of treatment and follow-up; and

All licensed child care facilities in the State, including licensed preschools, day-cares, nursery schools, public and private elementary schools, playgrounds, and shelters and foster homes serving children under six (6) years of age in accordance with the priority of inspection criteria in §4.2(b).

The Department or its designee may conduct Comprehensive Environmental Lead Inspections under the following circumstances:

(i) In response to tenant complaints regarding possible lead exposures to children under six (6) years of age in accordance with the priority of inspection criteria in §4.2(b); and

(ii) To ensure that lead hazard reduction activities are conducted in accordance with these Regulations;

An owner, tenant, or occupant may have a Comprehensive Environmental Lead Inspection conducted by an Environmental Lead Inspector/Inspector Technician for any regulated facility.

Priority of Inspection. The priority of each Comprehensive Environmental Lead Inspection performed by the Department shall be determined in accordance with the following criteria:

(1) The medical needs of children under six (6) years of age; and

(2) The number of children under six (6) years of age who may be affected; and

(3) The severity of the environmental lead hazard(s); and

(4) Any additional conditions or situations determined by the Department to be detrimental to the health of children under six (6) years of age.

General Requirements.

A Comprehensive Environmental Lead Inspection shall include, as a minimum, the following elements:

Evaluation of paint, water, dust and soil, in accordance with this Section; and

A report of the findings, as specified in §8.0; and

A summary of lead hazard reduction options in accordance with these Regulations; and

Notice to the person(s) requesting the Comprehensive Environmental Lead Inspection of the Tenant Notification requirements contained in §8.0 of these Regulations.

4.2(c)(2)

If the results of a Comprehensive Environmental Lead Inspection indicate that a regulated facility is in a lead-free or lead-safe condition at the time of the inspection, the Environmental Lead Inspector/Inspector Technician who conducted the inspection shall complete the appropriate Certification of Lead-Free Status (Form PBLC-21) or a Certification of Lead-Safe Status (Form PBLC-15). If the Comprehensive Environmental Lead Inspection was conducted by an Environmental Lead Inspector Technician, the form shall also be signed by an Environmental Lead Inspector.

Lead-Safe status is contingent upon routine maintenance of the property. A Certification of Lead-Safe Status (Form PBLC-15) shall expire no later than one year from the Certification Date specified on the document

Evaluating Lead in Painted Surfaces.

General Requirements. Environmental Lead Inspectors/Inspector Technicians shall determine the approximate date of construction of the building, and shall perform the evaluation in accordance with the following criteria:

(i) All painted surfaces shall be assumed to contain lead in excess of the lead-free standard unless constructed on or after 1 January 1978 or specifically determined to be lead-free in accordance with procedures contained in these Regulations;

(ii) Inspections shall be performed for representative surfaces required to be tested which can be reached safely (i.e., without the use of ladders or hanging out of windows).

Scope. Environmental Lead Inspectors/Inspector Technicians shall, for each room, common hallway, porch, and exterior painted area, visually inspect and document the condition of all painted areas and shall test using an approved method the following surfaces, depending on the condition of the paint:

Intact and Damaged Surfaces: Environmental Lead Inspectors/Inspector Technicians shall perform at least one (1) test of representative areas of the following surfaces regardless of the condition of the paint:

(a) Window molding;
(b) Window wells;
(c) Doors;
(d) Woodwork/molding;
(e) Interior window sashes;
(f) Exterior window sashes;
(g) Porches;
(h) Exterior siding; and
(i) Exterior trim.

Damaged Surfaces Only: In addition to the surfaces listed in §4.2(d)(2)(i) of these Regulations, Environmental Lead Inspectors/Inspector Technicians shall perform at least one (1) test of representative areas of the following surfaces which have damaged paint:

(a) Walls;
(b) Ceilings;
(c) Floors; and

4.2(d)(2)(ii)(d)

(d) Any area which shows evidence of teeth marks.

Testing of Other Intact Surfaces. All intact paint which is not on a friction surface is, by definition, lead-safe provided that it remains intact. Except for the surfaces listed in §4.2(d)(2)(i) of these Regulations, Environmental Lead Inspectors/ Inspector Technicians are not required to test other intact painted surfaces and shall document all intact surfaces which are not tested as lead-safe.

XRF Analysis of Paint. XRF instruments may be used to determine the presence of lead in paint (i.e., positive reading), provided that the XRF is operated in accordance with the technical specifications contained in the most current revision of the EPA/HUD XRF Performance Characteristics Sheet (PCS) for the particular instrument. XRF readings that are negative, below the threshold or in the inconclusive range, as defined in the PCS, shall be considered inconclusive for the purpose of these Regulations and shall be assumed to be positive for lead unless otherwise determined by any other approved sampling/testing method. All XRF readings shall be recorded on the environmental lead inspection report.

Protocol For Sodium Rhodizonate Spot Testing. Sodium rhodizonate test kits may be used to determine the presence of lead throughout areas of non-intact paint or on the surface of intact paint in accordance with the following procedures:

Both positive and negative results; and

Surfaces with negative results shall be considered inconclusive and shall be re-evaluated by XRF or laboratory analysis in accordance with these Regulations or assumed to contain lead in excess of the lead-free standard.

Protocol For Obtaining Paint Chips For Laboratory Analysis. Environmental Lead Inspectors/ Inspector Technicians shall:

Obtain samples for laboratory analysis which are at least two square inches (2 in2); and

Sample in a manner which minimizes the possibility of dust/debris falling from the sample surface and immediately clean any such dust/debris which does fall from the sample surface; and

Remove paint in such a manner as to minimize the amount of substrate which adheres to the paint film, while at the same time ensuring that the paint sample contains all layers of paint down to the substrate; and

Report all results of paint chip analysis as percent by weight (ppm).

Evaluating Lead in Interior Dust.

General Requirements. Environmental Lead Inspectors/Inspector Technicians shall collect interior dust samples pursuant to this Section which represent a "worst case" and, for floors and carpets, shall collect these samples from areas nearest entries, in high traffic areas, and/or under windows. If any sample exceeds the permissible concentration for lead in interior dust established in §6.2, the Environmental Lead Inspector/Inspector Technician shall declare the entire premises to be in noncompliance with this standard or perform additional sampling to specifically define the area(s) exceeding this standard.

Minimum Sampling Requirements For Residential Dwellings. For each dwelling unit, Environmental Lead Inspectors/Inspector Technicians shall collect a minimum of one (1) interior dust sample from each of the following three (3) areas:

Floors;

4.2(e)(2)(ii)

Window sills and/or wells; and

Carpets/upholstered furniture if present; if not present, the third sample shall also be taken from the floors.

Additional Sampling Requirements in Child Occupied Dwellings. For each dwelling unit occupied by a child under six (6) years of age, Environmental Lead Inspectors/Inspector Technicians shall collect at least two (2) additional interior dust samples, with at least one (1) additional sample each from representative areas of:

The child's bedroom(s); and

The room(s) frequently used for play (e.g., a television room).

Sampling Requirements for Nonresidential Facilities. For each child care facility serving children under six (6) years of age, Environmental Lead Inspectors/Inspector Technicians shall collect a minimum of one (1) interior dust sample from each of the following areas:

The interior side of each exterior doorway (within one (1) foot of the doorway); and

Each distinct flooring surface; and

A representative window well or group of window wells with a different painting history.

Exemption from Interior Dust Sampling Requirements. An Environmental Lead Inspector/ Inspector Technician may, in his or her discretion, choose to postpone all interior dust sampling until final clearance if field analysis reveals at least one (1) significant environmental lead hazard involving interior paint in a regulated facility built before 1978.

Approved Sampling Methods. The following methods are approved for sampling interior dust:

Collection of wipe samples according to §§4.2(e)(7) and/or (e)(8). Composite sampling shall only be used when all the surfaces are fairly similar;

Sodium rhodizonate spot tests, limited to identification of lead in interior dust in excess of five thousand (5000) ppm [0.5%]. Environmental Lead Inspectors/Inspector Technicians shall use only commercially available sodium rhodizonate testing kits and shall follow sampling and testing instructions provided by the manufacturer. For areas which test negative with a sodium rhodizonate spot test, Environmental Lead Inspectors/ Inspector Technicians shall declare the results inconclusive, and shall sample interior dust in these areas by any other approved method;

Vacuum sampling methods which have been approved in advance and in writing by the Department;

Any other sampling method that is approved in writing by the Department.

Procedure for Collecting Wipe Samples. Environmental Lead Inspectors/Inspector Technicians shall collect wipe samples for interior dust in accordance with the following procedure:

New disposable gloves shall be worn for each wipe sample obtained;

The collection area for each wipe shall be one square foot (1 ft^2) whenever feasible;

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4.2(e)(7)(iii)

If the entire surface to be sampled measures less than one square foot (1 ft^2), the collection area shall be either a representative section of the surface or one-hundred percent (100%) of the surface, provided that the collection area shall not be less than one-tenth of a square foot (0.10 ft^2) to determine lead-free or lead-safe status. The exact collection area sampled shall be measured and recorded;

If the surface to be sampled contains an excessive amount of dirt or debris, the collection area may be a representative section of the surface provided that the collection area shall not be less than one-tenth of a square foot (0.10 ft^2) to determine lead-free or lead-safe status. The exact collection area sampled shall be measured and recorded;

The pre-moistened wipe or towelette shall be placed flat on the surface to be sampled and rubbed in an "S" pattern once over the entire sample area;

The wipe shall then be folded in half and rubbed over the entire sample area in an "S" pattern once at a ninety (90) degree angle to the first series of wipes;

The wipe shall be folded and placed in a labeled tube for laboratory analysis; and

[RESERVED]

A minimum of one (1) field blank shall be submitted to the laboratory for each building/ structure where wipe sampling is performed. A field blank shall be obtained by removing an unused wipe or towelette from its packaging, immediately folding the wipe, and placing it in a labeled tube for laboratory analysis. The field blank shall be collected prior to leaving the building/structure where wipe samples were collected.

Procedure for Collecting Composite Wipe Samples. In addition to the requirements in §4.2(e)(7), Environmental Lead Inspectors/Inspector Technicians shall collect composite wipe samples for interior dust in accordance with the following procedure:

Each composite sample shall constitute a single sample when determining the total number of samples required to demonstrate compliance with these Regulations;

A new wipe shall always be used for each spot sampled;

No more than four (4) individual wipes shall be inserted into a single container for a composite sample.

Notwithstanding the requirements of §4.2(e)(7)(i), Environmental Lead Inspectors/ Inspector Technicians are not required to remove their gloves between sub-sample wipes for the same composite sample as long as their gloved hands do not touch an area outside of the wipe areas. If a glove is contaminated, the glove shall be immediately replaced with a clean glove;

Floor surface areas sampled in each room shall be approximately the same size [one square foot (1 ft^2)]. Window trough and interior window sill sampling sizes are dependent on window characteristics, but shall be as similar as possible from room to room (i.e., the surface sampling area shall not be skewed so that one room is over-sampled);

Separate composite samples are required from carpeted and hard surfaces (i.e., a single composite sample shall not be collected from both carpeted and bare floors);

4.2(e)(8)(vii)

Separate composite samples are required from each different component sampled (i.e., a single composite sample shall not be collected from floors, interior window sills and/or window wells);

Environmental Lead Inspectors/Inspector Technicians shall only utilize an approved analytical laboratory that has the capacity to analyze composite samples.

Evaluating Lead in Soil.

General Requirements. Environmental Lead Inspectors/Inspector Technicians shall evaluate the lead content of soil either by using an XRF spectrum analyzer, configured in accordance with the manufacturer's specifications for analysis of soil, to make direct determinations of lead content, and/or by collecting samples from the top two centimeters (2 cm) of soil for laboratory analysis. When an XRF spectrum analyzer measurement is indeterminate according to manufacturer's specifications, samples shall be collected for laboratory analysis.

Sampling Procedure. Environmental Lead Inspectors/Inspector Technicians shall make direct determinations or collect samples in accordance with the following procedure:

Collect or measure at least one (1) sample from within three (3) feet of each side of the primary structure(s) in any areas containing bare soil, especially areas used as or suitable for play areas. If the area within three (3) feet of the primary structure is paved or covered with concrete or if it contains no bare soil, the sample should be collected or measured from any other area on each side which contains bare soil.

Collect or measure at least one (1) sample from within three (3) feet of ancillary structures, including but not limited to, building(s), play equipment, shed(s) and fences known or suspected to have been painted with lead-containing paint, and any area(s) where paint chips or sanding residue is visible;

Environmental Lead Inspectors/Inspector Technicians may collect a composite sample incorporating equal amounts of the individual samples obtained as specified in §4.2(f)(2)(i) of these Regulations. However, composite samples shall only consist of individual samples taken from a single side of the primary structure. The results of the composite sample shall apply to all individual samples, unless the individual samples are analyzed separately. If the results of the composite sample indicate a lead level in excess of one thousand (1000) ppm, all individual samples shall be analyzed separately.

Exemptions. Environmental Lead Inspectors/Inspector Technicians shall not be required to sample from any side of a structure where the soil surface is completely covered by concrete or asphalt. When the soil is frozen, Environmental Lead Inspectors/Inspector Technicians may delay soil sampling to a future date.

Evaluating Lead in Water.

Environmental Lead Inspectors/Inspector Technicians shall collect, at a minimum, a flushed sample from the kitchen tap. A lead-free determination shall only be made on the basis of a first-draw sample that is in compliance with the standard specified in §6.4.

Environmental Lead Inspectors/Inspector Technicians shall not be required to sample secondary drinking water sources (e.g., bathroom sinks).

Data obtained by Public Water Supplies in fulfillment of Safe Drinking Water Act requirements and/or data obtained from the RI Lead in School and Preschool Drinking Water Program may be used in lieu of the samples required by §4.2(g)(1).

4.2(h)

Annual Reinspection Options.

General Requirements:

Any exemptions granted pursuant to 4.2(h)(2)(i), 4.2(h)(2)(ii) or 4.2(h)(3)(ii) shall expire no later than twelve (12) months after the date that the property is transferred to a new owner. Notwithstanding the foregoing, any property which is exempt from an Annual Inspection under these Regulations shall still be subject to the Lead Hazard Control Standard established pursuant to §14.0 of these Regulations, and may still be subject to the requirements of other applicable state or local lead regulations.

A new owner may recertify an exemption granted pursuant to 4.2(h)(2)(i), 4.2(h)(2)(ii) or 4.2(h)(3)(ii) by having an Environmental Lead Inspector/Inspector Technician perform an annual environmental lead reinspection, no later than twelve (12) months after the date that the property is transferred, which confirms the property's lead safe status.

The Environmental Lead Inspector/Inspector Technician who performs an Annual Reinspection or Comprehensive Environmental Lead Inspection which qualifies a dwelling unit/premises for an exemption pursuant to 4.2(h)(1)(ii), 4.2(h)(2)(i), 4.2(h)(2)(ii) or 4.2(h)(3)(ii) shall submit a completed Certification of Annual Reinspection Exemption (FORM PBLC-15E) to the Director.

Properties Not Cited For Noncompliance With These Regulations:

Owners/managers may renew a lead-safe certification by having an Environmental Lead Inspector/Inspector Technician perform an annual environmental lead reinspection in accordance with §4.4 at intervals not to exceed twelve (12) months from the date of the last lead-safe certification.

If a Comprehensive Environmental Lead Inspection did not identify any significant environmental lead hazards in interior dust, water or soil, and, for buildings built before 1978, all painted surfaces were intact at the time of the environmental lead inspection and all surfaces evaluated by XRF were found to be inconclusive, the property owner shall be exempt from an annual reinspection in any dwelling unit/premises identified by a Comprehensive Environmental Lead Inspection.

If the dwelling unit and common areas have lead-free windows, the exterior siding is lead-free or covered with vinyl siding (or other permanent cover), and the dwelling unit/premises has been certified lead-safe for three (3) consecutive years, the property owner shall be exempt from an annual reinspection in any dwelling unit/premises identified by a Comprehensive Environmental Lead Inspection.

Properties Cited For Noncompliance With These Regulations:

An initial Annual Reinspection of a cited dwelling unit/premises shall be conducted no later than twelve (12) months after the Certification Date specified on the Certification of Lead-Safe Status (Form PBLC-15).

If the dwelling unit and common areas have lead-free windows, the exterior siding is lead-free or covered with vinyl siding (or other permanent cover), and the dwelling unit/premises has been certified lead-safe by three (3) consecutive Annual Reinspections [i.e., the dwelling unit/premises has remained in a lead safe condition for at least thirty-six (36) consecutive months after the Certification Date specified on the initial Certification of Lead-Safe Status (Form PBLC-15)], the property owner shall be exempt from an annual reinspection in any dwelling unit/premises identified by a Comprehensive Environmental Lead Inspection.

4.2(h)(3)(iii)

If a dwelling unit/premises subject to 4.2(h)(3) is transferred to a new owner prior to obtaining compliance with 4.2(h)(3)(i) and 4.2(h)(3)(ii), the responsibility for compliance shall be transferred to the new owner.

Termination of Exemption: Any exemption granted for a dwelling unit/premises pursuant to 4.2(h)(2)(i), 4.2(h)(2)(ii) or 4.2(h)(3)(ii) shall immediately become void if said dwelling unit/premises again becomes subject to these Regulations. Grounds for voiding an exemption shall include, but not be limited to, receipt of a subsequent Notice of Violation for the dwelling unit/premises.

Limited Environmental Lead Inspections.

Applicability and Scope. Any environmental lead inspection conducted by an Environmental Lead Inspector/Inspector Technician pursuant to this Section which does not meet the requirements of §4.2 for Comprehensive Environmental Lead Inspections shall be considered a Limited Environmental Lead Inspection. An Environmental Lead Inspector/ Inspector Technician may conduct a Limited Environmental Lead Inspection at a regulated facility to determine the extent and locations of any existing or potential significant environmental lead hazards in one or more areas of the premises, provided that such Limited Environmental Lead Inspection shall not be used for determining lead-free or lead-safe status.

Certification Requirement. Limited Environmental Lead Inspections shall only be conducted by an Environmental Lead Inspector/Inspector Technician certified in accordance with these Regulations.

Methods. An Environmental Lead Inspector/Inspector Technician conducting a Limited Environmental Lead Inspection shall utilize the methods and procedures for a Comprehensive Environmental Lead Inspection contained in §4.2, with the exception that the scope of the inspection may be limited to certain rooms and/or media.

Risk Assessment. An Environmental Lead Inspector/Inspector Technician may conduct a risk assessment, as defined by these Regulations, in a regulated facility. For the purposes of these Regulations, a risk assessment shall be considered a Limited Environmental Lead Inspection.

Clearance Inspections and Annual Reinspections.

Scope of Inspection. Environmental Lead Inspectors/Inspector Technicians shall conduct post-abatement clearance inspections required by §13.6 and annual reinspections requested pursuant to §4.2(h) as follows:

A visual inspection shall be conducted to determine that:

All painted surfaces containing lead in excess of the acceptable levels specified in §6.1 are intact or fully covered with an encapsulant, wall covering, or other permanent covering; and

No visible dust or paint chips remain; and

All soil containing lead in excess of the acceptable levels specified in §6.3 is covered in accordance with the requirements in §12.3.

Interior dust samples shall be collected in accordance with the criteria and procedures specified in §4.2(e), but only after the dwelling unit/abatement area has passed a visual inspection of the interior, as specified in §4.4(a)(1)(i)-(ii); and

4.4(a)(3)

Additional water samples shall be collected, in accordance with §4.2(g), in all instances in which lead hazard reduction has included repairs or modifications to the plumbing system; and

Additional sampling shall be conducted whenever deemed necessary by the Environmental Lead Inspector/Inspector Technician to ensure that the regulated facility is in compliance with the standards specified in §6.0.

Evaluation of Inspection Results.

Clearance Inspections. If the visual clearance inspection indicates that conditions are not in accordance with the requirements of §4.4(a)(1) or if any dust sample collected pursuant to §4.4(a)(2) exceeds the lead-safe standards specified in §6.2, the Environmental Lead Inspector/Inspector Technician shall notify the Lead Hazard Reduction Contractor and the owner that the regulated facility has failed the clearance inspection and that additional lead hazard reduction and subsequent clearance inspection are required to obtain lead-free or lead-safe status.

Annual Reinspections. If any result of an annual reinspection indicates that lead dust levels exceed the lead-safe standards specified in §6.2 or conditions are not in accordance with the requirements in §4.4(a)(1), the Environmental Lead Inspector/ Inspector Technician shall notify the owner that the regulated facility has failed the annual reinspection and that lead hazard reduction and subsequent inspection are required to obtain lead-free or lead-safe status.

Lead-Safe Status.

If the results of the clearance inspection or annual reinspection indicate that conditions are in accordance with the requirements in §4.4(a) and the lead-safe standards in §6.0, the Environmental Inspector/Inspector Technician who conducted the inspection shall complete the Certification of Lead-Safe Status (Form PBLC-15) and sign it. If the inspection was conducted by an Environmental Lead Inspector Technician, the form shall also be signed by an Environmental Lead Inspector. An Environmental Lead Inspector/ Inspector Technician shall not certify a regulated facility as lead-safe unless the requirements of §4.4(a) and the lead-safe standards in §6.0 have been fulfilled.

Notwithstanding the requirements of §4.4(c)(1), an Environmental Lead Inspector Technician may independently issue a Certification of Lead-Safe Status (Form PBLC-15) for a Clearance Inspection if he/she meets all of the following criteria:

Completion of at least twenty (20) Clearance Inspections under the supervision of an Environmental Lead Inspector; and

Certification as an Environmental Lead Inspector Technician for at least twelve (12) months.

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4.4(d)

Reporting Requirements. Environmental Lead Inspectors/Inspector Technicians who have conducted a clearance inspection or annual reinspection pursuant to this Section shall submit the results of this inspection to the Department, on forms approved by the Department, along with the original copy of the Certification of Lead-Safe Status (Form PBLC-15) no later than five (5) business days subsequent to the date of the inspection or no later than five (5) business days subsequent to the receipt of all laboratory results provided that samples are submitted for laboratory analysis within three (3) business days of being collected. Signed copies of all documentation submitted to the Department shall also be provided to the owner(s) of the property where the lead hazard reduction was conducted. If applicable, a signed copy of the Form PBLC-15 shall also be provided to the Lead Hazard Reduction Contractor or the Lead Hazard Control Firm,

Clearance Inspections Conducted by the Department. The Department shall conduct a clearance inspection and, if necessary one subsequent clearance inspection, for each regulated facility ordered by the Department to undergo lead hazard reduction activity. The cost of any additional clearance inspections by the Department shall be paid by the Lead Hazard Reduction Contractor or owner who conducted the lead hazard reduction work. The Department may issue civil penalties to recover the costs of these additional clearance inspections.

Certification Requirement. Clearance inspections and annual reinspections shall only be conducted by an Environmental Lead Inspector/Inspector Technician certified in accordance with these Regulations.

Failure to Comply. Owners who fail to ensure that lead hazard reduction activities are completed to at least the lead-safe level are subject to appropriate enforcement actions pursuant to §21.0.

Environmental Lead Assessments.

Applicability and Scope. An Environmental Lead Assessment may be conducted by an Environmental Lead Assessor in order to identify conditions which may present a clear and significant health risk to children under six (6) years of age in regulated facilities. Environmental Lead Assessments may only be conducted by persons who are certified pursuant to §17.0 and who are either authorized to act as enforcing officers under the Housing Maintenance and Occupancy Code [RIGL Chapter 45-24.3] or are designated employees of a federal, state or municipal agency with jurisdiction over housing, occupational health, child welfare, and/or environmental standards. Environmental Lead Assessors may only conduct Environmental Lead Assessments in regulated facilities within the jurisdiction of their employer.

Methods. An Environmental Lead Assessment shall only include one or more of the following sampling/testing methods:

Sodium rhodizonate spot testing in accordance with the procedures specified in §4.2(d)(5) on surfaces suspected to contain lead-based paint or lead-contaminated dust;

Collection of paint chip samples in accordance with §4.2(d)(6) for subsequent laboratory analysis;

Collection of dust wipe samples in accordance with the procedures specified in §4.2(e)(6) for subsequent laboratory analysis;

Collection of soil samples in accordance with the procedures specified in §4.2(f);

Collection of water samples in accordance with the procedures specified in §4.2(g).

4.5(c)

Notice to Abate. The inspection report of any Environmental Lead Assessment which identifies significant environmental lead hazards shall serve as a Notice to Abate upon receipt by the owner or owner's agent.

Notification. An Environmental Lead Assessor shall report the results of any Environmental Lead Assessment in which significant environmental lead hazards are identified to the Department in accordance with the requirements in §8.0 within five (5) business days of receipt of the results of the Environmental Lead Assessment.

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SECTION 5.0 METHODS OF MEASUREMENT OF ENVIRONMENTAL LEAD

Lead in Paint.

Acceptable Methods. Environmental Lead Inspectors/Inspector Technicians shall use one or more of the following acceptable methods for measurement of lead in paint:

Field measurement by XRF;

Sodium rhodizonate solutions for spot tests under the following conditions:

(i) The solution shall be selective for lead in the presence of other metals commonly found in paint (zinc, mercury, titanium, copper and iron);

(ii) The solution shall provide a response time of five (5) minutes or less; and

(iii) The solution shall not leave a residue that is hazardous.

Collection of paint chips for analysis by a laboratory certified in accordance with §19.0;

Any other method approved in writing by the Department.

Use of Licensed Laboratory. Environmental Lead Inspectors/Inspector Technicians shall only utilize a laboratory licensed in accordance with §19.0 for analysis of samples for lead.

Special Requirements Applicable to XRF Instruments. Environmental Lead Inspectors/Inspector Technicians shall follow these requirements if performing field measurement by XRF:

Environmental Lead Inspectors/Inspector Technicians shall operate under a currently valid specific or general radioactive materials license for the XRF instrument used, in accordance with the *Rules and Regulations for the Control of Radiation* [*R23-1.3-RAD*]. Any Environmental Lead Inspector/ Inspector Technician operating under a radioactive materials license issued by another jurisdiction shall be in compliance with the reciprocity provisions of Subpart C.6 of the *Rules and Regulations for the Control of Radiation* [*R23-1.3-RAD*].

Instrument Calibration.

The calibration of each XRF instrument used shall be verified against the manufacturer's standards for that instrument at the beginning and end of each inspection, and during the inspection at a frequency determined by the manufacturer's standards. If the XRF calibration check does not conform to the manufacturer's standards, the XRF shall not be used until it has been determined that it is within the boundaries of acceptable performance as determined by the manufacturer's standards.

If the XRF instrument does not produce a reading within the manufacturer's specified tolerance for each standard, the instrument shall be removed from use until such time as the unit has been demonstrated to be operating within the manufacturer's specified tolerance for each standard.

All calibrations of XRF instruments shall be conducted in accordance with the manufacturer's specifications/recommendations for that instrument.

A separate calibration log shall be maintained for each XRF instrument, and the results of all checks/calibrations shall be recorded in the log. In addition, all checks/calibrations conducted for each inspection shall be recorded in the Environmental Lead Inspection Report.

5.1(c)(3)

Instrument Documentation.

(i) The manufacturer, model number and serial number of the XRF unit used shall be indicated on the inspection report.

(ii) If more than one XRF unit is used to conduct an inspection, the results for each surface and/or representative area shall be annotated to indicate the specific XRF unit used for testing.

Lead in Interior Dust.

Laboratories performing analysis of lead in interior dust shall calculate total lead, not extractable lead, and shall utilize acceptable quantitative methods approved by the EPA.

Acceptable quantitative methods of analysis for lead in interior dust samples shall be capable of detecting one hundred and fifty (150) ppm of lead, with an overall accuracy of + twenty-five percent (25%) and precision of + ten percent (10%).

Lead in Soil.

Laboratories performing analysis of lead in soil shall calculate total lead, not extractable lead, and shall utilize acceptable quantitative methods approved by the EPA.

Acceptable quantitative methods of analysis for lead in soil shall be capable of detecting one hundred and fifty (150) ppm of lead with an overall accuracy of + twenty-five percent (25%) and precision of + ten percent (10%).

Lead in Water.

Laboratories performing analysis of lead in water shall calculate total lead, not extractable lead, and shall utilize acceptable quantitative methods approved by the EPA.

Acceptable quantitative methods of analysis for lead in water shall be capable of detecting five (5) µg/l of lead with an overall accuracy of + twenty-five percent (25%) and precision of + ten percent (10%).

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SECTION 6.0 ENVIRONMENTAL LEAD STANDARDS

Standard for Lead in Paint.

Lead-Free Standard. The acceptable standard for lead in paint (standard for lead-free) shall be one hundred and fifty parts per million (150 ppm) or less. [150 ppm is equivalent to fifteen one-thousandths of a percent (0.015%).] All painted surfaces constructed after 1 January 1978 shall be assumed to meet the lead-free standard until proven otherwise.

Lead-Safe Standard. The permissible standard for lead in paint (standard for lead-safe) shall be:

Greater than one hundred and fifty (150) ppm to six hundred (600) ppm; and

Greater than six hundred (600) ppm if the paint is intact and so long as it remains intact.

Significant Environmental Lead Hazard Standard. Lead levels that are in excess of six hundred (600) ppm on damaged painted surfaces or are in excess of one hundred and fifty (150) ppm on surfaces abraded by friction shall be considered a significant environmental lead hazard and shall require lead hazard reduction in accordance with these Regulations.

Standard for Lead in Interior Dust. The acceptable, permissible and unacceptable concentrations of lead in interior dust shall be determined by the technique used to collect the sample and, for wipe samples, the area which is sampled.

Wipe Samples. The standards for wipe samples shall be defined as follows:

Lead-Free Standard. The acceptable standard for lead in interior dust (standard for lead-free) shall be less than ten micrograms of lead per square foot (10 $\mu g/ft^2$) on any surface;

Lead-Safe Standard. The permissible standard for lead in interior dust (standard for lead-safe) shall be:

Floors: Ten micrograms of lead per square foot (10 $\mu g/ft^2$) to forty (40) micrograms of lead per square foot (40 $\mu g/ft^2$) ;

Window Sills: Ten (10) $\mu g/ft^2$ to two hundred and fifty (250) $\mu g/ft^2$;

Window Wells: Ten (10) $\mu g/ft^2$ to four hundred (400) $\mu g/ft^2$;

Any Other Surfaces: Ten (10) $\mu g/ft^2$ to forty (40) $\mu g/ft^2$.

Significant Environmental Lead Hazard Standard. Lead levels in interior dust that are in excess of forty (40) $\mu g/ft^2$ on floors, two hundred and fifty (250) $\mu g/ft^2$ on window sills, four hundred (400) $\mu g/ft^2$ in window wells, or forty (40) $\mu g/ft^2$ on any other surface shall be considered significant environmental lead hazards and shall require lead hazard reduction in accordance with these Regulations.

Vacuum Samples. The standards for vacuum samples shall be defined as follows:

Lead-Free Standard. The acceptable standard for lead in interior dust (standard for lead-free) shall be one hundred and fifty (150) ppm or less;

Lead-Safe Standard. The permissible standard for lead in interior dust (standard for lead-safe) shall be greater than one hundred and fifty (150) ppm to one thousand (1000) ppm;

Significant Environmental Lead Hazard Standard. Lead levels that are in excess of one thousand (1000) ppm in interior dust shall be considered significant lead hazards (unacceptable) and shall require lead hazard reduction in accordance with these Regulations.

6.3

Standard for Lead in Soil.

Lead-Free Standard. The acceptable standard for lead in soil (standard for lead-free) shall be one hundred and fifty (150) ppm or less. [150 ppm is equivalent to 150 micrograms of lead per gram of soil (150 µg/g), or 150 milligrams of lead per kilogram of soil (150 mg/kg)];

Lead-Safe Standard. The permissible standard for lead in soil (standard for lead-safe) shall be:

Greater than one hundred and fifty (150) ppm to four hundred (400) ppm; and

Greater than four hundred (400) to one thousand (1000) ppm if there is no exposed bare surface soil and the soil remains covered.

Significant Environmental Lead Hazard Standard. Lead levels in soil that are in excess of one thousand (1000) ppm or lead levels in exposed bare surface soil in excess of four hundred (400) ppm shall be considered significant environmental lead hazards and shall require lead hazard reduction in accordance with these Regulations.

Standard for Lead in Water. The environmental lead standards for water shall be determined by both the lead content of the water and how the sample was drawn.

First-Draw Samples.

Lead-Free Standard. The acceptable standard for lead in water (standard for lead-free) shall be less than five micrograms of lead per liter of water (5 µg/l). [5 µg/l is equivalent to five parts per billion (5 ppb).];

Lead-Safe Standard. The permissible standard for lead in water (standard for lead-safe) shall be five (5) µg/l to less than fifteen (15) µg/l;

Flush Samples Required. Lead concentrations in water from fifteen (15) µg/l to five hundred (500) µg/l require analysis of flushed samples to determine the status;

Significant Environmental Lead Hazard Standard. Lead concentrations in first-draw water samples greater than five hundred (500) µg/l are considered significant environmental lead hazards and require lead hazard reduction in accordance with these Regulations.

Flushed Samples.

Lead-Safe Standard. The permissible standard for lead in water (standard for lead-safe) shall be less than fifteen (15) µg/l;

Significant Environmental Lead Hazard Standard. Lead concentrations in flushed water samples at fifteen (15) µg/l or greater are considered significant environmental lead hazards and require lead hazard reduction in accordance with these Regulations.

Multiple Taps. If water samples are obtained from more than one (1) tap, the above standards for lead in water shall be applied separately to each tap.

SECTION 7.0 [RESERVED]

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PART IV REPORTING REQUIREMENTS AND REAL ESTATE NOTIFICATION AND DISCLOSURE

SECTION 8.0 REPORTING REQUIREMENTS

General Requirements.

Environmental Lead Inspectors/Inspector Technicians who conduct an environmental lead inspection in a regulated facility and Environmental Lead Assessors who conduct an environmental lead assessment in a regulated facility shall provide a copy of the inspection report to the following individuals/entities within five (5) business days of obtaining all laboratory results:

Owner(s) of the regulated facility which was the subject of the inspection;

The Department of Health;

The occupants of the dwelling unit inspected.

The copy of the inspection report required by §8.1(a) of these Regulations shall be delivered as follows:

Owner(s) of the regulated facility which was the subject of the inspection: via regular mail or in person. Delivery may also be via e-mail or other electronic media, if the owner has agreed to accept the report in this format;

The Department of Health: via regular mail, electronic submission or in person;

The occupants of the dwelling unit inspected: via certified mail, return receipt requested or in person.

Inspection Report.

All Comprehensive Environmental Lead Inspection reports, as well as any other environmental lead inspection reports[2] shall contain, as a minimum, the following information:

The actual street address, including floor or apartment number, of the dwelling that was the subject of the inspection, as well as the date(s) the inspection was conducted;

The city/town assessor's lot and plat number for the property;

The name and address of the property owner;

A detailed sketch of all the structures on the property as well as a sketch of the floor plan for each floor inspected;

An indication of whether the facility is used as a child care facility;

A description of all areas tested/evaluated, the specific tests/evaluations performed during the inspection, as well as the results of each test/evaluation for all field testing and laboratory samples;

A copy of all original laboratory reports/results for any samples requiring laboratory analysis;

An accurate hazard assessment for all surfaces/areas tested, based on field or laboratory results, as well as the condition of surfaces/areas tested;

[2] For example, Limited, Clearance and Annual inspection reports.

8.2(a)(9)

The printed name, signature, certification number and affiliation of each Environmental Lead Inspector/Inspector Technician or Environmental Lead Assessor participating in the inspection;

Options for required lead hazard reduction in all areas that are identified as containing significant environmental lead hazards;

If any portion of the inspection was conducted by an Environmental Lead Inspector Technician, the printed name(s), signature(s), certification number(s) and affiliation of the Environmental Lead Inspector(s) responsible for supervision of the Environmental Lead Inspector Technician and/or for review of the environmental lead inspection report shall also be included.

All environmental lead inspection reports shall be submitted on forms approved by the Department, no later than five (5) business days subsequent to the inspection date or no later than five (5) business days subsequent to the receipt of all laboratory results provided that samples are submitted for laboratory analysis within three (3) business days of being collected.

Environmental Lead Inspectors shall retain a copy of all completed environmental lead inspection reports for a minimum of three (3) years.

Notification of Tenants. The owner/manager of any dwelling that was the subject of any environmental lead inspection shall notify all tenants and occupants of the results of the inspection within five (5) business days after the owner receives the results and provide a copy of the environmental lead inspection report if requested.

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SECTION 9.0 REAL ESTATE NOTIFICATION AND DISCLOSURE

Applicability and Scope.

Applicability. The requirements of this Section shall apply to all persons who sell or lease a residential dwelling in the State or act as agent for the seller or lessor, unless specifically exempted by §9.1(b) of these Regulations. For the purposes of this Section, a seller shall include a mortgagee selling property through foreclosure. The requirements in this Section are in addition to, not in lieu of, federal requirements for disclosure of lead-based paint hazards in housing (24 CFR Part 35, 40 CFR Part 745).

Exemptions. The following transactions to sell or lease a residential dwelling are exempt from the requirements of this Section:

Sales and leases of a residential dwelling which has been determined to be lead-free in accordance with these Regulations, provided that for sales transactions a copy of a lead-free certificate is provided to the purchaser(s);

Short-term leases of one-hundred (100) days or less with no renewal;

Renewals of existing leases in which the lessor has previously complied with all the requirements of this Section;

Leases of 0-bedroom dwellings or dwellings used exclusively to house the elderly or disabled in which no child under six (6) years of age resides.

Disclosure Requirements for Sellers and Lessors. Sellers and lessors not otherwise exempted under § 9.1(b) shall meet all the following requirements before a purchaser or lessee is obligated under any contract to purchase or lease a residential dwelling subject to this Section.

Educational Pamphlet. The seller or lessor shall provide the purchaser or lessee with the following EPA educational pamphlet (or an equivalent approved by the Department): "Protect Your Family From Lead in Your Home" containing the Rhode Island insert "What You Should Know About the Rhode Island Lead Law";

Disclosure of Lead Hazards. The seller or lessor shall disclose to the purchaser or lessee as well as to each agent any known information, including a copy of any outstanding notice of violation, about the presence of lead exposure hazards or potential lead exposure hazards in the property being sold or leased, including the basis for the determination that lead exposure hazards or potential lead exposure hazards exist and the location of such hazards or potential hazards;

Inspection Reports. The seller or lessor shall provide the purchaser or lessee with any records or reports available to the seller or lessor pertaining to lead exposure hazards or potential lead exposure hazards in the property being sold or leased, including any Comprehensive or Limited Environmental Lead Inspection Reports, Notification of Annual Reinspection Requirement forms, or any other records or reports containing information on lead exposure hazards or potential lead exposure hazards in painted surfaces, interior dust, soil, or water. The seller or lessor shall notify each agent about the existence of any such available records or reports. Available records or reports shall include any records or reports which are in the possession of the seller or lessor or which are reasonably obtainable. Sellers and lessors shall maintain copies of any environmental lead inspection report for as long as they own the property.

9.2(d)

Lead Warning Statement. The seller or lessor shall include in each contract for the sale or lease of a residential dwelling, including oral leases, a Lead Warning Statement and disclosure acknowledgment form (available from the Department) that is in accordance with 24 CFR Section 35.92. The seller or lessor shall retain a copy of the disclosure acknowledgment form for a minimum of three (3) years as proof of compliance with this Section.

Additional Requirements for Sellers.

Ten Day Inspection Period. In addition to the requirements in §9.2 of these Regulations, sellers of one (1) to four (4) family residential real estate built prior to 1978 shall permit the purchaser a ten (10) day period to conduct an inspection or risk assessment for the presence of lead exposure hazards or potential lead exposure hazards prior to the purchaser becoming obligated under any purchase and sale agreement.

Exemption. Properties sold at a foreclosure auction by a mortgagee shall be exempt from the requirements of §9.3(a) of these Regulations.

Waiver. Nothing contained in §9.3(a) of these Regulations shall limit a seller and purchaser from agreeing to change the terms specified in §9.3(a) or waive the provisions of §9.3(a) provided that the agreement is in writing and the seller has fully complied with the disclosure requirements in §9.2.

Responsibilities of Agents.

Agents. Each agent shall ensure compliance with all requirements of this Section. To ensure compliance, the agent shall:

Inform the seller or lessor about his/her obligations under §§9.2 and 9.3; and

Ensure that the seller or lessor has performed all activities required under §§9.2 and 9.3 or personally ensure compliance with the requirements of §§9.2 and 9.3.

Liability Limitation. If the agent has complied with §9.4(a) of these Regulations, the agent shall not be liable for the failure to disclose to a purchaser or lessee the presence of lead exposure hazards or potential lead exposure hazards known by a seller or lessor but not disclosed to the agent.

Penalties for Noncompliance.

___Sellers and lessors and their agents who fail to comply with any of the requirements of §§9.2 through 9.4 shall be subject to a civil penalty of not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each violation.

In addition to the penalties for noncompliance specified in §9.5(a) of these Regulations, agents who violate any provisions of this Section may be reported to the RI Department of Business Regulation, Division of Commercial Licensing and Regulation, Real Estate Section, for possible further action pursuant to Chapter 5-20.5 of the General Laws of Rhode Island, as amended, and the rules and regulations promulgated pursuant thereto.

SECTION 10.0 [RESERVED]

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PART V LEAD HAZARD REDUCTION

SECTION 11.0 LEAD HAZARD REDUCTION - GENERAL PROVISIONS

Applicability and Scope.

Clear and Significant Health Risks. Pursuant to Paragraph 23-24.6-17(a)(1) of the Act and Paragraph 45-24.3-10(c) of the Housing Code, the Department has determined that the following conditions present a clear and significant health risk to occupants of a regulated facility and require lead hazard reduction in accordance with these Regulations to at least the lead-safe level:

Removal of lead-based paint (i.e. paint containing lead in excess of the lead-free standard), unless exempt under §11.1(b) of these Regulations.

Any peeling, flaking, chipping, or otherwise damaged (i.e. can be removed with a finger nail or demonstrates evidence of mouthing) lead-based paint on interior or exterior painted surfaces;

Lead-based paint that has a visible residue of paint which can be wiped from a surface (i.e. chalking), which is therefore considered damaged;

Lead-based paint which is abraded by friction on interior and/or exterior surfaces of windows, which is therefore considered damaged;

Lead-based paint which is abraded by friction on surfaces of doors, which is therefore considered damaged;

Lead in drinking water at concentrations greater than five hundred (500) µg/l for a first-draw sample or fifteen (15) µg/l or greater for a flushed sample from any tap or water source used as a source of water for drinking and/or cooking;

Lead in soil at concentrations greater than one thousand (1000) ppm or lead in exposed bare surface soil at concentrations greater than four hundred (400) ppm;

(8) Lead in interior dust samples at concentrations greater than one thousand (1000) ppm by vacuum or other bulk sampling, or lead in interior dust samples at concentrations greater than forty (40) µg/ft^2 on floors and/or greater than two hundred and fifty (250) µg/ft^2 on window sills and/or greater than four hundred (400) µg/ft^2 in window wells and/or greater than forty (40) µg/ft^2 on any other surface by wipe sampling, or lead in interior dust in excess of five thousand (5000) ppm as demonstrated by a positive sodium rhodizonate spot test;

Visible dust during renovation of any room(s)/area(s) which contain lead-based paint.

Exemptions. The following activities shall not be considered lead hazard reduction for the purposes of these Regulations:

Spot removal of interior lead-based paint if the surface area from which paint is to be removed is six square feet (6 ft^2) or less per room in any dwelling unit. For the purposes of this spot removal exemption, windows and doors shall not be counted as damaged components.

Temporary lead hazard control measures, as defined in §1.0, provided that such measures do not include removal of lead-based paint.

Cleaning of lead-contaminated dust which was not generated during lead hazard reduction work.

11.1(b)(4)

Encapsulation or enclosure in accordance with §12.1(b), provided that the total amount of interior lead-based paint that is removed or disturbed does not exceed the spot removal limits established in §11.1(b)(1).

Notice to Abate. Any environmental lead inspection or lead assessment conducted pursuant to §4.0 in which significant environmental lead hazards are identified in a regulated facility shall serve as a Notice to Abate the significant environmental lead hazards in accordance with these Regulations.

___Notwithstanding the provision of §11.1(a), removal/replacement of windows, if the removal/ replacement does not involve on-site removal of paint, may also be conducted in accordance with the Lead Hazard Control standard established by §14.0.

Licensed Lead Contractor Requirement.

General Requirement. Unless otherwise provided in §§11.2(b) or 11.2(c), owners are required to utilize only Licensed Lead Hazard Reduction Contractors to conduct lead hazard reduction work in regulated facilities, as defined in §2.1.

Licensed Lead Contractor Not Required. A Licensed Lead Hazard Reduction Contractor is not required for exterior lead abatement of lead-based paint, dust, or soil.

Financial Hardship Exemption. An owner who has received a Notice of Violation from the Department may perform lead hazard reduction activities at the cited dwelling unit and common areas without hiring a RI Licensed Lead Hazard Reduction Contractor only if the owner:

Resided in the dwelling at the time it was cited (i.e., owner-occupied) or owns no more than eight (8) residential units; and

Provides the Department with adequate documentation to demonstrate that "financial hardship" prevents the hiring of a RI Licensed Lead Hazard Reduction Contractor. Adequate documentation of financial hardship may include, but is not limited to, copies of loan applications and denial letters from all available loan programs and proof of low-income status from tax returns and other financial information; and

Submits a written request for a financial hardship exemption on forms approved by the Department and receives written approval from the Department.

Prohibited Lead Hazard Reduction Methods. The following lead hazard reduction methods are prohibited under all conditions:

Abrasive blasting and/or utilization of mechanical removal equipment on interior surfaces containing lead-based paint, except when authorized in writing by the Department or pursuant to §13.12; or

Utilization of a torch or open flame burning; or

Utilization of chemical strippers containing methylene chloride for interior work areas; or

Dry sweeping of lead-contaminated areas or surfaces; or

Dry sanding of interior painted surfaces except for "feathering" of previously treated surfaces or when conducting mechanical paint removal in accordance with §13.12.

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11.4

<u>Vacating Premises During Lead Hazard Reduction</u>.

The owner/manager of a dwelling shall make all reasonable efforts to ensure that occupants are not present during lead hazard reduction activities.

For purposes of these Regulations, all reasonable efforts shall include, as a minimum, providing written notification, in an appropriate language, to the occupants at least one week in advance of the proposed lead hazard reduction activities. Said notice shall be signed by both the owner/owner's agent (i.e. landlord) and tenant and shall include: the days and hours during which work is to be performed; the method by which the tenant will be compensated (e.g. pro-rata adjustment or abatement of the rent) for loss of use of the living space if three (3) or more days will be required to complete the lead hazard reduction activities; and a description of possible lead exposure hazards posed to children and pregnant women by the lead hazard reduction activities.

Nothing in this Section shall be interpreted as limiting an owner's duties or responsibilities to a tenant under other applicable provisions of the General Laws of Rhode Island, as amended, Regulations promulgated pursuant to these Laws, or common law.

If occupants have not vacated the dwelling prior to the start of lead hazard reduction activities, the Lead Hazard Reduction Contractor shall:

Obtain a signed copy of the notice required by §11.4(b);

Partition the interior work area(s) in a manner that will minimize the occupants' exposure to lead-contaminated dust and debris;

Clean all interior work area(s) and remove all debris from the interior work area(s) at the end of each workday; and

Secure the interior work area(s) in accordance with the requirements of §13.8 at the end of each workday.

<u>Post-Abatement Clearance Inspection</u>. Owners of property where lead hazard reduction activities have been conducted shall arrange for an Environmental Lead Inspector/Inspector Technician to conduct a clearance inspection in accordance with §4.4 and shall not allow reoccupancy of the dwelling until passing a clearance inspection.

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SECTION 12.0 APPROVED LEAD HAZARD REDUCTION TECHNIQUES

Approved Lead Hazard Reduction Techniques for Painted Surfaces. The following lead hazard reduction techniques are approved for painted surfaces:

Removal of Lead-Based Paint. Lead-based paint may be removed by:

Wet hand scraping, with or without the use of a heat gun; or

Dry hand scraping of interior surfaces, with or without the use of a heat gun; or

Wet sanding; or

"Feathering" of interior surfaces; or

Utilization of non-flammable chemical strippers which do not contain methylene chloride; or

Any other methods approved in writing by the Department.

Encapsulation or Enclosure. Lead-based paint may be covered by:

Encapsulation or enclosure of wall or ceiling surface(s) with an encapsulant approved by the manufacturer for the intended use, with a "drop ceiling", or with gypsum board, fiberglass mats, vinyl wall coverings, formica, tile, paneling, vinyl or aluminum siding, or other durable material that does not readily tear, chip or peel; or

Encapsulation or enclosure of floor surface(s) or stairs with an encapsulant approved by the manufacturer for the intended use, or with tile, vinyl flooring or stair treads (covering minimally the high traffic areas of stairs), wall-to-wall carpeting, wood or stone; or

Encapsulation or enclosure of woodwork surface(s) with an encapsulant approved by the manufacturer for the intended use, or with plastic (excluding plastic sheeting), metal, aluminum, vinyl, or wood; or

Reversal of the component parts of a woodwork surface such that no lead-containing surface remains exposed, and all seams are caulked and sealed.

Replacement. Lead-containing components may be removed and replaced with new or lead-free components or lead-containing components may be removed for off-site deleading and then reinstalled.

Friction Surfaces. The only acceptable lead hazard reduction methods for lead-based paint on friction surfaces shall be: 1) Removal and replacement of lead-containing components on friction surfaces with new or lead-free components; or 2) Removal of lead-containing components for on- or off-site deleading; or 3) Covering a lead-containing friction surface to eliminate abrasion (e.g., stair treads for stairs and track liners or other suitable materials for windows). All window components which contain lead in excess of the lead-free standard, which are abraded by friction and which are designed to be operable shall be made operable following lead hazard reduction.

Approved Lead Hazard Reduction Techniques for Interior Dust. The following lead hazard reduction techniques are approved for lead-contaminated dust:

(a) Lead hazard reduction of the known or suspected source(s) of contaminated dust; and

(b) Wet washing lead-contaminated surfaces with a solution of trisodium phosphate (TSP), other phosphate-containing cleaner, or other detergents; or

(c) HEPA vacuuming and/or wet vacuuming of lead-contaminated surfaces; or

(d) Steam cleaning of lead-contaminated rugs, carpets or other fabric surfaces.

12.3

Approved Lead Hazard Reduction Techniques for Soil. The following lead hazard reduction techniques are approved for lead-contaminated soil depending on the concentration of lead in the soil. All lead hazard reduction work which disturbs soil shall be performed while the soil is wet or damp so as to minimize creation of dust. Lead contaminated soil shall not be relocated to any area not requiring lead hazard reduction.

400 - 1000 ppm Lead in Soil. For soil with lead concentrations greater four hundred (400) ppm to one thousand (1000) ppm:

Complete covering of the existing soil with gravel to a depth of at least four (4) inches, mulch to a depth of at least six (6) inches, soil with lead concentrations less than four hundred (400) ppm to a depth of at least three (3) inches, sod, and/or new grass; or

Any of the methods specified in §12.3(b) or (c).

1000-10,000 ppm Lead in Soil. For soil with lead concentrations greater than one thousand (1000) ppm to ten thousand (10,000) ppm:

(1) Excavating and removing, in accordance with all applicable Regulations of the Rhode Island Department of Environmental Management, to a depth of at least three (3) inches followed by replacement of at least three (3) inches of soil with lead concentrations less than four hundred (400) ppm; or

(2) Leaving existing soil in place and installing landscaping fabric along with adequate containment to avoid erosion, followed by at least three (3) inches of soil with lead concentrations less than four hundred (400) ppm, four (4) inches of gravel or six (6) inches of mulch; or

(3) Tilling of wet or damp soil with lead-free soil to reduce the concentration of lead in the soil to less than one thousand (1000) ppm, followed by covering of the soil by any of the methods listed in §12.3(a)(1); or

(4) Covering with concrete, asphalt or any other permanent cover approved in writing by the Department; or

(5) A site-specific remediation plan which has been reviewed and approved in writing by the Department.

Greater Than 10,000 ppm Lead in Soil. For soil with lead concentrations greater than ten thousand (10,000) ppm:

(1) Covering with concrete, asphalt or any other permanent cover approved in writing by the Department; or

(2) Excavating and removing, in accordance with all applicable Regulations of the Rhode Island Department of Environmental Management, to a depth of at least six (6) inches followed by replacement of at least six (6) inches of soil with lead concentrations less than four hundred (400) ppm; or

(3) A site-specific remediation plan which has been reviewed and approved in writing by the Department.

Approved Lead Hazard Reduction Techniques for Water. The following lead hazard reduction techniques are approved for water:

12.4(a)

(a) **<u>15 µg/l - 100 µg/l Lead in Flushed Sample</u>.**

(1) Providing bottled water for drinking and cooking until a lead-free or lead-safe status is achieved; or

(2) Replacing lead-containing pipes, soldered joints, couplings and fixtures with lead-free materials, or any other method(s) specifically approved in writing by the Department, until a lead-free or lead-safe standard is achieved.

(3) The lead hazard reduction methods specified in §12.4(a)(2) shall not be required until the concentration of lead in the public water supply servicing the dwelling has been determined to be in compliance with the lead-free or lead-safe standards in §6.4.

(b) **<u>Greater Than 100 µg/l in Flushed Sample or 500 µg/l in First-Draw Sample</u>.**

(1) Providing bottled water for drinking and cooking until a lead-free or lead-safe status is achieved; and

(2) Replacing lead-containing pipes, soldered joints, couplings and fixtures with lead-free materials, or any other method(s) specifically approved in writing by the Department, until a lead-free or lead-safe standard is achieved.

(3) The lead hazard reduction methods specified in §12.4(b)(2) shall not be required until the concentration of lead in the public water supply servicing the dwelling has been determined to be in compliance with the lead-free or lead-safe standards in §6.4.

(c) Any regulated facility that meets the definition of a public water supply (e.g. a school served by its own well) shall only undertake lead hazard reduction pursuant to §6.0 of the *Rules and Regulations Pertaining to Public Drinking Water* [*R 46-13-DWQ*].

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SECTION 13.0 LEAD HAZARD REDUCTION WORK PRACTICE REQUIREMENTS

13.1 General Requirements.

(a) **Interior Lead Hazard Reduction.** Any Lead Hazard Reduction Contractor, Lead Hazard Reduction Contractor Agent, Lead Hazard Reduction Site Supervisor, Lead Hazard Reduction Worker, Lead Hazard Reduction Worker-in-Training, or any owner, authorized by §11.2(c) or (d), that engages in interior lead hazard reduction, as defined by these Regulations shall comply with all the requirements contained in this Section, unless the Department has issued a written variance to use specified alternative procedures which meet the requirements of these Regulations with respect to worker safety and public health for a specific lead hazard reduction activity. The Lead Hazard Reduction Contractor shall be responsible for ensuring that all lead hazard reduction work is conducted in accordance with these Regulations. All references in this Section to Lead Hazard Reduction Contractor shall also include Lead Hazard Reduction Site Supervisors and owners who perform lead hazard reduction work.

(b) **Exterior Lead Hazard Reduction.** Exterior lead hazard reduction shall be conducted in accordance with Rhode Island Department of Environmental Management Air Pollution Control Regulation No. 24 ("Removal of Lead-Based Paint from Exterior Surfaces").

13.2 Start Work Notification.

(a) **General Requirement.** The Lead Hazard Reduction Contractor or an owner authorized by §11.2(c) or (d) to perform lead hazard reduction work shall submit a Start Work Notification (Form PBLC-9 or Form PBLC-9H, as appropriate) to the Department at least three (3) business days before beginning any interior lead hazard reduction activity. Notification shall include, at a minimum, the name, address and phone number of the Lead Hazard Reduction Contractor or owner, the address and apartment number, if any, where lead hazard reduction activity will be conducted, a description of the planned lead hazard reduction activity to be performed, and the scheduled dates for starting and completing the lead hazard reduction project. The Lead Hazard Reduction Contractor or owner authorized by § 11.2(c) or (d) to perform lead hazard reduction work shall also notify the Department by telephone after on-site preparation is completed but before lead hazard reduction work begins.

(b) **Submission of Notice.** The Start Work Notification may be submitted to the Department by U.S. Postal Service, facsimile (FAX), electronic submission, commercial delivery service, or hand delivery. The Lead Hazard Reduction Contractor or authorized owner conducting the lead hazard reduction work is responsible for ensuring that the Start Work Notification has been received by the Department at least three (3) business days before beginning any interior lead hazard reduction activity.

(c) The Lead Hazard Reduction Contractor or authorized owner shall not begin lead hazard reduction activity prior to the start date indicated in the Start Work Notification submitted to the Department and shall submit to the Department a revised Start Work Notification if any of the required information changes or if lead hazard reduction work does not end within five (5) days of the completion date indicated in the Start Work Notification.

(d) If lead hazard reduction work does not begin within five (5) days of the start date indicated in the Start Work Notification submitted to the Department pursuant to §13.2(a), the Start Work Notification shall be considered null and void. The Lead Hazard Reduction Contractor or authorized owner shall not begin lead hazard reduction activity until a new Start Work Notification has been submitted to the Department pursuant to §13.2(a).

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13.3

13.3 **On-Site Supervision Requirement**. No on-site work for any lead hazard reduction project shall be conducted unless the Lead Hazard Reduction Contractor's Agent or at least one (1) Lead Hazard Reduction Site Supervisor is physically present on the job site. Any Lead Hazard Reduction Contractor's Agent or Lead Hazard Reduction Site Supervisor who is physically present on the job site during lead hazard reduction activities shall be responsible for ensuring that Lead Hazard Reduction Workers and Lead Hazard Reduction Workers-in-Training comply with all the work practice requirements in this Section.

13.4 **Interior Containment**. The Lead Hazard Reduction Contractor shall prepare all interior work areas in accordance with the following requirements prior to beginning any lead hazard reduction activity in an interior work area:

Containment Barriers. Barriers to isolate all entryways between contaminated and uncontaminated areas shall be constructed and shall consist of at least one (1) layer of 6-mil polyethylene sheeting attached securely in place and sized to minimize seams. All other openings between contaminated and uncontaminated areas, including, but not limited to, doorways, drains, ducts, grills, grates, and diffusers shall be sealed with 6-mil polyethylene sheeting. Windows which open to an enclosed area shall either be securely locked closed or sealed with 6-mil polyethylene sheeting.

Initial Cleaning. All surfaces in the isolated/contaminated area shall be wet cleaned of dust or debris.

Movable/Non-Movable Objects. All movable objects shall be either removed from the containment area or covered with 6-mil polyethylene sheeting secured in place. All non-movable objects in the containment area shall be covered with 6-mil polyethylene sheeting secured in place.

Floor Covering. Floor covering consisting of at least one (1) layer of 6-mil polyethylene sheeting shall be installed to minimize lead dust contamination of floor joints, wall/floor joints, and wall/baseboard joints. Floor covering shall extend to and be attached to the floor/wall or floor/baseboard joint. If baseboards are present, the floor/baseboard and baseboard/wall joints shall either be HEPA vacuumed and then caulked prior to lead hazard reduction work or sealed with an additional layer of polyethylene sheeting attached above the top of the baseboard and extending down the wall and out onto the floor at least six (6) inches from the wall. If an additional layer of polyethylene sheeting is used to cover the baseboard area, this sheeting shall not be removed until all lead hazard reduction work above the baseboard has been completed. Floor sheeting is not required on stairs or within eighteen (18) inches of stair landings, unless covered by carpeting.

HVAC Shut Down. All HVAC equipment in or passing through the work area shall be shut down and locked out. All intake and exhaust openings, as well as any seams in system components within the containment area, shall be sealed with 6-mil polyethylene sheeting and/or tape.

Warning Signs. Printed warning signs shall be posted at all entrances to the abatement area and shall contain text consistent with OSHA requirements for posting warning signs (29 CFR 1926.62(m)) in the native language(s) of the occupants.

Emergency Contact Number. The Lead Hazard Reduction Contractor shall post on-site at all times a 24-hour emergency contact number at which the Lead Hazard Reduction Contractor may be notified in case of an emergency.

13.5

13.5 **Lead Hazard Reduction**. Lead hazard reduction activities shall be conducted utilizing only approved methods pursuant to §12.0 and in accordance with the hygiene practices and contamination control requirements specified in §13.10. A maximum of two (2) windows per room or area may be used for ventilation during lead hazard reduction work provided that measures are taken to ensure that dust and debris from lead abatement activity do not spread outside.

13.6 **Cleanup of Interior Work Area(s).** The Lead Hazard Reduction Contractor shall be responsible for cleanup of all surfaces in the containment area, including, but not limited to, floors and other horizontal surfaces, walls and woodwork, the exterior surfaces of appliances, furniture, and other personal belongings of occupants remaining in a containment area, and any exterior areas contaminated during interior lead hazard reduction work in accordance with the following procedures:

(a) Preliminary cleanup shall be performed by HEPA vacuuming and/or wet vacuuming the containment area and carefully removing all polyethylene covering, except any containment barriers, by carefully folding the plastic upon itself to trap all dust. Any debris or residue on the polyethylene sheeting covering baseboard areas shall be HEPA or wet vacuumed prior to removing the polyethylene sheeting.

(b) After removal of all non-barrier polyethylene covering, the abatement area shall again be cleaned by HEPA vacuuming and/or wet vacuuming, followed by wet cleaning of all surfaces in the containment area. Particular attention shall be made to ensure that no dust or debris remains in any floor, baseboard, or wall joints.

(c) To ensure that airborne lead has time to settle, final cleanup shall commence no sooner than one (1) hour after the preliminary cleanup has been completed.

(d) Final cleanup shall consist of HEPA vacuuming and/or wet vacuuming of all surfaces in the containment area, followed by wet cleaning and a second HEPA vacuuming and/or wet vacuuming of these surfaces. This sequence of vacuuming, wet cleaning and vacuuming shall be repeated until no visible residue is observed in the containment area.

(e) All lead-containing waste materials shall be placed in double polyethylene bags of at least 4-mil thickness, or single polyethylene bags of at least 6-mil thickness, and secured with tape for disposal.

(f) HVAC system ductwork interiors shall be decontaminated and system filters replaced whenever the ductwork has been contaminated during lead hazard reduction work.

(g) Containment barriers shall not be removed until final cleanup has been completed and a final clearance inspection conducted in accordance with §4.4 indicates that the lead levels in dust are at the lead-free or lead-safe level, as defined in §6.2.

(h) Prior to completion of the clearance inspection, the Lead Hazard Reduction Contractor or the owner who conducted the lead hazard reduction work shall complete the relevant portions of the Certification of Lead-Safe Status (Form PBLC-15) and sign the certification block. The Lead Hazard Reduction Contractor or owner shall present the Certification of Lead-Safe Status form to the Environmental Lead Inspector/Inspector Technician conducting the clearance inspection.

(i) Upon notification that one or more dust samples failed a clearance inspection, the Lead Hazard Reduction Contractor or owner who conducted the lead hazard reduction work shall repeat the final cleanup procedures specified in §13.6(d) in the entire room(s) or area(s) where the dust sample(s) failed and shall ensure that all surfaces within the containment area are free of visible dust.

13.6(j)

(j) Only authorized persons specified in §13.8(b) may enter or occupy a dwelling or area which has undergone lead hazard reduction until a clearance inspection has been conducted in the dwelling/area and it is determined to be lead-free or lead-safe, in accordance with these Regulations.

13.7 <u>Waste Storage and Disposal</u>.

(a) The Lead Hazard Reduction Contractor shall either dispose of all lead-containing waste daily or store all lead-containing waste in a secure location to prevent access by unauthorized persons prior to disposal of the waste. The Lead Hazard Reduction Contractor shall remove all lead-containing waste material from the site not later than one (1) week after completion of lead hazard reduction work.

(b) The Lead Hazard Reduction Contractor shall comply with applicable hazardous waste Regulations of the Rhode Island Department of Environmental Management and the U.S. Department of Transportation.

13.8 <u>Control of Access</u>.

<u>General Requirement</u>. The Lead Hazard Reduction Contractor and owner shall each take reasonable measures to ensure that no pet or unauthorized person enters or remains in a containment area until the area has passed final clearance testing in accordance with §4.4. Reasonable measures to control access shall include, at a minimum:

(1) The Lead Hazard Reduction Contractor posting a lead warning sign at all entrances, as required by §13.4(f); and

(2) The owner instructing tenants in writing that access to all containment areas is prohibited until after successful clearance testing and obtaining permission to change locks during the lead abatement; and

(3) The Lead Hazard Reduction Contractor changing the locks and/or adding padlocks to all entrances to a containment area and securing access to the keys to such locks, provided that the entrance can be locked without violating building safety or fire codes regarding means of egress.

<u>Persons Authorized to Enter Containment</u>. The following persons are permitted to enter a containment area for the purposes specified below:

(1) A Lead Hazard Reduction Contractor employee or agent, who is licensed pursuant to §15.0;

(2) An owner or owner's agent for purposes of conducting lead hazard reduction work;

(3) A Federal, State or local inspector/enforcement official with jurisdiction over one or more of the activities within the work area;

(4) A tenant only pursuant to in a common hallway when no other means of egress is available;

(5) Specialized trades people (e.g., plumbers or electricians) only when responding to an emergency, provided that the Department is notified on the next business day;

(6) The following persons may enter a containment area only when accompanied by the Lead Hazard Reduction Contractor's Agent or Lead Hazard Reduction Site Supervisor:

13.8(b)(6)(i)

(i) The owner of the dwelling or the owner's agent when not conducting lead hazard reduction work;

(ii) An inspector who represents a lender with a security interest in the dwelling undergoing lead hazard reduction.

Access Log Book. The Lead Hazard Reduction Contractor shall maintain at the work site a log book with consecutively numbered pages which contains the names, license numbers, and dates/times in and out for all workers gaining access to a containment area. In addition, the Lead Hazard Reduction Contractor's Agent and/or Lead Hazard Reduction Site Supervisor(s) who are physically present on site during lead hazard reduction work shall ensure that all other persons who enter a containment area print and sign their names in the access log book documenting the date and time entering and leaving the containment area.

13.9 Lead Hazard Reduction in a Common Area Hallway(s).

(a) **General Requirements.** Whenever lead hazard reduction activity is being conducted in a common area hallway of an occupied multi-family building containing two (2) or more dwelling units, the Lead Hazard Reduction Contractor shall:

Ensure that all building and fire code requirements for means of egress are maintained; and

Make reasonable efforts to ensure that all residents and pets use alternative entrances and exits which do not require passage through a containment area.

(b) **Two Common Hallways.** When two separate common hallways are available for entrance and exit from occupied apartments, the Lead Hazard Reduction Contractor shall:

(1) Conduct lead abatement work one hallway at a time, and pass a clearance inspection in the first hallway prior to conducting lead abatement work in the second hallway; and

(2) Instruct all affected residents in writing to use only the hallway which is not undergoing lead hazard reduction work.

(c) **One Common Hallway.** When only one common hallway is available for entrance and exit from occupied apartments, the Lead Hazard Reduction Contractor shall either ensure that the affected dwelling units are vacated until after clearance of the hallway or, alternatively, the Lead Hazard Reduction Contractor shall:

(1) Complete lead hazard reduction work in the common hallway and obtain clearance within three (3) business days, unless otherwise authorized by the Department; and

(2) Conduct a thorough cleaning at the end of each work day in the common hallway and before tenants are allowed to gain access to the hallway. The cleaning shall include the packaging and removal of all leaded debris, followed by a HEPA vacuum/wet wash sequence until no visible dust remains; and

(3) Ensure that all occupants of the units which have access to the common hallway exit the building each day prior to the start of lead abatement work in the common hallway and do not return until after the finish of work for the day in the common hallway and after completion of the daily cleaning specified in §13.9(c)(2) before setting up hallway containment specifying the dates and times of reduced hallway access and stating that children should not be allowed to linger or play in the hallway until after final clearance of the hallway.

13.10

13.10 Hygiene Practices and Contamination Control.

(a) **Protective Clothing.** Except as otherwise provided in §13.10(b), Lead Hazard Reduction Contractor employees and agents as well as authorized owners who are conducting lead hazard reduction activities shall wear disposable gloves, hair covering, and shoe covers as well as outerwear which is either disposable or laundered separately, at all times while in a containment area. This requirement shall also apply to Environmental Lead Inspectors, Environmental Lead Inspector Technicians, and any other persons entering any containment area while lead hazard reduction activities are being conducted.

(b) **Exception For Clearance Inspections.** Persons entering a containment area for purposes of a clearance inspection after a final cleanup has been conducted in accordance with §13.6 shall wear disposable shoe covers, but shall not be required to wear gloves, hair covering, or outerwear.

(c) **Removal and Disposal.** All protective clothing shall be removed immediately prior to leaving a containment area and shall be placed in containers for disposal in accordance with §13.7 or shall be laundered separately from other clothing.

(d) **Respiratory Protection for Workers.** Any Lead Hazard Reduction Contractor's Agent, Lead Hazard Reduction Site Supervisor, or Lead Hazard Reduction Worker entering any containment area during a lead hazard reduction project shall comply with all applicable State and Federal requirements concerning respiratory protection for workers engaged in lead hazard reduction activity.

(e) **Warning to Other Authorized Persons.** The Lead Hazard Reduction Contractor's Agent and/or Lead Hazard Reduction Site Supervisor(s) who accompany a person authorized to enter a containment area pursuant to §13.8(b)(6) shall warn such person of the danger of entering a containment area without respiratory protection.

13.11 Record Keeping Requirements. The Lead Hazard Reduction Contractor shall maintain the following information for each lead hazard reduction project at the project site for the duration of the project and for a minimum of six (6) months after completion of the project:

(a) A copy of the original and any revised Start Work Notification forms for the lead hazard reduction project;

(b) The access log book specified in §13.8(c);

(c) The Department license for all individuals/entities who are conducting any lead hazard reduction work. Licenses must either be worn or prominently posted at the project site whenever the licensed individual is conducting lead hazard reduction work;

(d) Documentation of compliance with all applicable regulatory requirements (e.g. copies of workers' medical monitoring findings and results of respirator fit testing);

(e) Copies of any correspondence with regulatory agencies concerning the project (e.g. building or demolition permits, notices of violation issued to the Lead Hazard Reduction Contractor, etc.); and

(f) The methodology and results of all air sampling conducted during the abatement process, as well as any results of clearance inspections from any reopened areas following abatement;

(g) A current copy of these Regulations.

13.12

13.12 **Additional Requirements When Utilizing Mechanical Paint Removal.** A Lead Hazard Reduction Contractor may utilize abrasive blasting and/or mechanical removal equipment for interior painted surfaces as long as the lead hazard reduction activity is conducted in accordance with the work practice requirements in §13.0 and the following additional requirements:

(a) **Notification Requirements.** In addition to the notification requirements in §13.2, a Lead Hazard Reduction Contractor who intends to utilize mechanical paint removal equipment shall also notify the Department by telephone after on-site preparation is completed but before lead hazard reduction work begins.

(b) **Additional Interior Containment Requirements.** Floor sheeting shall consist of two (2) layers of 6-mil polyethylene sheeting. Floor sheeting shall extend to the top of the baseboard (three and one-half (3.5) inches if no baseboard is present), and be sized to minimize seams. No seams shall be located at wall/floor joints. Wall sheeting shall consist of two (2) layers of 4-mil polyethylene sheeting. Wall sheeting shall be installed to minimize joints and shall extend beyond the wall/floor joint at least twelve (12) inches. No seams shall be located at wall/wall joints. All windows in the containment area shall be covered and sealed with at least one (1) layer of 6-mil polyethylene sheeting.

(c) **Decontamination Enclosure System.** A worker decontamination enclosure system, consisting of a clean room, shower room and equipment room, each separated from each other and from the work area by airlocks and accessible through doorways protected with two (2) overlapping 6-mil polyethylene sheets, shall be provided. Procedures for the utilization of this system shall be established which prevent contamination of areas outside the work area.

(d) **Ventilation.** Negative pressure ventilation units with HEPA filtration, in sufficient number to provide one (1) workplace air change every fifteen (15) minutes, shall be operated continuously from the time of barrier construction through the time acceptable final clearance monitoring results are obtained. These units shall exhaust filtered air to the outside of the building. Filtered air shall not be exhausted to uncontaminated interior spaces.

(e) **Cleanup Procedures.** To ensure that airborne lead has time to settle, final cleanup shall commence no sooner that twenty-four (24) hours after the preliminary cleanup has been completed. All other cleanup and clearance procedures shall be conducted in accordance with §13.6.

13.13 **Medical Monitoring.**

General Requirement. Employers who engage in lead hazard reduction or environmental lead inspection shall comply with all applicable federal laws governing medical surveillance (29 CFR 1926.62(j)).

Annual Blood Lead Testing. Every employer who engages in lead hazard reduction or environmental lead inspection that is not otherwise required to provide medical surveillance pursuant to 29 CFR 1926.62(j) shall provide annual blood lead testing for all workers who conduct lead hazard reduction or environmental lead inspection work and shall provide a copy of all blood lead test results to the individual tested.

Reporting Requirement. Applicants for either an initial or renewal license/certification pursuant to these Regulations shall submit a copy of the results from either their most current medical monitoring or annual blood lead testing (as applicable) to the Department as part of their initial or renewal application.

SECTION 14.0 LEAD HAZARD CONTROL STANDARD

14.1 Applicability and Scope.

(a) As specified in §2.4(b), the following categories of regulated facilities shall perform any lead hazard control activity in accordance with this Section:

(1) The owner is in receipt of a Notice to Abate issued by a Certified Environmental Lead Inspector.

(2) The owner is required to demonstrate compliance with the lead hazard control provisions required by the U.S. Department of Housing and Urban Development (HUD) in 24 CFR Part 35.

(3) The funding agency specifically requires this level of lead hazard control.

(4) This level of lead hazard control is requested by the owner.

(5) Licensed child care facilities as defined in §2.1(c).

(6) The anticipated scope of work exceeds six square feet (6 ft^2) per room on the interior or twenty square feet (20 ft^2) on the exterior.

(b) Effective 1 May 2009, unless otherwise exempted by §14.2, an owner is required to utilize a licensed Lead Hazard Control Firm to perform lead hazard control activity in regulated facilities. Prior to 1 May 2009, an owner may utilize either a licensed Lead Hazard Control Firm or a licensed Lead-Safe Remodeler/Renovator to perform lead hazard control activity. Any licensed Lead-Safe Remodeler/Renovator not operating under the supervision of a licensed Lead Hazard Control Firm shall also be responsible for ensuring compliance with §14.4(a) of these Regulations.

(c) Lead hazard control shall include, but is not limited to:

(1) Paint stabilization of deteriorated paint in accordance with §14.5;

(2) Treatment of friction and impact surfaces in accordance with §14.6;

(3) Dust control activities, in accordance with §14.7, in areas where levels of lead in dust exceed those specified in §6.0;

(4) Other removal, modification or repair of painted surfaces or painted components including, but not limited to, modification of painted doors, surface restoration, window repair and surface preparation activity (e.g., sanding, scraping, or other such activities that may generate paint dust);

(5) The removal of building components (e.g., walls, ceilings and plumbing);

(6) Weatherization projects (e.g., cutting holes in painted surfaces to install blown-in insulation or to gain access to attics, or planing thresholds to install weather-stripping);

(7) Removal/replacement of windows and doors may also be performed under the provisions of this Section if the removal/replacement does not involve on-site removal of paint and provided that any visible paint chips or dust generated from the removal/replacement activity is cleaned up immediately upon completion;

(8) Activities performed for the purpose of converting a building, or part of a building, into target housing or a child-care facility;

14.2

14.2 **<u>Exemptions</u>.** The following activities shall not be considered lead hazard control for the purposes of these Regulations.

(a) Minor repair and maintenance activities, including minor heating, ventilation or air conditioning work, electrical work or plumbing, that disrupt six square feet (6 ft^2) or less of interior painted surface per room, or twenty square feet (20 ft^2) or less of painted surface for exterior activities. and no prohibited or restricted work practices are used. However, jobs, other than emergency renovation operations, performed in the same room within a thirty (30) day period shall be considered the same job for the purpose of determining whether the job is a minor repair and maintenance activity.

(b) Temporary lead hazard control measures, as defined in §1.0, provided that such measures do not include removal of lead-based paint.

(c) Cleaning of lead-contaminated dust which was not generated during lead hazard reduction work.

(d) Properties undergoing demolition.

14.3 **<u>Prohibitions</u>.** The following lead hazard control methods are prohibited under all conditions:

(a) Abrasive blasting and/or utilization of mechanical removal equipment on interior surfaces containing lead-based paint; or

(b) Utilization of a torch or open flame burning; or

(c) Utilization of chemical strippers containing methylene chloride for interior work areas; or

(d) Dry sweeping of lead-contaminated areas or surfaces; or

(e) Dry sanding of interior painted surfaces except for "feathering" of previously treated surfaces; or

(f) Utilization of heat guns or any other device at a temperature above 1100 °F.

14.4 **<u>Responsibilities of Persons Performing Lead Hazard Control Activity</u>.**

(a) **<u>Lead Hazard Control Firm</u>**. A Lead Hazard Control Firm performing lead hazard control activity shall ensure that:

(1) All individuals performing lead hazard control activity on behalf of the Lead Hazard Control Firm are either a licensed Lead-Safe Remodeler/Renovator or have been trained by a licensed Lead-Safe Remodeler/Renovator in accordance with §14.4(b)(2).

(2) A licensed Lead-Safe Remodeler/Renovator is assigned to each renovation performed by the Lead Hazard Control Firm and discharges all of the licensed Lead-Safe Remodeler/ Renovator responsibilities identified in §14.4(b).

(3) All lead hazard control activity performed by the Lead Hazard Control Firm is performed in accordance with the work practice standards in §14.8.

(4) The information distribution requirements prior to Lead Hazard Control activity of §14.10 have been performed.

(5) The recordkeeping requirements of §14.12 are met

(6) A log book with consecutively numbered pages is maintained at each job site which contains the names, license numbers, and dates/times in and out for all Lead-Safe Remodeler/ Renovators gaining access to a containment area.

14.4(a)(7)

(7) The clearance inspection requirements (§14.9) have been reviewed with the property owner and the party responsible for ensuring that the clearance inspection is conducted has been documented on the Lead Hazard Control Start Work Notification (PBLC-9A).

(b) **Lead-Safe Remodeler/Renovator Responsibilities**. A licensed Lead-Safe Remodeler/ Renovator is responsible for ensuring compliance with §14.8(b) at all lead hazard control activity to which they are assigned. A licensed Lead-Safe Remodeler/Renovator shall:

(1) Perform, or direct unlicensed workers who perform, all of the tasks described in §14.8(b).

(2) Provide training to unlicensed workers on the §14.8(b) work practices they will be using in performing their assigned tasks.

(3) Be physically present on the job site at all times that lead hazard control activity is being performed.

(4) Ensure that the Lead-Safe Remodeler/Renovator license is either worn or prominently posted at the project site whenever the licensed individual is performing lead hazard control activity.

(5) Ensure that unlicensed workers trained pursuant to §14.4(b)(2) and all other persons who enter a containment area print and sign their names in the access log book documenting the date and time entering and leaving the containment area.

(6) Regularly direct work being performed by unlicensed workers trained pursuant to §14.4 (b)(2) to ensure that the work practices are being followed, including maintaining the integrity of the containment barriers and ensuring that dust or debris does not spread beyond the work area.

(7) Prepare the records required by §14.12(b)(7).

14.5 **Paint Stabilization.** Paint stabilization shall include the application of a new protective coating or paint. The surface substrate shall be dry and protected from future moisture damage before applying a new protective coating or paint. All protective coatings and paints shall be applied in accordance with the manufacturer's recommendations.

(a) Stabilization of intact, factory applied prime coatings on metal surfaces are not required. Finish coatings on such surfaces shall require stabilization if those coatings contain lead-based paint.

(b) Any physical defect in the substrate of a painted surface or component that is causing deterioration of the surface or component shall be repaired before treating the surface or component. Examples of defective substrate conditions include dry-rot, rust, moisture-related defects, crumbling plaster, and missing siding or other components that are not securely fastened.

(c) Before applying new paint, all loose paint and other loose material shall be removed from the surface to be treated. Acceptable methods for paint removal/surface preparation include:

(1) Wet hand scraping, with or without the use of a heat gun; or

(2) Dry hand scraping of interior surfaces, with or without the use of a heat gun; or

(3) Wet sanding; or

(4) “Feathering” of interior surfaces; or

(5) Utilization of non-flammable chemical strippers which do not contain methylene chloride; or

(6) Utilization of heat guns or any other device that do not exceed a temperature of 1100 ºF

(7) Any other methods approved in writing by the Department.

14.6

14.6 **<u>Friction and Impact Surfaces</u>.** Lead hazard control for impact or friction surfaces shall be sufficient to protect lead-based paint from impact or abrasion.

(a) Treatment of friction surfaces is required only if :

(1) Lead-based paint is known or assumed to be present; and

(2) There is evidence that the paint surface is subject to abrasion; and

(3) Lead dust levels on the nearest horizontal surface (e.g., the window sill, window trough, or floor) underneath the friction surface are equal to or greater than the standards specified in §6.0.

(b) Treatments for friction surfaces shall eliminate friction points or treat the friction surface so that paint is not subject to abrasion. Paint on stair treads and floors shall be protected with a durable cover or coating that will prevent abrasion of the painted surfaces.

(1) Examples of acceptable treatments include rehanging and/or planing doors so that the door does not rub against the door frame, and installing window channel guides that reduce or eliminate abrasion of painted surfaces.

(2) Examples of acceptable materials for stair treads and floors include carpeting, tile, and sheet flooring.

(c) Treatment of impact surfaces is required only if :

(1) Lead-based paint is known or assumed to be present; and

(2) Paint on an impact surface is damaged, abraded, rubbed, impacted or otherwise deteriorated; and

(3) The damaged paint is caused by impact from a related building component (e.g., a door knob that knocks into a wall, or a door that knocks against its door frame).

(d) Treatments for impact surfaces shall protect the paint from impact.

(1) Examples of acceptable treatments include eliminating impact with the paint surface, such as a door stop to prevent a door from striking a wall or baseboard.

14.7 **<u>Lead in Dust</u>.**

(a) Dust control shall involve a thorough cleaning of all horizontal surfaces, such as interior window sills, window troughs, floors, and stairs, but excluding ceilings. All horizontal surfaces, such as floors, stairs, window sills and window troughs, that are rough, pitted, or porous shall be covered with a smooth, cleanable covering or coating, such as metal coil stock, plastic, polyurethane, or linoleum.

(b) Surfaces covered by a rug or carpeting shall be cleaned as follows:

(1) An attached carpet located in an area of the dwelling unit with dust-lead hazards on the floor shall be thoroughly vacuumed with a HEPA vacuum or wet vacuum if it is not to be removed.

(2) Protective measures shall be used to prevent the spread of dust during removal of a rug, carpet or padding from the dwelling. For example, it shall be misted to reduce dust generation during removal. The item(s) being removed shall be wrapped or otherwise sealed before removal from the worksite

14.7(b)(3)

(3) An unattached rug or an attached carpet that is to be removed, and padding associated with such rug or carpet, located in an area of the dwelling unit with dust-lead hazards on the floor, shall be thoroughly vacuumed with a HEPA vacuum or wet vacuum.

(c) The floor surface under a rug or carpeting shall be cleaned where feasible, including upon removal of the rug or carpeting, with a HEPA vacuum or wet vacuum.

14.8 <u>Occupant Protection and Work Practice Standards</u>.

(a) **<u>Occupant Protection</u>.**

(1) The owner/manager of a dwelling shall make all reasonable efforts to ensure that occupants are not present during lead hazard control activity.

(2) The dwelling unit and the worksite shall be secured against unauthorized entry, and occupants' belongings protected from contamination by dust-lead hazards and debris during lead hazard control activity.

(b) **<u>Work Practice Standards</u>.**

(1) Before beginning any lead hazard control activity, the Lead Hazard Control Firm shall isolate the work area so that no dust or debris leaves the work area while the lead hazard control activity is being performed.

(i) The Lead Hazard Control Firm shall maintain the integrity of the containment by ensuring that any plastic or other impermeable materials are not torn or displaced, and taking any other steps necessary to ensure that no dust or debris leaves the work area while the lead hazard control activity is being performed and

(ii) The Lead Hazard Control Firm shall also ensure that containment is installed in such a manner that it does not interfere with occupant and worker egress in an emergency.

(2) <u>Warning Signs</u>.

(i) The Lead Hazard Control Firm shall post printed warning signs at all entrances to the worksite area;

(ii) The signs shall be posted before beginning the lead hazard control activity and shall remain in place and readable until the lead hazard control activity and the lead hazard control clearance inspection have been completed

(iii) The signs shall contain text consistent with OSHA requirements for posting warning signs (29 CFR 1926.62(m)), except that it shall be posted irrespective of employees' lead exposure and, to the extent practicable, provided in the occupants' primary language;

(iv) The Lead Hazard Control Firm shall only remove the signs when the lead hazard control clearance testing is in compliance with the dust standard contained in §6.2(a).

(3) <u>Interior Lead Hazard Control Activity</u>. The Lead Hazard Control Firm shall:

(i) Remove all objects from the work area, including furniture, rugs, and window coverings, or cover them with plastic sheeting or other impermeable material with all seams and edges taped or otherwise sealed;

(ii) Close and cover all ducts opening in the work area with taped-down plastic sheeting or other impermeable material;

14.8(b)(3)(iii)

(iii) Close windows and doors in the work area;

(iv) Cover doors with plastic sheeting or other impermeable material. Doors used as an entrance to the work area shall be covered with plastic sheeting or other impermeable material in a manner that allows workers to pass through while confining dust and debris to the work area;

(v) Cover the floor surface, including installed carpet, with taped-down plastic sheeting or other impermeable material in the work area six (6) feet beyond the perimeter of surfaces undergoing lead hazard control activity or a sufficient distance to contain the dust, whichever is greater; and

(vi) Use precautions to ensure that all personnel, tools, and other items, including the exteriors of containers of waste, are free of dust and debris before leaving the work area

(4) Exterior Lead Hazard Control Activity. The Lead Hazard Control Firm shall, as a minimum:

(i) Comply with the notification requirements specified in §24.3 of *Air Pollution Control Regulation No. 24 - Removal of Lead-Based Paint From Exterior Surfaces* promulgated by the RI Department of Environmental Management (RIDEM); and

(ii) Comply with all other applicable requirements specified in RIDEM *Air Pollution Control Regulation No. 24 - Removal of Lead-Based Paint From Exterior Surfaces.*

(5) Waste Handling.

(i) Waste from lead hazard control activity shall be contained to prevent releases of dust and debris before the waste is removed from the work area for storage or disposal. If a chute is used to remove waste from the work area, it must be covered.

(ii) At the conclusion of each work day and at the conclusion of the lead hazard control activity, waste that has been collected from the lead hazard control activity shall be stored under containment, in an enclosure, or behind a barrier that prevents release of dust and debris out of the work area and prevents access to dust and debris.

(iii) The Lead Hazard Control Firm shall transport waste from lead hazard control activity, in accordance with all applicable RIDEM regulations.

(6) Cleaning the Work Area. After the lead hazard control activity has been completed, the Lead Hazard Control Firm shall clean the work area until no dust, debris or residue remains.

(i) Interior and Exterior Lead Hazard Control Activity. The Lead Hazard Control Firm shall:

(a) Collect all paint chips and debris and, without dispersing any of it, seal this material in a heavy-duty bag.

(b) Remove the protective sheeting. Mist the sheeting before folding it, fold the dirty side inward, and either tape shut to seal or seal in heavy-duty bags. Sheeting used to isolate contaminated rooms from non-contaminated rooms must remain in place until after the cleaning and removal of other sheeting. Dispose of the sheeting as waste.

(ii) Additional Cleaning for Interior Lead Hazard Control Activity. The Lead Hazard Control Firm shall clean all objects and surfaces in the work area and within six (6) feet of the work area in the following manner, cleaning from higher to lower:

14.8(b)(6)(ii)(a)

(a) *Walls*. Clean walls starting at the ceiling and working down to the floor by either vacuuming with a HEPA vacuum or wiping with a damp cloth;

(b) *Remaining Surfaces*. Thoroughly vacuum all remaining surfaces and objects in the work area, including furniture and fixtures, with a HEPA vacuum. The HEPA vacuum shall be equipped with a beater bar when vacuuming carpets and rugs;

(c) Wipe all remaining surfaces and objects in the work area, except for carpeted or upholstered surfaces, with a damp cloth. Mop uncarpeted floors thoroughly, using a mopping method that keeps the wash water separate from the rinse water, such as the 2-bucket mopping method, or using a wet mopping system.

(iii) Upon completion of the cleaning required pursuant to §14.8(b)(6)(ii). the Lead Hazard Control Firm shall notify the owner or the Environmental Lead Inspector/Inspector Technician that the lead hazard control activity has been completed and the area is ready for the Lead Hazard Control Clearance Inspection required by §14.9.

(iv) Additional Requirements for Exterior Lead Hazard Control Activity. A Lead-Safe Remodeler/Renovator shall perform a visual inspection to determine whether the work area is ready for clearance in accordance with RIDEM *Air Pollution Control Regulation No. 24 - Removal of Lead-Based Paint From Exterior Surfaces*;

(7) Special Requirements Pertaining to Emergency Renovation Operations.

(i) The information distribution requirements in §14.10 do not apply to emergency renovation operations;

(ii) Emergency renovation operations are also exempt from the warning sign, containment, waste handling, training and certification requirements in §§14.8(b) and 20.0, to the extent necessary to respond to the emergency;

(iii) Emergency renovation operations are not exempt from:

(a) The cleaning requirements of §14.8(b)(6), which must be performed by a licensed Lead-Safe Remodeler/Renovator or individual(s) trained in accordance with §14.4(b)(2);

(b) The lead hazard control clearance inspection requirements of §14.9; and

(c) The recordkeeping requirements of §§14.12(b)(6) and (b)(7).

14.9 Lead Hazard Control Clearance Inspection[3].

(a) **Inspection Required.**

(1) The Lead Hazard Control Firm shall inform the owner of property where lead hazard control activity is performed of their responsibility to arrange for an Environmental Lead Inspector or Environmental Lead Inspector Technician to conduct a clearance inspection in accordance with this Section.

(i) An owner may delegate their responsibility for obtaining the clearance inspection to the Lead Hazard Control Firm.

[3] **Compiler's Note:** The subparagraph numbering used for §14.9 in the August 2007 edition of these Regulations may have caused confusion regarding the required scope of the inspection. This has been corrected.

14.9(a)(1)(ii)

(ii) If the responsibility for obtaining the clearance inspection has been delegated to the Lead Hazard Control Firm pursuant to §14.9(a)(1)(i), the Lead Hazard Control Firm shall:

(a) Have the owner sign the delegation block on the Lead Hazard Control Owner/ Occupant PRE-Notification (Form PBLC-29); and

(b) Document this delegation on the Lead Hazard Control Start Work Notification (Form PBLC-9A) in accordance with §14.11(a); and

(c) Arrange for an Environmental Lead Inspector or Environmental Lead Inspector Technician to conduct a clearance inspection in accordance with this Section.

(2) An Environmental Lead Assessor may conduct the clearance inspection for a property under the jurisdiction of his/her agency.

(b) **Scope of Inspection.** Clearance examinations shall include a visual assessment, dust sampling, submission of samples for analysis for lead, interpretation of sampling results, and preparation of a report.

(1) A visual inspection shall be conducted to determine that:

(i) All painted surfaces containing lead in excess of the acceptable levels specified in §6.1 are intact or fully covered with an encapsulant, wall covering, or other permanent covering; and

(ii) No visible dust or paint chips remain

(2) Interior dust samples shall be collected in accordance with the criteria and procedures specified in §§4.2(e)(7) and/or 4.2(e)(8), but only after the lead hazard control area(s) has passed a visual inspection of the interior, as specified in §14.9(a)(1)(i)-(ii); and

(3) Additional sampling shall be conducted whenever deemed necessary by the Environmental Lead Inspector, Environmental Lead Inspector Technician, or Environmental Lead Assessor to ensure that the regulated facility is in compliance with the standards specified in §6.0.

(c) **Evaluation of Clearance Inspection Results.** If the visual clearance inspection indicates that conditions are not in accordance with the requirements of §14.9(a)(1) or if any dust sample collected pursuant to §14.9(a)(2) exceeds the lead-safe standards specified in §6.2, the Environmental Lead Inspector, Environmental Lead Inspector Technician or Environmental Lead Assessor shall notify the Lead Hazard Control Firm and the owner that they have failed the clearance inspection and that additional lead hazard control activity and subsequent clearance inspection are required to obtain acceptable clearance status.

(d) **Acceptable Clearance Status.**

(1) If the results of the clearance inspection indicate that conditions are in accordance with the requirements in §14.9(a) and the lead-safe standards in §6.2, the Environmental Inspector, Environmental Lead Inspector Technician who conducted the inspection shall complete the Certification of Acceptable Clearance Status (Form PBLC-27) and sign it. An Environmental Lead Inspector or Environmental Lead Inspector Technician or Environmental Lead Assessor shall not certify a regulated facility as having an acceptable clearance status unless the requirements of §14.9(a) and the lead-safe standards in §6.2 have been fulfilled.

14.9(d)(2)

(2) Possession of a Certification of Acceptable Clearance Status is not sufficient to demonstrate that the dwelling or dwelling unit identified on the Certification is Lead-Safe as defined by these Regulations.

(e) **Reporting Requirements.** An Environmental Lead Inspector, Environmental Lead Inspector Technician or Environmental Lead Assessor who has conducted a clearance inspection pursuant to this Section shall submit a signed copy of the Certification of Acceptable Clearance Status (Form PBLC-27) to the owner(s) of the property where the lead hazard control activity has been performed, the Lead Hazard Control Firm performing lead hazard control activity and the Department no later than five (5) business days subsequent to the date of the inspection or no later than five (5) business days subsequent to the receipt of all laboratory results provided that samples are submitted for laboratory analysis within three (3) business days of being collected.

(f) **Conflict of Interest.** An Environmental Lead Inspector, Environmental Lead Inspector Technician, Environmental Lead Assessor and their employer(s) shall not have any interest, financial or otherwise, direct or indirect, or engage in any business or employment, with regard to any Lead Hazard Control Firm who performed the lead hazard control activity at a regulated facility which is the subject of a clearance inspection conducted by the Environmental Lead Inspector Technician, Environmental Lead Inspector or Environmental Lead Assessor.

14.10 Information Distribution Requirements Prior To Lead Hazard Control Activity.

(a) **Applicability.** This requirement is applicable to all lead hazard control activity performed for compensation except minor repair and maintenance activities (including minor electrical work and plumbing) that disrupt six square feet (6 ft^2) or less of interior painted surface per room or twenty square feet (20 ft^2) or less of exterior painted surface, and emergency renovation operations.

(b) **Lead Hazard Control Activity in Dwelling Units.** No more than sixty (60) days before beginning lead hazard control activity in any residential dwelling unit, the Lead Hazard Control Firm performing the lead hazard control activity shall:

(1) Provide the owner of the unit with the Rhode Island edition of the pamphlet *Renovate Right: Important Lead Hazard Information for Families, Child Care Providers and Schools* and comply with one of the following:

(i) Obtain, from the owner, a written acknowledgment on Form PBLC-29 (Lead Hazard Control Owner/Occupant PRE-Notification) that the owner has received the pamphlet and that the owner has either retained the responsibility for obtaining the clearance inspection required by §14.9 or has delegated that responsibility to the Lead Hazard Control Firm.

(ii) Obtain a certificate of mailing at least seven (7) days prior to the lead hazard control activity.

(2) In addition to the requirements in §14.10(a)(1), if the owner does not occupy the dwelling unit, provide an adult occupant of the unit with the pamphlet[4], and comply with one of the following:

[4] For the purposes of §14, any reference to "pamphlet" shall be interpreted as meaning the pamphlet required under §14.10(b)(1).

14.10(b)(2)(i)

(i) Obtain, from the adult occupant, a written acknowledgment on Form PBLC-29 (Lead Hazard Control Owner/Occupant PRE-Notification) that the occupant has received the pamphlet; or certify in writing that a pamphlet has been delivered to the dwelling and that the Lead Hazard Control Firm performing the lead hazard control activity has been unsuccessful in obtaining a written acknowledgment from an adult occupant. Such certification shall include the address of the unit undergoing lead hazard control activity, the date and method of delivery of the pamphlet, names of the persons delivering the pamphlet, reason for lack of acknowledgment (e.g., occupant refuses to sign, no adult occupant available), the signature of a representative of the Lead Hazard Control Firm, and the date of signature.

(ii) Obtain a certificate of mailing at least seven (7) days prior to the lead hazard control activity.

(c) **Lead Hazard Control Activity in Common Areas.** No more than sixty (60) days before beginning lead hazard control activity in common areas of multi-family housing, the Lead Hazard Control Firm performing the lead hazard control activity shall:

(1) Provide the owner with the pamphlet, and comply with one of the following:

(i) Obtain, from the owner, a written acknowledgment that the owner has received the pamphlet.

(ii) Obtain a certificate of mailing at least seven (7) days prior to the lead hazard control activity.

(2) Comply with one of the following:

(i) Notify in writing, or ensure written notification of, each affected unit and make the pamphlet available upon request prior to the start of lead hazard control activity. Such notification shall be accomplished by distributing written notice to each affected unit. The notice shall describe the general nature and locations of the planned lead hazard control activity; the expected starting and ending dates; and a statement of how the occupant can obtain the pamphlet, at no charge, from the Lead Hazard Control Firm performing the lead hazard control activity.

(ii) While the lead hazard control activity is ongoing, post informational signs describing the general nature and locations of the lead hazard control activity and the anticipated completion date. These signs shall be posted in areas where they are likely to be seen by the occupants of all of the affected units. The signs shall be accompanied by a posted copy of the pamphlet or information on how interested occupants can review a copy of the pamphlet or obtain a copy from the Lead Hazard Control Firm performing the lead hazard control activity at no cost to occupants.

(3) Prepare, sign, and date a statement describing the steps performed to notify all occupants of the intended lead hazard control activity activities and to provide the pamphlet.

(4) If the scope, locations, or expected starting and ending dates of the planned lead hazard control activity change after the initial notification, the Lead Hazard Control Firm performing the lead hazard control activity shall provide further written notification to the owners and occupants providing revised information on the ongoing or planned activities. This subsequent notification shall be provided before the Lead Hazard Control Firm initiates work beyond that which was described in the original notice.

14.10(d)

(d) **<u>Lead Hazard Control Activity in Child Care Facilities</u>.** No more than sixty (60) days before beginning lead hazard control activity in a child care facility, the Lead Hazard Control Firm performing the lead hazard control activity shall:

(1) Provide the owner of the building with the pamphlet, and comply with one of the following:

(i) Obtain, from the owner, a written acknowledgment that the owner has received the pamphlet.

(ii) Obtain a certificate of mailing at least seven (7) days prior to the lead hazard control activity.

(2) In addition to the requirements in §14.10(d)(1), if the child care facility is not the owner of the building, provide an adult representative of the child care facility with the pamphlet, and comply with one of the following:

(i) Obtain, from the adult representative, a written acknowledgment that the adult representative has received the pamphlet; or certify in writing that a pamphlet has been delivered to the facility and that the Lead Hazard Control Firm performing the lead hazard control activity has been unsuccessful in obtaining a written acknowledgment from an adult representative. Such certification must include the address of the child care facility undergoing lead hazard control activity, the date and method of delivery of the pamphlet, names of the persons delivering the pamphlet, reason for lack of acknowledgment (e.g., representative refuses to sign), the signature of a representative of the Lead Hazard Control Firm, and the date of signature.

(ii) Obtain a certificate of mailing at least seven (7) days prior to the lead hazard control activity.

(3) Provide the parents and guardians of children using the child care facility with the pamphlet and information describing the general nature and locations of the lead hazard control activity and the anticipated completion date by complying with one of the following:

(i) Mail or hand-deliver the pamphlet and the lead hazard control activity information to each parent or guardian of a child using the child care facility.

(ii) While the lead hazard control activity is ongoing, post informational signs describing the general nature and locations of the lead hazard control activity and the anticipated completion date. These signs shall be posted in areas where they can be seen by the parents or guardians of the children frequenting the child care facility. The signs shall be accompanied by a posted copy of the pamphlet or information on how interested parents or guardians can review a copy of the pamphlet or obtain a copy from the Lead Hazard Control Firm at no cost to the parents or guardians.

(4) The Lead Hazard Control Firm shall prepare, sign, and date a statement describing the steps performed to notify all parents and guardians of the intended lead hazard control activity and to provide the pamphlet.

(e) **<u>Written Acknowledgment</u>.** The written acknowledgments required in §§14.10 (b(1)(i), (b)(2)(i), (c)(1)(i) and (d)(1)(i) of these Regulations shall:

(1) Include a statement recording the owner or occupant's name and acknowledging receipt of the pamphlet prior to the start of lead hazard control activity, the address of the unit undergoing lead hazard control activity, the signature of the owner or occupant as applicable, and the date of signature.

14.10(e)(2)

(2) Be either a separate sheet or part of any written contract or service agreement for the lead hazard control activity.

(3) Be written in the same language as the text of the contract or agreement for the lead hazard control activity or, in the case of non-owner occupied dwelling units, in the same language as the lease or rental agreement or the pamphlet.

14.11 Start Work Notification.

(a) **General Requirement.** The Lead Hazard Control Firm shall submit a Lead Hazard Control Start Work Notification (Form PBLC-9A) to the Department at least three (3) business days before beginning any interior lead hazard control activity. Notification shall include, at a minimum, the name, address and phone number of the Lead Hazard Control Firm, the address and apartment number, if any, where lead hazard control activity will be performed, a description of the planned lead hazard control activity to be performed, the scheduled dates for starting and completing the lead hazard control project and documentation of responsibility for obtaining the clearance inspection required by §14.9 .

(b) **Submission of Notice.** The Lead Hazard Control Start Work Notification may be submitted to the Department by U.S. Postal Service, facsimile (FAX), electronic submission, commercial delivery service or hand delivery. The Lead Hazard Control Firm is responsible for ensuring that the Lead Hazard Control Start Work Notification has been received by the Department at least three (3) business days before beginning any interior lead hazard control activity.

(c) The Lead Hazard Control Firm shall not begin lead hazard control activity prior to the start date indicated in the Lead Hazard Control Start Work Notification submitted to the Department and shall submit to the Department a revised Lead Hazard Control Start Work Notification if any of the required information changes or if lead hazard control activity does not end within five (5) days of the completion date indicated in the Lead Hazard Control Start Work Notification.

(d) If lead hazard control activity does not begin within five (5) days of the start date indicated in the Lead Hazard Control Start Work Notification submitted to the Department pursuant to §14.11(a), the Lead Hazard Control Start Work Notification shall be considered null and void. The Lead Hazard Control Firm shall not begin lead hazard control activity until a new Lead Hazard Control Start Work Notification has been submitted to the Department pursuant to §14.11(a).

14.12 Recordkeeping and Reporting Requirements.

(a) **General Requirement.** A Lead Hazard Control Firm performing lead hazard control activity shall retain and, if requested, make available to the Department all records necessary to demonstrate compliance with these Regulations for a period of three (3) years following completion of the lead hazard control activity. This three (3) year retention requirement does not supersede longer obligations required by other provisions for retaining the same documentation, including any applicable Federal, State or Tribal laws or regulations.

(b) Records that shall be retained pursuant to §14.12(a) shall include (where applicable):

(1) Reports certifying that a determination had been made by an Environmental Lead Inspector, Environmental Lead Inspector Technician or Environmental Lead Assessors that components affected by the activity are free of paint or other surface coatings that contain lead equal to or in excess of the lead-free standard established in §6.1 of these Regulations.

(2) Signed and dated acknowledgments of receipt as described in §§14.10(b)(1)(i), (b)(2)(i), (c)(1)(i), (d)(1)(i) and (d)(2)(i) of these Regulations.

14.12(b)(3)

(3) Certifications of attempted delivery as described in §§14.10(b)(2)(i) and (d)(2)(i) of these Regulations.

(4) Certificates of mailing as described in §§14.10(b)(1)(ii), (b)(2)(ii), (c)(1)(ii), (d)(1)(ii), and (d)(2)(ii) of these Regulations.

(5) Records of notification activities performed regarding common area lead hazard control activity, as described in §§14.10(c)(3) and (c)(4), and lead hazard control activity in child care facilities, as described in §14.10 (d)(3) of these Regulations.

(6) Documentation of compliance with the requirements of §§14.8 and 14.9 of these Regulations, including:

(i) A licensed Lead-Safe Remodeler/Renovator was assigned to the project;

(ii) The licensed Lead-Safe Remodeler/Renovator provided on-the-job training for all unlicensed workers used on the project;

(iii) The licensed Lead-Safe Remodeler/Renovator performed or directed unlicensed workers who performed all of the tasks described in §14.8;

(iv) A signed copy of the Certification of Lead-Safe Status (Form PBLC-15) generated pursuant to §14.13(a).

(v) A signed copy of the Certification of Acceptable Clearance Status (Form PBLC-27), generated pursuant to §14.9(d), for each area where lead hazard control activity was performed; or

(7) If the Lead Hazard Control Firm was unable to comply with all of the requirements of these Regulations because the lead hazard control activity was considered to be an emergency renovation operation, as defined in §1.0 of these Regulations, the Lead Hazard Control Firm shall document the nature of the emergency and the provisions of these Regulations that were not followed. This documentation shall include a copy of the licensed Lead-Safe Remodeler/Renovator's training certificate, and a certification by the licensed Lead-Safe Remodeler/Renovator assigned to the project that:

(i) Training was provided to unlicensed workers (topics shall be identified for each unlicensed worker).

(ii) Warning signs were posted at the entrances to the work area.

(iii) The work area was contained by:

(a) Removing or covering all objects in the work area (interiors).

(b) Closing and covering all HVAC ducts in the work area (interiors).

(c) Closing all windows in the work area (interiors) or closing all windows in and within twenty (20) feet of the work area (exteriors).

(d) Closing and sealing all doors in the work area (interiors) or closing and sealing all doors in and within twenty (20) feet of the work area (exteriors).

(e) Covering doors in the work area that were being used to allow passage but prevent spread of dust.

14.12(f)

(f) Covering the floor surface, including installed carpet, with taped-down plastic sheeting or other impermeable material in the work area six (6) feet beyond the perimeter of surfaces undergoing renovation or a sufficient distance to contain the dust, whichever is greater (interiors) or covering the ground with plastic sheeting or other disposable impermeable material anchored to the building extending ten (10) feet beyond the perimeter of surfaces undergoing renovation or a sufficient distance to collect falling paint debris, whichever is greater, unless the property line prevents ten (10) feet of such ground covering, weighted down by heavy objects (exteriors).

(g) Installing (if necessary) vertical containment to prevent migration of dust and debris to adjacent property (exteriors).

(iv) Waste was contained on-site and while being transported off-site.

(v) The work area was properly cleaned after the renovation by:

(a) Picking up all chips and debris, misting protective sheeting, folding it dirty side inward, and taping it for removal.

(b) Cleaning the work area surfaces and objects using a HEPA vacuum and/or wet cloths or mops (interiors).

(vi) A signed copy of the Certification of Acceptable Clearance Status (Form PBLC-27), generated pursuant to §14.9(d), was obtained for each area where lead hazard control activity was performed.

14.13 Special Requirements for Issuing a Certification of Lead-Safe Status in Conjunction with Lead Hazard Control Activity.

(a) An owner who requires a Certification of Lead-Safe Status (Form PBLC-15). in lieu of a Certification of Acceptable Clearance Status (Form PBLC-27), to demonstrate that their regulated facility is in compliance with these Regulations after lead hazard control activity shall:

(1) Arrange for an Environmental Lead Inspector or Environmental Lead Inspector Technician to conduct a Lead Hazard Control Clearance Inspection in accordance with §14.9; and

(2) If applicable. arrange for an Environmental Lead Inspector or Environmental Lead Inspector Technician to conduct a Clearance Inspection in accordance with §4.4; and

(3) If a comprehensive environmental lead inspection (CELI) was not conducted prior to the lead hazard control activity, arrange for an Environmental Lead Inspector to conduct the remaining elements of a CELI in accordance with §4.2 of these Regulations.

(b) An Environmental Lead Inspector/Inspector Technician shall review the results for inspections conducted pursuant to §14.13(a).

(1) If the results of this review indicate that conditions are in accordance with the requirements in §4.4 (if applicable), §14.9 and the lead-safe standards in §6.0, the Environmental Inspector/Inspector Technician who conducted the review shall complete the Certification of Lead-Safe Status (Form PBLC-15) and sign it. If any of the required inspection elements were conducted by an Environmental Lead Inspector Technician, the form shall also be signed by an Environmental Lead Inspector. An Environmental Lead Inspector/Inspector Technician shall not certify a regulated facility as lead-safe unless the requirements of §4.4 (if applicable), §14.9 and the lead-safe standards in §6.0 have been fulfilled.

14.13(b)(2)

(2) Notwithstanding the requirements of §14.13(b)(1), an Environmental Lead Inspector Technician who conducted the inspection required by §4.4 and/or §14.9 may independently issue a Certification of Lead-Safe Status (Form PBLC-15) for the regulated facility if he/she meets all of the following criteria:

(i) Completion of at least twenty (20) Clearance Inspections under the supervision of an Environmental Lead Inspector; and

(ii) Certification as an Environmental Lead Inspector Technician for at least twelve (12) months.

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PART VI LICENSING AND CERTIFICATION REQUIREMENTS

SECTION 15.0 LICENSING REQUIREMENTS TO CONDUCT LEAD HAZARD REDUCTION WORK

15.1 General Requirements.

(a) Unless otherwise authorized by these Regulations, no person shall conduct or offer to conduct interior lead hazard reduction activities at a regulated facility unless the person is licensed to do so by the Department under the provisions of this Section. Persons licensed pursuant to this Section shall only conduct lead hazard reduction work under the authority of a Lead Hazard Reduction Contractor.

(b) No person shall hire another individual or entity to perform interior lead hazard reduction work at a regulated facility unless the individual or entity is licensed to do so by the Department under the provisions of this Section.

(c) No person or entity shall advertise to provide interior lead hazard reduction services in regulated facilities unless the person or entity is licensed to do so by the Department under the provisions of this Section. Any person or entity licensed by the Department to conduct lead hazard reduction work shall include the lead hazard reduction license number issued by the Department in all advertisements.

(d) Lead Hazard Reduction Workers and Lead Hazard Reduction Workers-in-Training may only perform lead hazard reduction activities under the supervision of a Lead Hazard Reduction Contractor Agent or Lead Hazard Reduction Site Supervisor.

(e) **Expiration of Training.** Completion certificates for all initial and annual review training courses approved in accordance with §18.7 shall expire one (1) year from the date that training was completed.

(f) **Notification of Changes.** Any person licensed pursuant to this Section shall notify the Department in writing before making any change which would render the information[5] contained in their application for licensure no longer accurate.

15.2 License Application.

(a) **General Requirements.**

(1) Applicants for Lead Hazard Reduction Contractor, Lead Hazard Reduction Site Supervisor, Lead Hazard Reduction Worker, or Lead Hazard Reduction Worker-in-Training shall submit a completed application to the Department on forms provided by the Department. The application shall include all the required information on the form and the appropriate fee required by §15.8.

(2) Each application for a Lead Hazard Reduction Contractor License shall be signed by the applicant or a person duly authorized to act on behalf of the applicant. Each application for a Lead Hazard Reduction Site Supervisor, Lead Hazard Reduction Worker or Lead Hazard Reduction Worker-in-Training License shall be signed by the applicant. All applications shall include a certification by the applicant that his/her license or other authorization to perform lead hazard reduction work has not been suspended or revoked by any other jurisdiction and that no enforcement actions by any local, county, State or Federal agency are pending against the applicant.

[5] For example, name, mailing address or phone number.

15.2(b))

(b) **Lead Hazard Reduction Contractor Agent.** In addition to the requirements contained in §15.2(a), applicants for a Lead Hazard Reduction Contractor License shall also designate an individual as the Lead Hazard Reduction Contractor Agent. The following documentation shall be submitted for the person so designated:

(1) Successful completion of an initial training course, approved in accordance with §18.7(b), within the twelve (12) month period prior to submission of the initial application; and

(2) Successful completion of both written and practicum examinations required by §15.7; and

(3) High school diploma/GED, or at least three (3) years experience in lead hazard reduction, asbestos abatement, and/or the building trades; and

(4) Valid certificate of registration as a "Contractor" issued by the Rhode Island Contractors' Registration Board pursuant to Title 5, Chapter 65 of the General Laws of Rhode Island, 1956, as amended, and the Administrative Regulations & Construction Standards of the Rhode Island Contractors' Registration Board; and

(5) Compliance with the medical monitoring requirements specified in §13.13(c).

(c) **Lead Hazard Reduction Site Supervisors.** In addition to the requirements contained in §15.2(a), applicants for a Lead Hazard Reduction Site Supervisor License shall also submit documentation of:

(1) Successful completion of an initial training course, approved in accordance with §18.7(b), within the twelve (12) month period prior to submission of the initial application; and

(2) Successful completion of both written and practicum examinations required by §15.7; and

(3) Compliance with the medical monitoring requirements specified in §13.13(c).

(d) **Lead Hazard Reduction Workers.** In addition to the requirements contained in §15.2(a), applicants for a Lead Hazard Reduction Worker License shall also submit documentation of:

(1) Successful completion of an initial training course, approved in accordance with §18.7(a), within the twelve (12) month period prior to submission of the initial application; and

(2) Successful completion of both written and practicum examinations required by §15.7; and

(3) Compliance with the medical monitoring requirements specified in §13.13(c).

(e) **Lead Hazard Reduction Workers-in-Training.** In addition to the requirements contained in §15.2(a), applicants for a Lead Hazard Reduction Worker-in-Training License shall also submit documentation of successful completion of a training course, approved in accordance with §18.7(a), within the twelve (12) month period prior to submission of the initial application, and compliance with the medical monitoring requirements specified in §13.13(c).

(f) The Department may at any time after the filing of the original application require further information in order to enable the Department to determine whether the application meets the requirements of these Regulations.

(g) Any person possessing a valid Lead Hazard Reduction Contractor Agent License or Lead Hazard Reduction Site Supervisor License issued by the Department shall be considered to also possess a Lead Hazard Reduction Worker License for the purposes of these Regulations.

(h) **Lead Hazard Reduction Contractor.** In addition to the requirements contained in §§15.2(a) and (b), applicants for a Lead Hazard Reduction Contractor License shall also submit a copy of their respiratory protection plan, as required by 29 CFR 1910.134.

15.3

15.3 Issuance, Renewal and Replacement of Licenses.

(a) **Issuance of Licenses.** Pursuant to the provisions of §23-24.6-20(b)(1) of the Act, the Department shall grant a license to a Lead Hazard Reduction Contractor, Lead Hazard Reduction Site Supervisor, Lead Hazard Reduction Worker, or Lead Hazard Reduction Worker-in-Training who meets the licensure requirements set forth in these Regulations, and upon submission of the appropriate licensure fee specified in ~~§15.8~~ the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health*. Lead Hazard Reduction Contractor, Lead Hazard Reduction Site Supervisor, and Lead Hazard Reduction Worker licenses shall be issued for a period of twelve (12) months and shall expire on the last day of the month one year from the date of issue, unless sooner suspended or revoked. These licenses may be renewed annually in accordance with the provisions of §15.3(b) and upon payment of the licensure renewal fee specified in ~~§15.8~~. the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health.* The Lead Hazard Reduction Worker-in-Training license shall be issued and renewed in accordance with the requirements of §15.5.

(b) **Renewal of Licenses.**

(1) A Lead Hazard Reduction Contractor, Lead Hazard Reduction Site Supervisor, or Lead Hazard Reduction Worker may request a license renewal by submitting:

(i) An application in accordance with §15.2(a) without reference to any previously submitted material; and

(ii) Documentation of successful completion of the appropriate annual review course specified in §18.7 within the twelve month term of their current valid license; and

(iii) Documentation of compliance with the medical monitoring requirements specified in §13.13;

(iv) Payment of the appropriate fee specified in ~~§15.8~~ the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health*; and

(v) An updated respiratory protection plan (Lead Hazard Reduction Contractor only). This requirement shall not be applicable if the Lead Hazard Reduction Contractor has not made any changes in the respiratory protection plan submitted pursuant to §15.2(h) of these Regulations. The Department may, upon request, grant an extension of up to fourteen (14) days for submission of the respiratory protection plan.

(2) [**RESERVED**].

(3) [**RESERVED**].

(4) If a license issued pursuant to this Section has expired and a renewal application and appropriate fee are not received by the Department on or before the expiration date of the license, a late renewal fee as specified in ~~§15.8~~ the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health* must be submitted with a renewal application.

(5) Any Lead Hazard Reduction Contractor/Agent, Lead Hazard Reduction Site Supervisor, or Lead Hazard Reduction Worker who has failed to pay an administrative fine imposed by a final order of the Department shall submit payment of the administrative fine in full as a condition of license renewal.

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15.3(c)

(c) **Replacement of Lost or Damaged Licenses.**

(1) Application for replacement of a lost or damaged Lead Hazard Reduction Contractor License shall be made by the licensee or a person duly authorized to act on behalf of the licensee on forms provided by the Department and application for replacement of a lost or damaged Lead Hazard Reduction Contractor Agent License, Lead Hazard Reduction Site Supervisor License, Lead Hazard Reduction Worker License, or Lead Hazard Reduction Worker-in-Training License shall be made by the licensee on forms provided by the Department.

(2) All applications for replacement of a lost or damaged license shall be accompanied by the appropriate replacement fee specified in ~~§15.8~~. the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health.*

(d) **Reinstatement of Licenses.**

(1) An expired license may be reinstated within six (6) months after its expiration date provided that the application includes:

(i) Documentation of successful completion of the appropriate annual review course, specified in §18.7, within twelve (12) months of the date of the reinstatement application; and

(ii) The appropriate late renewal fee specified in ~~§15.8~~ the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health*; and

(iii) Submission of all other items required by §15.3(b).

(2) An expired license more than six (6) months beyond its expiration date is not eligible for reinstatement. A new initial application must be submitted in accordance with §15.2.

15.4 Special Requirements Pertaining to Lead Hazard Reduction Contractor Agents.

(a) A licensed Lead Hazard Reduction Contractor shall notify the Department, in writing, within three (3) business days whenever the designated Lead Hazard Reduction Contractor Agent ceases to be an officer or employee of the licensed entity. The Lead Hazard Reduction Contractor's license shall be deemed to be suspended until such time as another Lead Hazard Reduction Contractor Agent has been designated by the licensee and approved in writing by the Department.

(b) A licensed Lead Hazard Reduction Contractor may request a change of designated Lead Hazard Reduction Contractor Agent at any time. Application for designation of another Lead Hazard Reduction Contractor Agent shall be made by the licensee or a person duly authorized to act on behalf of the licensee, shall include all information required by §15.2(b) and shall be accompanied by the appropriate replacement fee specified in ~~§15.8~~. the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health.*

(c) A Lead Hazard Reduction Contractor Agent license shall expire on same day as the associated Lead Hazard Reduction Contractor license, unless sooner suspended or revoked. This license may be renewed annually by the associated Lead Hazard Reduction Contractor in accordance with the provisions of §15.3(b).

15.5 Special Requirements Pertaining to Lead Hazard Reduction Workers-in-Training.

(a) **Applicability and Scope.**

(1) A person who has successfully completed an approved initial worker training course, but who has not demonstrated proficiency by successful completion of both the written and practicum examinations required by these Regulations may apply for a Lead Hazard Reduction Worker-in-Training License.

15.5(a)(2)

(2) Except as otherwise specified in this Section, a Lead Hazard Reduction Worker-in-Training shall be considered a Lead Hazard Reduction Worker for the purposes of these Regulations.

(b) **Limitations of License.** A Lead Hazard Reduction Worker-in-Training License shall be for the purpose of receiving on-the-job training in lead hazard reduction techniques and shall be limited in the following manner**:**

(1) The initial period of licensure shall be for three (3) months;

(2) At the conclusion of the initial three (3) month period, the Lead Hazard Reduction Worker-in-Training shall:

(i) Pass the written and practicum examinations required by §15.7; or

(ii) Reapply for an extension of up to three (3) months, not to exceed six (6) months from the date that the initial Lead Hazard Reduction Worker-in-Training license was obtained; or

(iii) Discontinue lead hazard reduction activities.

(c) **Expiration of License.** If a Lead Hazard Reduction Worker-in-Training fails to pass the written and practicum examinations required by §15.7 within six (6) months of obtaining the initial Lead Hazard Reduction Worker-in-Training license, the individual shall not be eligible to reapply for a Lead Hazard Reduction Worker-in-Training license, in accordance with the requirements of §15.2, for at least twelve (12) months following the date of obtaining the initial license.

15.6 Special Requirements Pertaining to Licensing of Lead Hazard Reduction Workers and Site Supervisors By Reciprocity.

(a) **Applicability and Scope.** Any person who has a valid equivalent lead hazard reduction worker or lead hazard reduction site supervisor license from another State or Indian Tribe may apply to the Department to obtain a Lead Hazard Reduction Worker or Lead Hazard Reduction Site Supervisor License pursuant to this Section. The Department shall determine, in its discretion, whether the license issued by another State or Indian Tribe is equivalent to licenses issued by the Department.

(b) **License Application.** In addition to the requirements contained in §15.2(a), applicants for a Lead Hazard Reduction Worker or Lead Hazard Reduction Site Supervisor License by reciprocity shall also submit evidence of:

(1) A currently valid license from another State or Indian Tribe that is at least equivalent to a Lead Hazard Reduction Worker or Lead Hazard Reduction Site Supervisor, as appropriate; and

(2) Successful completion of an initial training course, reviewed and approved by the State or Indian Tribe issuing the license, which meets or exceeds the contact time and subject material (except for Rhode Island regulations) specified in §18.7(a) [for Lead Hazard Reduction Workers] or §18.7(b) [for Lead Hazard Reduction Site Supervisors]. If more than twelve (12) months has elapsed since completion of initial training, it shall be supplemented by successful completion of a review course, reviewed and approved by the State or Indian Tribe issuing that license, within the previous twelve (12) months; and

(3) Successful completion of both written and practicum examinations required by §15.7.

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15.6(c)

(c) **Issuance of Licenses.** Pursuant to the provisions of §23-24.6-20(b)(1) of the Act, the Department shall grant a license by reciprocity to a Lead Hazard Reduction Worker or Lead Hazard Reduction Site Supervisor who meets the licensure requirements set forth in these Regulations, and upon submission of the appropriate licensure fee specified in ~~§15.8~~ the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health.* The Lead Hazard Reduction Worker or Lead Hazard Reduction Site Supervisor license shall be issued for a period of no longer than twelve (12) months and shall expire on the last day of the month one year from the date of issue or the expiration date assigned by the issuing State or Indian Tribe, whichever is earlier, unless sooner suspended or revoked. The license may be renewed annually in accordance with the provisions of §15.6(d) and upon payment of the licensure renewal fee specified in ~~§15.8.~~ the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health.*

(d) **Renewal of Licenses.** In addition to the requirements contained in §15.3(b), applicants for renewal of a Lead Hazard Reduction Worker or Lead Hazard Reduction Site Supervisor license by reciprocity shall also address the requirements of §15.6(b) without reference to any previously submitted material.

(e) **Revocation and Suspension of Licenses.** Upon issuance of a Lead Hazard Reduction Worker or Lead Hazard Reduction Site Supervisor license by reciprocity, the licensee shall immediately notify the Department in writing if any final administrative action is taken against the licensee by another State or Indian Tribe during the term of said license. The Department may subject the Lead Hazard Reduction Worker or Lead Hazard Reduction Site Supervisor license issued by reciprocity to any such action taken against the licensee by another State or Indian Tribe.

(f) **Applicability to Lead Hazard Reduction Worker-in-Training.** The provisions of these Regulations pertaining to certification of Lead Hazard Reduction Workers-in-Training shall not be available by reciprocity.

15.7 Examinations for Obtaining a License.

(a) **Application for Written and/or Practicum Examination.** In order to take the written and/or practicum examination for Lead Hazard Reduction Contractor, Lead Hazard Reduction Site Supervisor, or Lead Hazard Reduction Worker, applicants shall complete an application on forms provided by the Department. The application shall include all the required information on the form and a fee ~~of thirty-five dollars ($35)~~ as set forth in the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health* for each written examination and ~~thirty-five dollars ($35)~~ a fee set forth in the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health* for each practicum examination. Applicants shall submit a new application and fee with each written and/or practicum examination that is requested. The application fee shall not be refunded and shall not be applied to any application for a license pursuant to these Regulations. All applications and examination fees shall be submitted to the Department, unless the Department designates a third party vendor to conduct written and/or practicum examinations on its behalf, in which case applications and examination fees shall be submitted directly to the third party vendor. If a third party vendor is selected, the Department will inform prospective applicants how to contact the vendor regarding the date(s) and location(s) of these examinations.

(b) **Lead Hazard Reduction Worker.** An applicant for a Lead Hazard Reduction Worker License shall obtain a passing score on both the written and practicum examinations approved by the Department. The Department shall ensure that examinations test whether the applicant has sufficient knowledge to perform lead hazard reduction activities safely and shall test proficiency

in all the topics specified in §18.7(a).

15.7(c)

(c) **Lead Hazard Reduction Contractor and Lead Hazard Reduction Site Supervisor.** An applicant for a Lead Hazard Reduction Contractor License or Lead Hazard Reduction Site Supervisor License shall obtain a passing score on both the written and practicum examinations approved by the Department. The Department shall ensure that examinations test whether the applicant has sufficient knowledge and skill to perform, supervise, and oversee lead hazard reduction activities safely and effectively, and shall test proficiency in all the topics specified in §§18.7(a) and 18.7(b).

15.8 Fees.

(a) **General Requirements.** The appropriate fees specified in ~~§15.8(c)~~ the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health* shall accompany each application submitted pursuant to this Section. No license shall be issued or renewed pursuant to this Section until the correct fee has been remitted. Fees will not be prorated for a period of time less than the full term of a license.

(b) **Payment.** All payments pursuant to this Section shall be by check made payable to: General Treasurer, State of Rhode Island.

~~(c) **Amount.** The following fees shall apply for the lead hazard reduction licenses listed below:~~

	~~**Initial Application**~~	~~**Renewal**~~	~~**Late Renewal**~~	~~**Replacement**~~
~~Lead Hazard Reduction Contractor~~	~~$200~~	~~$200~~	~~$260~~	~~$20~~
~~Lead Hazard Reduction Contractor Agent~~	~~$0~~	~~$0~~	~~$0~~	~~$20~~
~~Lead Hazard Reduction Site Supervisor~~	~~$100~~	~~$100~~	~~$170~~	~~$20~~
~~Lead Hazard Reduction Worker~~	~~$30~~	~~$30~~	~~$40~~	~~$20~~
~~Lead Hazard Reduction Worker-in-Training~~	~~$20~~	~~$0~~	~~$20~~	~~$20~~

15.9 Special Requirements Pertaining to Upgrading of Lead Hazard Reduction Licenses. Any person holding a current valid Lead Hazard Reduction license, issued pursuant to these regulations, who applies for an initial license in a higher[6] category of Lead Hazard Reduction activity shall be exempt from the provisions of §15.2 which require that initial training be completed within the twelve (12) month period prior to submission of the initial application.

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[6] For the purpose of this section, Lead Hazard Reduction Contractor/Agent represents the highest level license, followed in descending order by Lead Hazard Reduction Site Supervisor, Lead Hazard Reduction Worker, and Lead Hazard Reduction Worker-in-Training.

SECTION 16.0 CERTIFICATION REQUIREMENTS TO CONDUCT ENVIRONMENTAL LEAD INSPECTIONS.

16.1 General Requirements.

(a) No person shall provide or offer to provide environmental lead inspection services at a regulated facility unless the person is certified by the Department under the provisions of this Section.

(b) No person shall advertise to provide environmental lead inspection services in regulated facilities unless the person is certified to do so by the Department under the provisions of this Section. Any person certified by the Department to conduct environmental lead inspections shall include the certification number issued by the Department in all advertisements.

(c) Environmental Lead Inspectors/Inspector Technicians shall use the inspection/evaluation criteria specified in §§4.0, 5.0 and 6.0 of these Regulations unless the Environmental Lead Inspector/Inspector Technician has been authorized by the Department, in writing, to utilize other inspection/evaluation criteria.

(d) **Notification of Changes.** Any person licensed pursuant to this Section shall notify the Department in writing before making any change which would render the information[7] contained in their application for licensure no longer accurate.

16.2 Certification Application.

(a) **General Requirements.**

(1) Applicants for Environmental Lead Inspector, Environmental Lead Inspector Technician or Environmental Lead Technician-in-Training shall submit a completed application to the Department on forms provided by the Department. The application shall include all the required information on the form and the appropriate fee(s) required by ~~§16.6.~~ the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health.* The Department may at any time require additional information to determine whether an application meets the requirements of this Section.

(2) Each application for Environmental Lead Inspector, Environmental Lead Inspector Technician or Environmental Lead Technician-in-Training shall be signed by the applicant. All applications shall include a certification by the applicant that his/her certification or other authorization to perform environmental lead inspections has not been suspended or revoked by any other jurisdiction and that no enforcement actions by any local, county, State or Federal agency are pending against the applicant.

(b) **Environmental Lead Inspector.** In addition to the requirements contained in §16.2(a), applicants for Environmental Lead Inspector certification shall also submit documentation of:

(1) Successful completion of an initial training course, approved in accordance with §18.7(f), within the twelve (12) month period prior to submission of the initial application; and

(2) Successful completion of both written and practicum examinations required by §16.5; and

(3) [**RESERVED**]

(4) Compliance with the medical monitoring requirements specified in §13.13; and

[7] For example, name, mailing address or phone number.

16.2(b)(5)

(5) At least one of the following:

(i) Certification as a Certified Industrial Hygienist (CIH) or other professional certification specified by the Department; or

(ii) Bachelor's degree or higher in engineering, physical or biological science, and completion of at least twenty (20) Comprehensive Environmental Lead Inspections, and at least five (5) Clearance Inspections, under the supervision of an Environmental Lead Inspector during any two (2) calendar year period in at least fifteen (15) different residential dwellings in Rhode Island; or

(iii) High school diploma or GED, completion of at least twenty (20) Comprehensive Environmental Lead Inspections, and at least five (5) Clearance Inspections, under the supervision of an Environmental Lead Inspector during any two (2) calendar year period in at least fifteen (15) different residential dwellings in Rhode Island, and at least two (2) years of field experience in a related environmental field, including, but not limited to, lead, asbestos, radon, or other environmental remediation work; or.

(iv) High school diploma or GED, and completion of at least forty (40) Comprehensive Environmental Lead Inspections, and least ten (10) Clearance Inspections, under the supervision of an Environmental Lead Inspector during any three (3) calendar year period in at least thirty (30) different residential dwellings in Rhode Island.

(c) **Environmental Lead Inspector Technician.** In addition to the requirements contained in §16.2(a), applicants for Environmental Lead Inspector Technician shall also submit documentation of:

(1) Successful completion of an initial training course, approved in accordance with §18.7(e), within the twelve (12) month period prior to submission of the initial application; and

(2) Successful completion of both written and practicum examinations required by §16.5; and

(3) [**RESERVED**]

(4) High school diploma or GED; and

(5) Compliance with the medical monitoring requirements specified in §13.13.

(d) **Environmental Lead Technician-in-Training.** Applicants who meet all requirements for Environmental Lead Inspector Technician except successful completion of the written and practicum examinations specified in §16.5 may apply for certification as an Environmental Lead Technician-in-Training. Except as specifically noted in §16.4, an Environmental Lead Technician-in-Training shall be considered an Environmental Lead Inspector Technician for the purposes of these Regulations.

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16.3

16.3 Issuance, Renewal and Replacement of Certification.

(a) **Issuance of Certification.** Pursuant to the provisions of §23-24.6-20(b)(1) of the Act, the Department shall grant a certificate to an Environmental Lead Inspector, Environmental Lead Inspector Technician, or Environmental Lead Technician-in-Training who meets the certification requirements set forth in these Regulations, and upon submission of the appropriate certification fee specified in ~~§16.6~~. the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health.* The Environmental Lead Inspector and Environmental Lead Inspector Technician certifications shall be issued for a period no longer than one (1) year and shall expire on the last day of the month one year from the date of issue, unless sooner suspended or revoked. The certification may be renewed annually in accordance with the provisions of §16.3(b) and upon payment of the certification renewal fee specified in ~~§16.6.~~ the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health.* The Environmental Lead Technician-in-Training certification shall be issued and renewed in accordance with the requirements of §16.4.

(b) **Renewal of Certifications.**

(1) An Environmental Lead Inspector or Environmental Lead Inspector Technician may request a certification renewal by submitting:

(i) An application in accordance with §16.2(a) without reference to any previously submitted material; and

(ii) Documentation of successful completion of the appropriate annual review course specified in §18.7 within the twelve (12) month term of their current valid certification; and

(2) [**RESERVED**]

(3) [**RESERVED**]

(4) If a certification issued pursuant to this Section has expired and a renewal application and appropriate fee are not received by the Department on or before the expiration date of the certification, a late renewal fee as specified in ~~§16.6~~ the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health* shall be submitted with a renewal application.

(5) Any Environmental Lead Inspector or Environmental Lead Inspector Technician who has failed to pay an administrative fine imposed by a final order of the Director shall submit payment of the administrative fine in full as a condition of certification renewal.

(c) **Replacement of Lost or Damaged Certification.**

(1) Application for replacement of a lost or damaged Environmental Lead Inspector, Environmental Lead Inspector Technician, or Environmental Lead Technician-in-Training Certification shall be made by the certified individual on forms provided by the Department.

(2) All applications for replacement of a lost or damaged certification shall be accompanied by the appropriate replacement fee specified in ~~§16.6~~. the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health.*

(d) **Reinstatement of Licenses.**

(1) An expired certification may be reinstated within six (6) months after its expiration date provided that the application includes:

(i) Documentation of successful completion of the appropriate annual review course, specified in §18.7, within twelve (12) months of the date of the reinstatement application; and

16.3(d)(1)(ii)

(ii) The appropriate late renewal fee specified in ~~§16.6;~~ the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health;* and

(iii) Submission of all other items required by §16.3(b).

(2) An expired certification more than six (6) months beyond its expiration date is not eligible for reinstatement. A new initial application shall be submitted in accordance with §16.2.

16.4 Special Requirements Pertaining to Environmental Lead Technician-in-Training.

(a) **Applicability and Scope.**

(1) A person who has successfully completed an approved initial Environmental Lead Inspector Technician training course, but who has not demonstrated proficiency by successful completion of both the written and practicum examinations required by these Regulations may apply for an Environmental Lead Technician-in-Training Certification.

(2) Except as otherwise specified in this Section, an Environmental Lead Technician-in-Training shall be considered an Environmental Lead Inspector Technician for the purposes of these Regulations.

(b) **Limitations of Certification.** Certification as an Environmental Lead Technician-in-Training shall be for the purpose of receiving on-the-job training in conducting environmental lead inspections and shall be limited in the following manner:

(1) The initial period of certification shall be for three (3) months;

(2) At the conclusion of the initial three (3) month period, the Environmental Lead Technician-in-Training shall:

(i) Pass the written and practicum examinations required by §16.5; or

(ii) Reapply for a three (3) month extension; or

(iii) Discontinue environmental lead inspection activities.

(c) **Expiration of Certification.** If an Environmental Lead Technician-in-Training fails to pass the written and practicum examinations required by §16.5 within six (6) months of obtaining the initial Environmental Lead Technician-in-Training certification, the individual shall not be eligible to reapply for an Environmental Lead Technician-in-Training certification, in accordance with the requirements of §16.2, for at least twelve (12) months following the date of obtaining the initial certification.

16.5 Examinations for Obtaining a Certification.

(a) **Application for Written and/or Practicum Examination.** In order to take the written and/or practicum examination for Environmental Lead Inspector or Environmental Lead Inspector Technician, applicants shall submit a completed application to the Department on forms provided by the Department. The application shall include all the required information on the form and a fee ~~of thirty-five dollars ($35)~~ as set forth in the *Rules and Regulations Pertaining to the Fee*

Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health for each written examination and ~~thirty-five dollars ($35)~~ a fee as set forth in the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health* for each practicum examination. Applicants shall submit a new application and fee with each written and/or practicum examination that is requested. The application fee shall not be refunded and shall not be applied to any application for a certification pursuant to these Regulations.

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16.5(b)

(b) **Environmental Lead Inspector Technician.** An applicant for an Environmental Lead Inspector Technician Certification shall obtain a passing score on both the written and practicum examinations approved by the Department. The Department shall ensure that examinations test whether the applicant has sufficient knowledge and skill to perform environmental lead inspection activities safely and effectively and shall test proficiency in all the topics specified in §18.7(e).

(c) **Environmental Lead Inspector.** An applicant for an Environmental Lead Inspector Certification shall obtain a passing score on both the written and practicum examinations approved by the Department. The Department shall ensure that examinations test whether the applicant has sufficient knowledge and skill to perform and supervise environmental lead inspection activities safely and effectively, and shall test proficiency in all the topics specified in §§18.7(e) and 18.7(f).

16.6 Fees.

(a) **General Requirements.** The appropriate fees specified in ~~§16.6(c)~~ the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health* shall accompany each application submitted pursuant to this Section. No certification shall be issued or renewed pursuant to this Section until the correct fee has been remitted. Fees will not be prorated for a period of time less than the full term of a certification.

(b) **Payment.** All payments pursuant to this Section shall be by check made payable to: General Treasurer, State of Rhode Island.

~~(c) **Amount.** The following fees shall apply for the environmental lead inspector certifications listed below:~~

	~~**Initial Application**~~	~~**Renewal**~~	~~**Late Renewal**~~	~~**Replacement**~~
~~Environmental Lead Inspector~~	~~$200~~	~~$200~~	~~$260~~	~~$20~~
~~Environmental Lead Inspector Technician~~	~~$100~~	~~$100~~	~~$170~~	~~$20~~
~~Environmental Lead Technician-in-Training~~	~~$70~~	~~$0~~	~~$100~~	~~$20~~

16.7 Special Requirements Pertaining to Upgrading of Environmental Lead Inspection Certifications. Any person holding a current valid Environmental Lead Inspection certification, issued pursuant to these regulations, who applies for an initial certification in a higher[8] category of Environmental Lead Inspection activity shall be exempt from the provisions of §16.2 which require that initial training be completed within the twelve (12) month period prior to submission of the initial application.

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[8] For the purpose of this section, Environmental Lead Inspector represents the highest level certification, followed in descending order by Environmental Lead Inspector Technician, and Environmental Lead Technician-in-Training.

16.8

16.8 <u>Special Requirements Pertaining to Designation of Master Environmental Lead Inspectors</u>.

(a) **<u>Applicability and Scope</u>.**

(1) A person who has successfully completed all requirements established by §16.8(b) may apply to the Department for designation as a Master Environmental Lead Inspector.

(2) Except as otherwise specified in this Section, a Master Environmental Lead Inspector shall be considered an Environmental Lead Inspector for the purposes of these Regulations.

(b) **<u>Master Environmental Lead Inspector</u>.** Applicants for Master Environmental Lead Inspector designation shall submit documentation of:

(1) Licensure by the Department as an Environmental Lead Inspector for at least the sixty (60) consecutive months prior to submission of an application and subsequent to 1 January 2000; and

(2) Supervision of all or part of the required apprenticeships for at least five (5) persons who have subsequently been licensed by the Department as an Environmental Lead Inspector, including at least twenty five (25) Clearance Inspections and at least one hundred (100) Comprehensive Environmental Lead Inspections. No more than twenty percent (20%) of the required inspections shall be allowed for any individual apprenticeship. Supervision must have occurred during the sixty (60) month period prior to submission of an application for designation as a Master Environmental Lead Inspector; and

(3) Compliance with Department regulations. This shall be interpreted as having no limitations, restrictions or modifications, including consent agreements, placed on the applicant's Environmental Lead Inspector license during the sixty (60) month period prior to submission of an application for designation as a Master Environmental Lead Inspector.

(c) **<u>Issuance of Designation</u>**.

(1) The Master Environmental Lead Inspector designation shall be issued for a period no longer than three (3) years and shall expire on the last day of the month three (3) year from the date of issue, unless sooner suspended or revoked.

(2) Any enforcement action taken by the Department which results in a limitation, restriction or modification, including consent agreement, being placed on the person's Environmental Lead Inspector license shall constitute grounds for revocation of the Master Environmental Lead Inspector designation

(3) The Master Environmental Lead Inspector designation may be renewed in accordance with the provisions of §16.3(d).

(d) **<u>Renewal of Designation</u>.** A Master Environmental Lead Inspector may request a designation renewal by submitting documentation of:

(1) Continuous licensure by the Department as an Environmental Lead Inspector subsequent to being designated as a Master Environmental Lead Inspector; and

(2) Supervision of all or part of the required apprenticeships for at least three (3) persons who have subsequently been licensed by the Department as an Environmental Lead Inspector, including at least fifteen (15) Clearance Inspections and at least thirty (30) Comprehensive Environmental Lead Inspections. No more than fifty percent (50%) of the required inspections shall be allowed for any individual apprenticeship. Supervision must have occurred during the thirty-six (36) month period prior to submission of an application for renewal of designation as a Master Environmental Lead Inspector.

SECTION 17.0 CERTIFICATION REQUIREMENTS TO CONDUCT ENVIRONMENTAL LEAD ASSESSMENTS.

17.1 General Requirements.

(a) No person shall provide or offer to provide Environmental Lead Assessment services at a regulated facility unless the person is certified by the Department under the provisions of this Section.

(b) Only persons who are authorized to act as enforcing officers under the Housing Maintenance and Occupancy Code [RIGL Chapter 45-24.3] or are designated employees of a Federal, State or municipal agency with jurisdiction over housing, occupational health, child welfare, and/or environmental standards may apply to obtain an Environmental Lead Assessment Certification.

(c) Environmental Lead Assessors shall use the inspection/evaluation criteria specified in §4.5 unless authorized by the Department, in writing, to utilize other inspection/evaluation criteria.

(d) **Notification of Changes.** Any person licensed pursuant to this Section shall notify the Department in writing before making any change which would render the information[9] contained in their application for licensure no longer accurate.

17.2 Certification Application.

(a) Applicants for Environmental Lead Assessor shall submit a completed application to the Department on forms provided by the Department. The application shall include all the required information on the form.

(b) Each application for Environmental Lead Assessor shall be signed by the applicant. All applications shall include the name and address of the applicant's employer and a certification that the applicant has authority to enforce housing, occupational health, child welfare, and/or environmental standards under Federal, State, and/or local laws or Regulations.

(c) Each applicant shall also submit documentation of successful completion of a training course, approved in accordance with §18.7(j). Alternatively, an applicant may submit documentation of successful completion of a training course approved in accordance with §§18.7(e) [Environmental Lead Inspector Technician] or 18.7(f) [Environmental Lead Inspector].

17.3 Issuance, Renewal and Replacement of Certification.

(a) **Issuance of Certification.** Pursuant to the provisions of §23-24.6-20(b)(1) of the Act, the Department shall grant a certificate to an Environmental Lead Assessor who meets the certification requirements set forth in these Regulations. Environmental Lead Assessor certifications shall be issued for a period no longer than two (2) years and shall expire on the last day of the month two (2) years from the date of issue, unless sooner suspended or revoked. The certification may be renewed every two (2) years in accordance with the provisions of §17.3(b).

(b) **Renewal of Certifications.**

(1) An Environmental Lead Assessor may request a certification renewal by submitting:

(i) An application in accordance with §17.2 without reference to any previously submitted material; and

[9] For example, name, mailing address or phone number.

17.3(b)(1)(ii)

(ii) Documentation of successful completion of a biannual review course, approved in accordance with §18.7, within the twelve (12) month period prior to the expiration date of their current valid certification.

(2) In any case in which an Environmental Lead Assessor has filed an application in proper form for renewal at least thirty (30) days prior to expiration of his/her existing certification, the existing certification shall not expire until final action on the application has been taken by the Department.

(3) Biannual review training shall not be acceptable if more than twenty-seven (27) months has elapsed since the applicant has last successfully completed the required initial or biannual review training. In such a case, the applicant shall submit with a renewal application documentation of successful completion of a Department approved initial training course within the last three (3) months.

(c) **Replacement of Lost or Damaged Certification.** Application for replacement of a lost or damaged Environmental Lead Assessment Certification shall be made by the certified individual on forms provided by the Department.

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SECTION 18.0 CERTIFICATION REQUIREMENTS TO CONDUCT TRAINING COURSES.

18.1 General Certification Requirements.

(a) Persons and organizations offering or conducting training courses to meet the training requirements of these Regulations shall be certified in accordance with this Section. In order to obtain certification for a training course, applicants shall submit an application which demonstrates compliance with the requirements of this Section.

(b) The criteria for successful completion of a required training course shall include obtaining a passing score on the final course examination, unless the certified training course has been specifically authorized in writing by the Department to use an alternative method of determining successful completion.

(c) The required number of training hours for a particular training course shall be construed as allowing a maximum of one (1) hour for the course final examination.

(d) **Notification of Changes.** Any person licensed pursuant to this Section shall notify the Department in writing before making any change which would render the information[10] contained in their application for licensure no longer accurate.

18.2 Certification Application.

An applicant for certification of any Lead Hazard Reduction Contractor, Lead Hazard Reduction Site Supervisor, Lead Hazard Reduction Worker, Environmental Lead Inspector, Environmental Lead Inspector Technician, Lead-Safe Remodeler/Renovator, or Environmental Lead Assessor training course shall submit the following information for review by the Department at least forty five (45) days prior to the first scheduled course date:

(a) The name and address of the person(s) or organization which proposes to conduct the training course; identification and affiliation of course sponsor(s); the name of the responsible individual and his/her telephone number. If the applicant proposes to conduct the training under a different name than shown on the application, the other name(s) shall also be provided.

(b) The type of course(s) for which certification is being requested.

(c) A detailed outline of each course curriculum, including the amount of time allotted to each topic, the name and training/qualifications of the individual(s) responsible for developing the instruction program for each topic, and the name of the instructor(s) for each topic.

(d) A description of the teaching methods to be used to present each topic including, where appropriate, lectures, discussions, demonstrations and audio-visual materials. When applicable, include the name, producer and date of production of audio-visual materials to be used.

(e) A copy of the student and instructor manuals, or other materials to be used for each course. All materials submitted in conjunction with the application shall be typewritten or machine printed.

(f) Documentation demonstrating that the applicant has employed a full time training manager and has employed or contracted as instructors, either on a full-time or temporary basis, a sufficient number of persons who meet the training and experience criteria contained in §18.4. Resumes or curricula vitae describing special training and education and/or prior experience may be submitted for the purpose of providing this documentation.

[10] For example, name, mailing address or phone number.

18.2(g)

(g) A list of the types, brand names and quantities of respirators to be used to demonstrate and fit test or flow test respirators.

(h) A description of the hands-on skills assessment (e.g., activities and procedures) that will be used for evaluating the trainees' performance of the work practices and procedures associated with each course, as well as a description of the type and quantity of protective clothing to be used during practice exercises and demonstrations, and a description of the materials to be used for hands-on practice and demonstrations.

(i) A copy of the quality control plan to be used for maintaining and improving the quality of the training program over time. This plan shall contain at least the following elements:

(1) Procedures for periodic revision of training materials and the course exam to reflect innovations in the field;

(2) Procedures for annual review of instructor competency by the training manager;

(3) Procedures for administering the course exam to ensure the validity and integrity of the examination. If oral examinations are to be given, the applicant shall specifically identify the circumstances under which an oral final examination will be used and the procedures to ensure the integrity of the examination process;

(4) Procedures for administering the hands-on skills assessment; and

(5) Procedures for ensuring the adequacy of facilities and equipment.

(j) A detailed description of the site of the training course, including the address where demonstrations and hands-on practice exercises will be conducted. The course site must provide adequate facilities and training equipment for the delivery of the lecture, course exam, and hands-on training.

(k) Any restrictions on attendance (language, degree of literacy required, union or group association, etc.).

(1) **[REMOVED]**;

(2) Any Initial or Annual Review course may be presented in a foreign language. Where such foreign language courses are offered, the applicant shall comply with §18.2(k)(2)(i) or (ii), as appropriate.

(i) If the applicant already has Department authorization for an English version of the course, the applicant shall submit to the Department a list of all supplemental training material which includes full title, publisher/source and publication date and a certification statement that the translations have been adequately checked for accuracy;

(ii) If the applicant does not already have Department authorization for an English version of the course, the applicant shall submit to the Department all items required pursuant to §18.2(k)(2)(i) and a complete copy of the translated student and instructor manuals.

(iii) The Department reserves the right to request that the applicant also submit a signed statement from a qualified, independent translator that the course was compared to the English language version and found to be accurate and/or a complete copy of any supplemental training material;

(3) Written final examinations shall be administered in the same language in which the other course materials were presented.

18.2(k)(4)

(4) Department approval of an English language Initial or Annual Review course does not constitute approval to offer that course in any other language. Each foreign language version of an Initial or Annual Review course shall receive specific Department approval. Department approval to present Initial or Annual Review courses in a foreign language shall be obtained prior to the initial offering and will not be retroactive.

(l) The student-to-instructor ratio for the hands-on practice exercises, field exercises and demonstrations. Written justification shall be submitted for student-to-instructor ratios greater than eight to one (8:1).

(m) A copy of the course exam blueprint for each course, as well as the minimum grade which shall be obtained for a trainee to successfully complete the course. The minimum passing grade for any final examination shall be at least seventy percent (70%). Notwithstanding the foregoing, the minimum passing grade for any Initial Lead-Safe Remodeler/Renovator training course final examination shall be at least seventy-five percent (75%). Final examinations for Initial Environmental Lead Inspector Technician and Initial Lead Hazard Reduction Worker training courses shall consist of at least forty (40) multiple choice questions. Final examinations for Initial Environmental Lead Inspector and Lead Hazard Reduction Contractor/Site Supervisor training courses shall consist of at least sixty (60) multiple choice questions. Final examinations for all Annual Review and Initial Lead-Safe Remodeler/Renovator training courses shall consist of at least twenty-five (25) and no more than fifty (50) multiple choice questions. For each course offered, an approved training provider shall conduct a course exam at the completion of the course, and if applicable, a hands-on skills assessment. Each individual must successfully complete the hands-on skills assessment and receive a passing score on the course exam to pass any course.

(n) The Department shall be immediately notified in writing of any significant changes in any information submitted by the applicant. These changes shall not be implemented until they have been approved by the Department.

(o) Documentation of the appropriateness of course content and duration, as defined by §18.7.

(p) The mechanism(s) that the applicant will use to ensure that all prospective students have successfully completed the appropriate Initial training course(s) before being allowed to enroll in the respective Annual Review course(s), and that all prospective students have successfully completed any prerequisites for an Initial training course.

(q) If the applicant is located in Rhode Island or another State which requires licensing of the radioactive material contained in X-ray fluorescence (XRF) analyzers, a current copy of the applicant's radioactive material license shall be submitted with the application. This provision is also applicable to out-of-state applicants that will be offering training at temporary sites within Rhode Island.

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18.3

18.3 Issuance and Renewal of Certification.

(a) **Issuance of Certification.** Pursuant to the provisions of §23-24.6-20(b)(1) of the Act, the Department shall grant a certificate to a Lead Hazard Reduction Contractor, Lead Hazard Reduction Site Supervisor, Lead Hazard Reduction Worker, Environmental Lead Inspector, Environmental Lead Inspector Technician, Lead-Safe Remodeler/Renovator or Environmental Lead Assessor training course which meets the certification requirements set forth in these Regulations, and upon submission of the application fee and appropriate certification fee specified in ~~§18.6(c),~~ the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health*, unless such fees are waived pursuant to §18.3(b). The certificate shall expire on the last day of the month two (2) years from the date of issue, unless sooner suspended or revoked.

(b) **Fee Waiver.** The Department shall waive the application and certification fees required by §18.3(a) for any training course which is conducted by a state college or university and/or any agency of a state or its political subdivisions.

(c) **Amendments.** All requests to amend a training course which involves modification of the course content and/or requires evaluation of additional training facilities shall be accompanied by the amendment fee specified in ~~§18.6(c).~~ the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health.* All other amendments to training courses approved in accordance with this Section shall not be assessed an amendment fee.

(d) **Renewal of Certification.**

(1) A training course provider may request a training course certificate renewal by submitting:

(i) An application in accordance with the provisions of §18.3(a) without reference to any previously submitted material; and

(ii) Payment of the renewal application fee and appropriate certification fee specified in ~~§18.6.~~ the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health.*

(2) In any case in which the responsible individual of a certified training course has filed an application in proper form for renewal not less than thirty (30) days prior to expiration of its existing certification, the existing certification shall not expire until final action on the application has been taken by the Department.

18.4 Criteria for Instructors. For an applicant to be eligible for certification of any training course pursuant to §18.3, a training provider shall employ a training manager and course instructors. A training provider shall hire a sufficient number of instructors to ensure that the student-to-instructor ratio specified in §18.2(l) is met and shall ensure that all of the following education and experience criteria for the training manager and instructors are met:

(a) The training manager shall have:

(1) At least two (2) years of experience, education, or training in designing, implementing and evaluating either employee educational programs or vocational educational programs teaching workers or adults; or

(2) A bachelor's or graduate degree in building construction technology, engineering, industrial hygiene, safety, public health, education, program management or a related field; or

(3) At least four (4) years of experience in managing a training program specializing in

occupational safety and health and/or environmental hazards; and

18.4(a)(4)

(4) Demonstrated experience, education, or training in the construction industry including lead or asbestos abatement, painting, carpentry, renovation, remodeling, occupational safety and health, or industrial hygiene; and

(5) Successfully completed a forty (40) training hour train-the-trainer course which provides instruction in the planning and teaching of any adult education course, or equivalent formal training in adult education.

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

(c) **[REMOVED]**.

(d) Sections of any course related to lead hazard reduction covering the hands-on practice sessions shall only be taught by an individual with experience as a Lead Hazard Reduction Contractor or experience as an on-site supervisor of Lead Hazard Reduction Workers. This person shall have had direct experience in all phases of lead hazard reduction work, including work area preparation, construction of barriers, the use of personal protective equipment, engineering controls, work practices, clean-up, disposal and decontamination.

(e) Sections of any course related to environmental lead inspection covering the hands-on practice sessions shall only be taught by an individual with experience as an Environmental Lead Inspector. This person shall have had direct experience in all phases of environmental lead inspection work, including pre-inspection planning, conducting environmental lead inspections pursuant to §4.0, preparation of inspection reports, and the use of environmental lead inspection personal protection equipment.

(f) The training manager shall ensure that the *Rules and Regulations for the Control of Radiation* [*R23-1.3-RAD*] are followed by instructors presenting training on X-ray fluorescence (XRF) analyzers at Environmental Lead Inspector and Environmental Lead Inspector Technician training courses conducted in Rhode Island.

18.5 <u>Record Keeping Requirements</u>.

(a) A certified training provider shall maintain documentation of each certified course offered, which shall include as a minimum: type of course, date(s) and location(s) of course, class roster (including daily class attendance records bearing the signature of the course instructor), verification of identity of class participants through current driver's license, passport or DMV (Division of Motor Vehicles) photo ID, and results of any final examination, hands-on skills assessment and/or evaluation as well as the unique certificate number, for each student enrolled. The certified training provider shall retain all required records for a period of at least ten (10) years and shall make these records available to the Department upon request, and shall allow reasonable access to the Department or agents of the Department to conduct course audits.

(b) A certified training provider shall issue unique course completion certificates to each individual who passes each course. The course completion certificate shall include, as a minimum:

(1) The full name, a unique identification number, and address of the individual;

(2) The name of the particular course that the individual completed;

18.5(b)(3)

(3) Date(s) of the course and date that the individual passed the course exam (if other than the last day of the course);

(4) Expiration date of the certificate;

(5) The name, address, and telephone number of the training program;

(6) The language in which the training course was given. If the course examination was other than written English, the language and method of evaluation shall also be included.

(c) A certified training provider shall maintain, and make available to the Department upon request, the following records for each certified course:

(1) All documents that demonstrate the qualifications of the training manager and permanent and guest instructors;

(2) Current curriculum/course materials and documents reflecting any changes made to these materials;

(3) The test blueprint for the course exam, a sample copy of each actual examination utilized by the training provider, and the date(s) each examination was given;

(4) Information regarding how the hands-on assessment is conducted including, but not limited to:

(i) Who conducts the assessment;

(ii) How the skills are graded;

(iii) What facilities are used; and

(iv) The pass/fail rate.

(5) The quality control plan described in §18.2(i).

(6) Any other material not listed above that was submitted to the Department as part of the program's application for certification.

(7) For Lead-Safe Remodeler/Renovator course completion certificates, a photograph of the individual

18.6 Training Course Fees.

(a) **General Requirements.** Unless waived pursuant to §18.3(b), the appropriate application and certification fees specified in ~~§18.6(c)~~ the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health* shall accompany each application submitted pursuant to this Section. No certification shall be issued or renewed until the correct fees have been remitted. Fees will not be prorated for a period of time less than the full term of a certification.

(b) **Payment.** All payments pursuant to this Section shall be by check made payable to: General Treasurer, State of Rhode Island.

(c) **Amount.**

(1) Each application for an initial or renewal certification of a training course shall be accompanied by an application fee ~~of one hundred dollars ($100)~~ as set forth in the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health*. When required by §18.3(c), an amendment fee ~~of sixty dollars ($60)~~ as set forth in the *Rules and Regulations Pertaining*

to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health shall accompany each amended application. These fees shall be non-refundable, shall not be applied to the certification fee if approved, and will not be returned if the application is denied or otherwise not approved by the Department.

18.6(c)(2)

(2) Each application for an initial or renewal certification of a training course shall also be accompanied by the appropriate certification fee listed ~~below:~~ in the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health*.

~~TYPE OF COURSE~~	~~CERTIFICATION FEE~~
~~40-Training Hour Initial Lead Hazard Reduction Contractor/Site Supervisor Training~~	~~$1,040~~
~~40-Training Hour Initial Environmental Lead Inspector Training~~	~~$1,040~~
~~24-Training Hour Initial Lead Hazard Reduction Worker Training~~	~~$650~~
~~24-Training Hour Initial Environmental Lead Inspector Technician Training~~	~~$650~~
~~16-Training Hour Initial Environmental Lead Assessor Training~~	~~$520~~
~~8-Hour Lead Hazard Reduction Worker Annual Review~~	~~$390~~
~~8-Training Hour Lead Hazard Reduction Contractor/ Site Supervisor Annual Review~~	~~$390~~
~~8-Training Hour Environmental Lead Inspector Technician Annual Review~~	~~$390~~
~~8-Training Hour Environmental Lead Inspector Annual Review~~	~~$390~~
~~8-Training Hour Environmental Lead Assessor Biannual Review~~	~~$390~~
~~8-Training Hour Initial Lead-Safe Remodeler/Renovator Training~~	~~$390~~
~~4-Training Hour Lead-Safe Remodeler/Renovator Review Training~~	~~$200~~

18.7 Types, Content and Duration of Training Courses.

(a) **Lead Hazard Reduction Worker Initial Training Courses.** The initial training course for Lead Hazard Reduction Workers shall consist of at least twenty-four (24) training hours over a period of at least three (3) days. At least ten (10) training hours of this course shall be "hands-on" (i.e., allow the trainee to practice specific techniques involved in lead hazard reduction). Initial training for Lead Hazard Reduction Workers shall provide, at a minimum, information on the following topics:

(1) Background information on lead, including, but not limited to, history of lead use and sources of environmental lead contamination (e.g. paint, interior and exterior dust, soil, water, air, and food); and

(2) Lead hazard recognition and control, including, but not limited to, potential health effects related to lead exposure, site characterization, exposure measurements, material identification, safety and health plans, medical surveillance, hygiene practices, and lead hazard reduction engineering practices and controls; and

(3) Lead Hazard Reduction Worker personal protective equipment, including, but not limited to: the classes and characteristics of respirator types; limitations of respirators; proper selection, inspection, wearing, use, maintenance and storage procedures; methods for field testing of the facepiece-to-face seal (positive and negative pressure fitting tests); qualitative and quantitative fit testing procedures; variability between field and laboratory protection factors;

factors that alter respirator fit (e.g. facial hair); the components of a proper respiratory protection program; selection and use of personal protective clothing; use, storage and handling of launderable clothing, non-slip footwear, gloves, eye protection and hard hats; and

18.7(a)(4)

(4) Medical monitoring procedures and requirements included under 29 CFR 1926.62, 29 CFR 1910.134, and these Regulations, as well as additional recommended procedures and tests contained in the most current edition of OSHA publication 3142 "Lead in Construction", benefits of medical monitoring, and employee access to records; and

(5) Proper and improper lead-based paint abatement methods; and

(6) Interior lead-contaminated dust abatement and cleanup methods; and

(7) Lead-contaminated soil abatement methods; and

(8) The requirements, procedures and standards for lead hazard reduction and for worker protection established by OSHA, EPA, HUD, RI Housing Resources Commission and the provisions of the Act and these Regulations.

(b) **Lead Hazard Reduction Contractor/Site Supervisor Initial Training Courses.** The initial training course for Lead Hazard Reduction Contractors and Lead Hazard Reduction Site Supervisors shall either include specific coverage of all material specified in §18.7(a) or require a passing score on an entrance examination which demonstrates proficiency in these subjects. The method chosen shall be specifically identified in the application for approval of the Initial training course and shall not be changed without the written consent of the Department. The Initial training course for Lead Hazard Reduction Contractors and Lead Hazard Reduction Site Supervisors shall consist of at least forty (40) training hours over a period of at least five (5) days. At least eight (8) training hours of this course shall be "hands-on" (i.e., allow the trainee to practice specific techniques involved in lead hazard reduction). Initial training for Lead Hazard Reduction Contractors and Lead Hazard Reduction Site Supervisors shall cover, as a minimum, the following topics:

(1) Air monitoring procedures and requirements included under OSHA 29 CFR 1926.62, including a description of equipment and methods, reasons for air monitoring, types of samples and current standards with proposed changes; and

(2) Personal hygiene, including entry and exit procedures for the work area, use of showers, and prohibition of eating, drinking, smoking and chewing (gum or tobacco) in the work area, and potential exposures, such as family exposures; and

(3) Additional safety hazards that may be encountered during lead hazard reduction activities, as well as how to deal with them, including electrical hazards, heat stress, air contaminants other than lead, fire and explosion hazards, scaffold and ladder hazards, slips, trips and falls, confined spaces and noise; and

(4) State-of-the-art work practices for lead hazard reduction activities, including, but not limited to, lead-containing paint abatement methods, interior lead-contaminated dust abatement and cleanup methods, and lead-contaminated soil abatement methods; and

(5) Legal responsibilities and potential liabilities of various parties including, but not limited to, contractors, licensees, employers, employees, building owners, and suppliers; and

(6) Insurance and bonding; and

(7) Additional emphasis on work practices, including, but not limited to, purpose, proper construction and maintenance of barriers and decontamination systems, posting of warning signs, electrical and ventilation system lock-outs, proper working techniques for minimizing generation of lead dust, use of negative pressure ventilation equipment, use and maintenance of HEPA vacuums, proper clean-up and disposal procedures; and

18.7(b)(8)

(8) Establishing a respiratory protection and medical surveillance program in accordance with 29 CFR 1926.62, 29 CFR 1910.134, and these Regulations, including a discussion of additional recommended procedures and tests contained in the most current edition of OSHA publication 3142 "Lead in Construction", benefits of medical monitoring, and employee access to records; and

(9) Employee Worker Right-to-Know information and training; and

(10) Project management techniques, including but not limited to: overview of the abatement process; how to supervise effectively; cost estimation; and key elements of contract specifications; and

(11) Lead-containing waste disposal; and

(12) Evaluation of options for lead hazard reduction to ensure the client obtains optimum hazard reduction at a reasonable cost; and

(13) The community relations process, including public/employee/building occupant relations, signs to warn building occupants, tact in dealing with building occupants and the press, scheduling work to minimize disruptions, and education of the building occupants about the actions being taken; and

(14) The reporting, record keeping and other applicable requirements, procedures and standards established by OSHA, EPA, HUD, RI Housing Resources Commission and the provisions of the Act and these Regulations.

(c) **Lead Hazard Reduction Worker Annual Review Training Courses.** The annual review course for Lead Hazard Reduction Workers shall consist of at least eight (8) training hours of instruction and shall provide, at a minimum, a general review of the major topics listed in §18.7(a), updated information on state-of-the-art procedures and equipment, and reviews of regulatory changes and interpretations. Specific topic coverage may be requested by the Department.

(d) **Lead Hazard Reduction Contractor/Site Supervisor Annual Review Training Courses.** The annual review course for Lead Hazard Reduction Contractors and Lead Hazard Reduction Site Supervisors shall consist of at least eight (8) training hours of instruction and shall provide, at a minimum, a general review of the major topics listed in §18.7(b), updated information on state-of-the-art procedures and equipment, and reviews of regulatory changes and interpretations. Specific topic coverage may be requested by the Department. The Department may establish a policy for approval of continuing education units (CEUs) to meet all or part of this Annual Review training requirement.

(e) **Environmental Lead Inspector Technician Initial Training Courses.** The initial training course for Environmental Lead Inspector Technicians shall consist of at least twenty-four (24) training hours over a period of at least three (3) days. At least eight (8) training hours of this course shall consist of the "hands-on" requirements contained in §18.7(g). Training for Environmental Lead Inspector Technicians shall provide, at a minimum, information on the following topics:

(1) Basic background information on lead, including, but not limited to, history of lead use and sources of environmental lead contamination (paint, interior and exterior dust, soil, water, air, and food); and

(2) Health effects of exposure to lead including, but not limited to: how lead enters the body; how lead affects the body; symptoms and diagnosis of lead toxicity and lead poisoning; level(s) of concern; and treatment; and

(3) Public/employee/building occupant relations, including, but not limited to: notification of occupants about inspections, signs to warn building occupants, tact in dealing with building occupants and the press, scheduling inspections to minimize disruptions, and education of the building occupants about the actions being taken; and

(4) Pre-inspection planning and review of previous inspection records; and

(5) Specific training in conducting environmental lead inspections pursuant to §4.0; and

(6) Theory and use of X-ray fluorescence (XRF) analyzers, including as a minimum: operation and use of XRFs, radiation safety, correcting for substrate interference, interpretation of XRF results, similarities and differences between direct reading and spectrum analyzer XRF units, proper transportation of XRF analyzers, and XRF analyzer Record keeping requirements; and

(7) Proper use and limitations of field analytical techniques, including, but not limited to, sodium rhodizonate solutions and X-ray fluorescence (XRF) analyzers; and

(8) Record keeping and preliminary preparation of the inspection report, including as a minimum: labeling of samples, keying sample identification to sample location, chain of custody of samples, and proper use of inspection report forms; and

(9) Legal liabilities and responsibilities of the inspector; and

(10) Lead hazard reduction and environmental lead inspection personal protective equipment, including but not limited to: the classes and characteristics of respirator types; limitations of respirators; proper selection, inspection, wearing, use, maintenance and storage procedures; methods for field testing of the facepiece-to-face seal (positive and negative pressure fitting tests); qualitative and quantitative fit testing procedures; variability between field and laboratory protection factors; factors that alter respirator fit (e.g. facial hair); the components of a proper respiratory protection program; selection and use of personal protective clothing; use, storage and handling of launderable clothing, non-slip footwear, gloves, eye protection and hard hats; and

(11) The reporting, record keeping and other applicable requirements, procedures and standards established by OSHA, EPA, HUD, RI Housing Resources Commission and the provisions of the Act and these Regulations. The requirements for obtaining a radioactive materials license for X-ray fluorescence (XRF) analyzers in this State shall also be reviewed.

(f) **Environmental Lead Inspector Initial Training Courses.** The initial training course for Environmental Lead Inspectors shall either include specific coverage of all material specified in §§18.7(a) and 18.7(e) or require a passing score on an entrance examination which demonstrates proficiency in these subjects. The method chosen shall be specifically identified in the application for approval of the Initial training course and shall not be changed without the written consent of the Department. The Initial training course for Environmental Lead Inspectors shall consist of at least forty (40) training hours over a period of at least five (5) days. At least eight (8) training hours of this course shall consist of the "hands-on" requirements contained in §18.7(g). Training for Environmental Lead Inspectors shall provide, at a minimum, information on the following topics:

18.7(f)(1)

(1) Review and interpretation of preliminary inspection reports prepared by Environmental Lead Inspector Technicians; and

(2) Lead hazard identification and prioritization; and

(3) Preparation of final inspection reports; and

(4) Inspection/project management techniques, including as a minimum: overview of the inspection and abatement processes; how to supervise effectively; and key elements of contract specifications; and

(5) Evaluation of options for lead hazard reduction of identified hazards to ensure the client obtains optimum hazard reduction at a reasonable cost; and

(6) Additional emphasis on inspection practices, including as a minimum: errors commonly made by new/inexperienced Environmental Lead Inspector Technicians; proper techniques for monitoring in-process lead hazard reduction activities; detailed requirements for reporting of results to parties requesting inspection, building owner, occupants and the Department; and

(7) Establishing a respiratory protection and medical surveillance program in accordance with 29 CFR 1926.62, 29 CFR 1910.134, and these Regulations, including a discussion of additional recommended procedures and tests contained in the most current edition of OSHA publication 3142 "Lead in Construction", benefits of medical monitoring, and employee access to records; and

(8) Clearance testing; and

(9) Insurance and liability issues; and

(10) Community relations issues involved in occupant notification and occupant relocation; and

(11) The reporting, Record keeping and other applicable requirements, procedures and standards established by OSHA, EPA, HUD, RI Housing Resources Commission and the provisions of the Act and these Regulations. The requirements for obtaining a radioactive materials license for X-ray fluorescence (XRF) analyzers shall also be reviewed.

(g) **Environmental Lead Inspector/Inspector Technician Initial "Hands-On" Training Requirements.** At least eight (8) training hours of the instruction required by §§18.7(e) and 18.7(f) shall be used to provide each participant an opportunity to conduct a field exercise which includes, as a minimum:

(1) A walk-through inspection of an actual or mock-up dwelling; and

(2) On-site discussion relating to information gathering and determination of sampling locations; and

(3) Opportunities to utilize sodium rhodizonate solution and X-ray fluorescence (XRF) analyzers under realistic use conditions, including substrate correction and documentation of results; and

(4) Preliminary preparation of an inspection report; and

(5) A classroom review/discussion of the field exercise.

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18.7(h)

(h) **Environmental Lead Inspector Technician Annual Review Training Courses.** The annual review course for Environmental Lead Inspector Technicians shall consist of at least eight (8) training hours of instruction and shall provide, at a minimum, a general review of the major topics listed in §18.7(e), updated information on state-of-the-art procedures and equipment, and reviews of regulatory changes and interpretations. Specific topic coverage may be requested by the Department. The Department may establish a policy for approval of continuing education units (CEUs) to meet all or part of this Annual Review training requirement.

(i) **Environmental Lead Inspector Annual Review Training Courses.** The annual review course for Environmental Lead Inspectors shall consist of at least eight (8) training hours of instruction and shall provide, at a minimum, a general review of the major topics listed in §§18.7(e) and 18.7(f), updated information on state-of-the-art procedures and equipment, and reviews of regulatory changes and interpretations. Specific topic coverage may be requested by the Department. The Department may establish a policy for approval of continuing education units (CEUs) to meet all or part of this Annual Review training requirement.

(j) **Environmental Lead Assessor Initial Training Courses.** The initial training course for Environmental Lead Assessors shall consist of at least sixteen (16) training hours over a period of at least two (2) days. At least four (4) training hours of this course shall consist of the "hands on" requirements contained in §18.7(k). Training for Environmental Lead Assessors shall provide, at a minimum, information on the following topics:

(1) Basic background information on lead, including, but not limited to, history of lead use and sources of environmental lead contamination (paint, interior and exterior dust, soil, water, air, and food); and

(2) Health effects of exposure to lead including, but not limited to: how lead enters the body; how lead affects the body; symptoms and diagnosis of lead toxicity and lead poisoning; level(s) of concern; and treatment; and

(3) Introduction to environmental lead personal protective equipment; and

(4) Specific training in environmental lead sampling, including, but not limited to, the collection of dust wipe and paint chip samples and proper use/limitations of sodium rhodizonate test kits; and

(5) Lead hazard identification and prioritization; and

(6) Evaluation of options for lead hazard reduction of identified hazards to ensure optimum hazard reduction at a reasonable cost; and

(7) Dwelling occupant relations, including, but not limited to, signs to warn building occupants, tact in dealing with building occupants, scheduling inspections to minimize disruptions, and education of the building occupants about the actions being taken; and

(8) The reporting, record keeping and other applicable requirements, procedures and standards established by OSHA, EPA, HUD, RI Housing Resources Commission and the provisions of the Act and these Regulations, including as a minimum, labeling of samples, keying sample identification to sample location, chain of custody of samples, and proper use of inspection report forms.

(k) **Environmental Lead Assessor Initial "Hands-On" Training.** At least four (4) training hours of the instruction required by §18.7(j) shall be used to provide each participant an opportunity to conduct a field exercise which includes as a minimum:

(1) A walk-through inspection of an actual or mock-up dwelling; and

(2) On-site discussion relating to information gathering; and

(3) Opportunities to utilize sodium rhodizonate test kits, obtain paint chip samples, and conduct dust wipes as well as documentation of results; and

(4) A classroom review/discussion of the field exercise.

(l) **Environmental Lead Assessor Biannual Review Training Course.** The Biannual Review course for an Environmental Lead Assessor shall consist of at least eight (8) training hours and shall provide, at a minimum, a general review of the major topics specified in §18.7(j), updated information on state-of-the-art procedures and equipment, reviews of regulatory changes and interpretations, and any specific topic coverage that may be requested by the Department.

(m) **Lead-Safe Remodeler/Renovator Training Courses.** The initial training course for a Lead-Safe Remodeler/Renovator shall consist of at least eight (8) training hours, of which two (2) training hours shall be devoted to hands-on activities, and a maximum of one (1) training hour shall be allowed for the final examination, and shall provide, at a minimum, information on the following topics[11]:

(1) Discussion of the differences between lead hazard reduction and lead hazard control, as well as the scope of work that can be performed by a Lead-Safe Remodeler/Renovator.

(2) Background information on lead, including, but not limited to, the ban of lead-based paint in 1978, and the fact that older homes are more likely to have lead-based paint hazards.

(3) Lead hazard recognition, including, but not limited to: health effects of lead exposure in young children and adults, ingestion of chips of lead-based paint and lead-contaminated soil as a cause lead poisoning, definition of lead-based paint , explanation of lead-based paint hazards as defined by Title X, distinction between lead-based paint and lead-based paint hazards, an explanation of the dangers of lead-contaminated dust and the fact that renovation and repainting have been found to generate lead dust that is ingested or inhaled by young children and other occupants as well as workers, and paint as a source of soil contamination.

(4) Lead-Safe Remodeler/Renovator safety, including, but not limited to: use of protective clothing or cleaning of work clothes, hygiene and decontamination practices, introduction to respirators and other personal protective equipment, OSHA requirements, including Hazard Communication Standard and Lead Standard, and roles and responsibilities of workers, employers, owners in the recognition of lead-based paint hazards.

(5) Paint removal practices that are prohibited by these Regulations and HUD regulations, including, but not limited to: open flame/high heat methods to remove paint (e.g., heat guns over 1100 °F and torches), power sanders or grinders without HEPA vacuum attachments, abrasive blasting or sand-blasting without HEPA vacuum exhaust, extensive dry scraping or dry sanding, and volatile paint strippers in an unventilated space.

(6) Lead-safe work practices, including, but not limited to:

(i) Dust containment including set up procedures for interior and exterior work, and materials/ procedures to be used.

[11] Approximately 75 percent of the course time should be allocated to topics listed under subparagraphs (5), (6) and (7).

18.7(m)(6)(ii)

(ii) Dust control including methods to minimize the amount of dust created, and tools/practices that minimize the amount of dust generated. Methods should include dust control during paint stabilization and dust removal.

(iii) Clean up and clearance including tools and procedures to remove containment materials and dust/debris created during the work, cleaning supplies/materials and procedures, response to inadequate cleanup and failure to meet clearance standards, repeating cleaning and clearance testing until compliance with clearance standards is achieved. Special emphasis should be placed on the small amount of lead particles that are necessary to exceed the clearance standards

(iv) Procedures for proper disposal of debris from the work, including a review of RIDEM hazardous waste requirements.

(7) Public/employee/building occupant and resident safety including, but not limited to, procedures to keep young children out of work area until final cleanup is completed, and dust containment practices to minimize spread of dust in occupant's belongings and furniture.

(8) The requirements, procedures and standards for lead hazard control and for worker protection established by OSHA, EPA, HUD, and the provisions of the Act and these Regulations, with specific emphasis on OSHA 29 CFR 1926.62, OSHA 29 CFR 1910.134, HUD-EPA disclosure rule (1018), EPA pre-renovation education rule, EPA training and certification rule (402/404), RI Housing Resources Commission and HUD requirements for federally assisted and owned housing (1012/1013).

(9) The requirements for record preparation/record keeping.

(n) **Substitutes For Classroom Training.** Certified training providers may propose using novel training approaches, such as on-line training courses, as part of their curriculum.

(1) In addition to any course specific requirements, an on-line course shall provide direct instructor-student contact for at least one (1) training hour to review RI-specific requirements and conduct an assessment of skills.

(2) In addition to complying with all technical content requirements established by these Regulations, an on-line training course shall be in compliance with the most current EPA technical specifications for training via electronic-learning format, as well as the most current technical guidance for e-learning issued by the Department.

(o) **Lead-Safe Remodeler/Renovator Review Training Courses.** The review training course for Lead-Safe Remodeler/Renovator shall consist of at least four (4) training hours and shall provide, at a minimum, a general review of the major topics listed in §18.7(m), updated information on state-of-the-art procedures and equipment, and reviews of regulatory changes and interpretations. Specific topic coverage may be requested by the Department.

18.8 Notification Requirements.

(a) A certified training provider shall notify the Department of the proposed date(s) of each certified course as soon as the course has been scheduled. The notification shall be submitted at least five (5) business days prior to the scheduled start date of the certified course.

(b) A certified training provider shall notify the Department if it becomes necessary to cancel or reschedule a course for which a notification has been submitted pursuant to 18.8(a). The notification shall be submitted at least three (3) business days prior to the scheduled start date of the certified course.

SECTION 19.0 LICENSING REQUIREMENTS FOR LABORATORIES PERFORMING LEAD ANALYSIS.

19.1 **Certification Requirement for Environmental Lead Analysis.** No person or entity shall provide or offer to provide analysis of lead content in drinking water, soil, dust, paint or consumer products, for the purpose of meeting the requirements of these Regulations, unless the person or entity is certified by the Director pursuant to the provisions of the *Rules and Regulations for Certifying Analytical Laboratories* [*R23-16.2-A/LAB*], and unless the certification specifically identifies lead as an authorized analyte.

19.2 **Licensing Requirement for Blood Lead Analysis.** No person or entity shall provide or offer to provide analysis of lead content in blood, for the purpose of meeting the requirements of these Regulations, unless the person or entity is licensed by the Director pursuant to the provisions of the *Rules and Regulations for Licensing Clinical Laboratories and Stations* [*R23-16.2-C&S/LAB*].

19.3 **General Licensing/Certification Requirement for Clinical/Analytical Samples.** Pursuant to the provisions of §23-16.2-4 of the General Laws of Rhode Island, 1956, as amended, no person, corporation or other form of business entity shall perform clinical or analytical laboratory services on specimens collected in Rhode Island without having the appropriate license(s)/certification(s) issued by the Director pursuant to the provisions of Chapter 23-16.2 of the General Laws of Rhode Island, 1956, as amended.

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SECTION 20.0 LICENSING REQUIREMENTS TO PERFORM LEAD HAZARD CONTROL ACTIVITY

20.1 General Requirements.

(a) Unless otherwise authorized by these Regulations, no person shall perform or offer to perform interior lead hazard control activity at a regulated facility unless the person is licensed to do so by the Department under the provisions of this Section. Effective 1 May 2010, individuals licensed pursuant to this Section shall only perform lead hazard control activity under the authority of a licensed Lead Hazard Control Firm. Prior to 1 May 2010, lead hazard control activity may be performed by either a licensed Lead Hazard Control Firm or a licensed Lead-Safe Remodeler/Renovator. Any licensed Lead-Safe Remodeler/Renovator not operating under the supervision of a licensed Lead Hazard Control Firm shall also be responsible for ensuring compliance with §14.4(a) of these Regulations.

(b) No person shall advertise to provide interior lead hazard control services in regulated facilities unless the person is licensed to do so by the Department under the provisions of this Section. Any person licensed by the Department to perform lead hazard control activity shall include the Lead Hazard Control Firm license number issued by the Department in all advertisements.

(c) **Expiration of Training.** Completion certificates for all initial and review training courses approved in accordance with §18.7 shall expire one (1) year from the date that training was completed.

(d) **Notification of Changes.** Any person licensed pursuant to this Section shall notify the Department in writing before making any change which would render the information[12] contained in their application for licensure no longer accurate.

(e) No person shall hire another individual to perform interior lead hazard control activity at a regulated facility unless the individual or entity is licensed to do so by the Department under the provisions of this Section or has been trained pursuant to §14.4(b)(2) of these Regulations.

20.2 License Application.

(a) **General Requirements.**

(1) Applicants for a Lead Hazard Control Firm or a Lead-Safe Remodeler/ Renovator license[13] shall submit a completed application to the Department on forms provided by the Department. The application shall include all the required information on the form and the appropriate fee ~~required by §20.4~~. as set forth in the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health*.

(2) Each application for a Lead Hazard Control Firm license shall be signed by the applicant or a person duly authorized to act on behalf of the applicant. Each application for a Lead-Safe Remodeler/Renovator license shall be signed by the applicant. All applications shall include a certification by the applicant that his/her license or other authorization to perform lead hazard reduction and/or lead hazard control work has not been suspended or revoked by any

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[12] For example, name, mailing address or phone number, and for a Lead Hazard Control Firm, the name of the designated Lead-Safe Remodeler/Renovator.

[13] Applicants for a Lead Hazard Control Firm license should be aware that lead hazard control activity may also require registration with the Rhode Island Contractors' Registration Board pursuant to Title 5, Chapter 65 of the General Laws of Rhode Island, 1956, as amended, and the *Administrative Regulations & Construction Standards of the Rhode Island Contractors' Registration Board*.

other jurisdiction and that no enforcement actions by any local, county, State or Federal agency are pending against the applicant.

20.2(a)(3)

(3) Applicants for a Lead-Safe Remodeler/Renovator license shall submit documentation of appropriate training [i.e., requiring a minimum passing grade for the Initial Lead-Safe Remodeler/Renovator training course final examination of at least seventy-five percent (75%)]. This documentation shall consist of:

(i) Successful completion of an initial training course, approved in accordance with §18.7(m), within the twelve (12) month period prior to submission of the initial application.; or

(ii) Possession of a current Lead Hazard Reduction Contractor Agent license issued pursuant to §15.3; or

(iii) Possession of a current Lead Hazard Reduction Site Supervisor license issued pursuant to §15.3; or

(iv) Possession of a current Lead Hazard Reduction Worker license issued pursuant to §15.3.

(4) Applicants for a Lead-Safe Remodeler/Renovator license shall also provide the Department with proof of identity, in the form of a photo ID, to verify that the license applicant is the same individual who successfully completed the appropriate training. Acceptable photo ID includes a current drivers license, passport or DMV (Division of Motor Vehicles) photo ID card.

(5) In addition to the requirements contained in §20.2(a), applicants for a Lead Hazard Control Firm license shall also designate a licensed Lead-Safe Remodeler/Renovator who shall be responsible for oversight of the Lead Hazard Control Firm's lead hazard control activity, as specified in §14.0 of these Regulations.

(b) The Department may at any time after the filing of the original application require further information in order to enable the Department to determine whether the application meets the requirements of these Regulations.

20.3 <u>Issuance, Renewal and Replacement of Licenses</u>.

(a) **<u>Issuance of Licenses</u>.** Pursuant to the provisions of §23-24.6-20(b)(1) of the Act, the Department shall grant a license to a Lead Hazard Control Firm or a Lead-Safe Remodeler/ Renovator who meets the licensure requirements set forth in these Regulations, and upon submission of the appropriate licensure fee specified in ~~§20.4~~ <u>the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health*</u>. Lead Hazard Control Firm and Lead-Safe Remodeler/Renovator licenses shall be issued for a period of sixty (60) months[14] and shall expire on the last day of the month five (5) years from the date of issue, unless sooner suspended or revoked. These licenses may be renewed in accordance with the provisions of §20.3(b) and upon payment of the licensure renewal fee specified in ~~§20.4~~ <u>the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health*</u>.

(b) **<u>Renewal of Licenses</u>.**

(1) A Lead Hazard Control Firm or Lead-Safe Remodeler/Renovator may request a license renewal by submitting:

[14] The expiration date for a Lead Hazard Control Firm license shall be linked to the expiration date of the Lead-Safe Remodeler/Renovator designated pursuant to §20.2(a)(5). Therefore, some initial Lead Hazard Control Firm licenses may be issued for a period of less than sixty (60) months. However, the license fee shall not be pro-rated.

20.3(b)(1)(i)

(i) An application in accordance with §20.2(a) without reference to any previously submitted material. For a Lead-Safe Remodeler/Renovator also include documentation of successful completion of the appropriate review course specified in §18.7(o) prior to the expiration date of their current valid license; and

(ii) Payment of the appropriate fee specified in ~~§20.4~~.the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health*.

(2) If a license issued pursuant to this Section has expired and a renewal application and appropriate fee are not received by the Department on or before the expiration date of the license, the applicant shall successfully complete the initial eight (8) hour Lead-Safe Remodeler Renovator training course specified in §18.7(m) in order to renew the Lead-Safe Remodeler/Renovator license. The expiration date for the renewal license shall be five (5) years from the date on the expired license.

(3) Any Lead Hazard Control Firm or Lead-Safe Remodeler/Renovator who has failed to pay an administrative fine imposed by a final order of the Department shall submit payment of the administrative fine in full as a condition of license renewal.

(c) **Replacement of Lost or Damaged Licenses.**

(1) Application for replacement of a lost or damaged Lead Hazard Control Firm or Lead-Safe Remodeler/Renovator license shall be made by the licensee on forms provided by the Department.

(2) All applications for replacement of a lost or damaged license shall be accompanied by the appropriate replacement fee specified in ~~§20.4~~ the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health*.

(d) **Reinstatement of Licenses.**

(1) An expired license may be reinstated upon successful completion of the initial eight (8) hour Lead-Safe Remodeler/Renovator training, and provided that the application includes:

(i) The appropriate late renewal fee specified in ~~§20.4;~~ the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health;* and

(ii) Submission of all other items required by §20.2(a).

20.4 Fees.

(a) **General Requirements.** The appropriate fees specified in ~~§20.4(c)~~ the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health* shall accompany each application submitted pursuant to this Section. No license shall be issued or renewed pursuant to this Section until the correct fee has been remitted. Fees will not be prorated for a period of time less than the full term of a license.

(b) **Payment.** All payments pursuant to this Section shall be by check made payable to: General Treasurer, State of Rhode Island.

(c) **Amount.** The following fees shall apply for the lead hazard control licenses listed ~~below~~: in the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health*.

	~~Initial Application~~	~~Renewal~~	~~Late Renewal~~	~~Replacement~~
~~Lead Hazard Control Firm~~	~~$40~~	~~$40~~	~~$60~~	~~$20~~
~~Lead Safe Remodeler/Renovator~~	~~$40~~	~~$40~~	~~$60~~	~~$20~~

20.5

20.5 Special Requirements Pertaining to Licensing of Lead Safe Remodeler/Renovators By Reciprocity.

(a) **Applicability and Scope.** Any individual who has a valid equivalent lead safe remodeler/ renovator license from the U.S. Environmental Protection Agency (USEPA), another State or Indian Tribe may apply to the Department to obtain a Lead Safe Remodeler/Renovator License pursuant to this Section. The Department shall determine, in its discretion, whether the license issued by USEPA, another State or Indian Tribe is equivalent to the license issued by the Department.

(b) **License Application.** In addition to the requirements contained in §20.2(a), applicants for a Lead Safe Remodeler/Renovator License by reciprocity shall also submit evidence of:

(1) A currently valid license from USEPA, another State or Indian Tribe that is at least equivalent to a Lead Safe Remodeler/Renovator; and

(2) Successful completion of an initial training course, reviewed and approved by the USEPA, State or Indian Tribe issuing the license, which meets or exceeds the contact time and subject material (except for Rhode Island Regulations) specified in §18.7(m). If more than twelve (12) months has elapsed since completion of initial training, it shall be supplemented by successful completion of a review course, reviewed and approved by the USEPA, State or Indian Tribe issuing that license, within the previous twelve (12) months; and

(3) Successful completion of the Rhode Island proficiency examination required by §20.5(f).

(c) **Issuance of Licenses.** Pursuant to the provisions of §23-24.6-20(b)(1) of the Act, the Department shall grant a license by reciprocity to a Lead Safe Remodeler/Renovator who meets the licensure requirements set forth in these Regulations, and upon submission of the appropriate licensure fee specified in ~~§20.4~~. the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health*. The Lead Safe Remodeler/Renovator license shall be issued for a period of no longer than sixty (60) months and shall expire on the last day of the month five years from the date of issue or the expiration date assigned by USEPA, the issuing State or Indian Tribe, whichever is earlier, unless sooner suspended or revoked. The license may be renewed in accordance with the provisions of §20.5(d) and upon payment of the licensure renewal fee specified in ~~§20.4~~. the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health.*

(d) **Renewal of Licenses.** In addition to the requirements contained in §20.3(b), applicants for renewal of a Lead Safe Remodeler/Renovator license by reciprocity shall also address the requirements of §20.4(b) without reference to any previously submitted material.

(e) **Revocation and Suspension of Licenses.** Upon issuance of a Lead Safe Remodeler/Renovator license by reciprocity, the licensee shall immediately notify the Department in writing if any final administrative action is taken against the licensee by USEPA, another State or Indian Tribe during the term of said license. The Department may subject the Lead Safe Remodeler/ Renovator License issued by reciprocity to any such action taken against the licensee by USEPA, another State or Indian Tribe.

(f) **Rhode Island Proficiency Examination.**

(1) Each applicant for a Lead Safe Remodeler/Renovator License by reciprocity shall obtain a passing score on this examination. The examination tests whether the applicant has sufficient knowledge and skill to safely and effectively perform, supervise, and oversee lead hazard control activity in accordance with these Regulations.

20.5(f)(2)

(2) In order to take this examination, applicants shall complete an application on forms provided by the Department. The application shall include all the required information on the form and a fee ~~of thirty-five dollars ($35)~~ as set forth in the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health* for each examination. Applicants shall submit a new application and fee with each examination that is requested. The application fee shall not be refunded and shall not be applied to any application for a license pursuant to these Regulations. All applications and examination fees shall be submitted to the Department, unless the Department designates a third party vendor to conduct this examination on its behalf, in which case applications and examination fees shall be submitted directly to the third party vendor. If a third party vendor is selected, the Department will inform prospective applicants how to contact the vendor regarding the date(s) and location(s) of this examinations.

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PART VII COMPLIANCE AND ENFORCEMENT, COMMUNICATIONS, AND INTERPRETATION AND SEVERABILITY

SECTION 21.0 COMPLIANCE AND ENFORCEMENT PROCEDURES.

21.1 Denial of Applications.

(a) The Department may deny an application for licensure or certification pursuant to these Regulations if he/she determines that the applicant has not demonstrated the ability to comply fully with applicable requirements established by the Act and/or by these Regulations.

(b) An applicant whose application for licensure or certification is denied may request a hearing in accordance with the administrative procedures contained in *Rules and Regulations of the Rhode Island Department of Health Regarding Practices and Procedures Before the Department of Health and Access to Public Records* (*R42-35-PP*).

21.2 Suspension or Revocation of a License or Certification. The Department may suspend or revoke any license or certification issued pursuant to these Regulations in accordance with §23-24.6-20(e) of the Act for:

(a) Failing to maintain appropriate proficiency in the required areas or within the allotted time, including failing to successfully complete the annual review training required by these Regulations; or

(b) Obtaining licensure or certification based on misrepresentation or fraud; or

(c) Failing to discharge activities in accordance with the Act or these Regulations; or

(d) Reporting fictitious results or reports; or

(e) Lending the use of the name of a licensed or certified individual or entity to any other person/entity; or

(f) False representation of credentials as a licensed or certified individual or entity; or

(g) Use of a license or certification for fraudulent or deceptive purposes; or

(h) Any good cause within the meaning and purpose of these Regulations or the Act.

21.3 Compliance and Enforcement Procedures.

(a) **Purpose and Goals.** The purpose and goals of this Section include, but are not limited to:

(1) Promoting and protecting the health and safety of the public, particularly children under six (6) years of age;

(2) Minimizing public and worker exposures to environmental lead;

(3) Ensuring compliance with these Regulations;

(4) Obtaining prompt correction of noncompliance;

(5) Eliminating any economic benefit or other advantage realized as a direct or indirect result of any violation of these Regulations;

(6) Encouraging improvement of the performance of individuals licensed or certified in accordance with these Regulations, including the identification and proper lead hazard reduction of significant environmental lead hazards; and

(7) Providing for the assessment of administrative penalties, where appropriate, which:

21.3(a)(7)(i)

(i) Reflect the nature and gravity of the violation(s) and the potential for harm to the public health;

(ii) Reflect the length of time during which each violation was repeated or continued;

(iii) Will deter future noncompliance by the person in violation;

(iv) Will encourage continued compliance by persons similarly regulated; and

(v) Will recover costs of enforcement incurred by the State.

(b) **Failure to Comply.**

(1) Failure of an owner of a regulated facility to comply with a Notice to Abate within the time period specified in §2.6(b) shall constitute a violation of these Regulations and Chapter 45-24.3 [The Housing Maintenance and Occupancy Code] of the General Laws of Rhode Island, 1956, as amended.

(2) Whenever the Director determines that any person is in violation of a Notice to Abate, as specified in §21.3(b)(1), or fails to comply with any other provision of the Act or the Regulations, or any order(s), consent agreement(s), license(s), or certification(s) issued by the Department, the Director may pursue any of the enforcement options provided in §21.3(c) in order to correct the noncompliance and/or impose a penalty.

(3) Failure of an owner of a regulated facility to comply with a Notice of Violation issued pursuant to §2.6(b)(1) within ninety (90) days of the date of issuance shall constitute grounds for the Department to issue of a Second Notice of Violation.

(c) **Enforcement Options.**

(1) The Director may pursue any combination of the following administrative and judicial enforcement actions, depending upon the circumstances and gravity of each case:

(i) All enforcement provisions in the Housing Maintenance and Occupancy Code, RIGL Chapter 45-24.3;

(ii) Administrative fines pursuant to the Lead Poisoning Prevention Act, RIGL §23-24.6-27, and §21.4 of these Regulations;

(iii) Penalties for obstruction of inspections or examinations pursuant to RIGL §23-1-19;

(iv) Compliance orders pursuant to RIGL §23-1-20;

(v) Immediate compliance orders pursuant to RIGL §23-1-21;

(vi) Enforcement of compliance orders pursuant to RIGL §23-1-23;

(vii) Criminal penalties pursuant to RIGL §23-1-25; and

(viii) Revocation, suspension, or other disciplinary action pursuant to the Lead Poisoning Prevention Act, RIGL §23-24.6-20(e), and §21.2 of these Regulations regarding a license or certificate issued in accordance with these Regulations.

(2) The imposition of one or more remedies and/or penalties provided in §21.3(c)(1) shall not prevent the Director from jointly exercising any other remedy or penalty, except that fines levied pursuant to RIGL §23-24.6-27 shall be in lieu of any civil penalties issued pursuant to §45-24.3-18(a), and no housing authority shall issue any civil penalty for the same violation.

21.3(c)(3

(3) **Consent Agreement/Order.** Nothing herein shall preclude the Director from resolving outstanding violations or penalties through a Consent Agreement or Consent Order at any time he or she deems appropriate.

21.4 Administrative Fines (Civil Penalties).

(a) **Applicability and Scope.**

(1) Pursuant to the provisions of §23-24.6-27 of the Act, the Director may impose an administrative fine of up to one-hundred dollars ($100) per day for each current or past violation of §§23-24.6-12, 23-24.6-13, 23-24.6-14, or 23-24.6-15 of the Act regarding inspections, §23-24.6-17 of the Act regarding lead hazard reduction, or §23-24.6-20 of the Act regarding licensure or certification, or any Regulations promulgated pursuant to the Act, or any orders issued pursuant to the Act or these Regulations.

(2) For the purposes of determining the total administrative fine to be assessed:

(i) Each day of a continued violation may be considered a separate violation. A violation begins on the day following receipt of a Notice of Violation or any order issued by the Director and constitutes a continuing violation each day during which the violation is repeated, continued, or remains in place.

(ii) Each violation in any premises may be considered as a separate violation. Multiple violations of these Regulations or of any order issued by the Director are counted as separate violations if any violation:

(a) Involves a prohibited act which is distinguishable from any other by the nature of the act itself; or

(b) Involves a prohibited act which is distinct from any other by the time or place of its commission; or

(c) Presents a risk of harm to the public health which is distinguishable from the risk threatened by any other violation.

(b) **Assessment of Fines for Failure to Comply.** Unless an extension is granted by the Director pursuant to §21.4(c), the Director may assess a fine for failure to comply with a Notice of Violation or with any order by the deadline specified in the Notice of Violation or order.

(c) **Extension of Time for Compliance Before Fines May Be Assessed.**

(1) For good cause and upon written request, the Director may extend for a reasonable time the due date for complying with a Notice of Violation or with any order before fines may be assessed. Such a request must be received by the Director at least one (1) week prior to the date specified for compliance in the Notice of Violation or order.

(2) In deciding whether to grant an extension, as well as any condition(s) attached to such an extension, the Director may consider, but not be limited to, the following factors:

(i) The severity of the violation(s);

(ii) The progress made toward correcting the violation(s);

(iii) The current threat to public health posed by the violations; and

(iv) Any prior or concurrent instances of noncompliance by the person named in the Notice of Violation or order.

21.4(c)(3)

(3) An extension may not be granted if the Director determines that:

(i) There is continued noncompliance; and

(ii) The noncompliance is willful or based on a careless disregard for the requirements of the Act or these Regulations; and/or

(iii) A significant and immediate threat to public health exists. Evidence of such a threat includes, but is not limited to, continued lead poisoning of occupants of the premises in question or of lead hazard reduction personnel.

(d) **Criteria for Assessment of Administrative Fines.** The Director shall consider, but not be limited to, the following factors in making a decision to assess or not assess an administrative fine, as well as the amount of any such administrative fine, provided that the Director may weigh the relevance of each factor in any particular case at his or her discretion:

(1) The cumulative number of days of noncompliance;

(2) The total number of violations;

(3) The willfulness of the violation(s);

(4) The ability of the violator to comply;

(5) Realized or potential injury to public health and welfare;

(6) Any prior record of noncompliance with any regulation, order(s), consent agreement(s), license(s), or certificate(s) issued or adopted by the Department;

(7) The economic benefit derived from noncompliance;

(8) Any costs incurred by the State in investigation and enforcement related to the noncompliance; and

(9) Any other factors that the Director considers relevant.

(e) **Calculation of Administrative Fine(s).** The total amount of any administrative fine to be levied shall be calculated according to the guidelines provided in the Environmental Lead Program's Enforcement Policy and Procedures. The Director, at his or her discretion, may adjust the fine upward or downward based on the criteria listed in §21.4(d), provided that no fine exceeds one-hundred dollars ($100) per violation per day.

(f) **Due Date for Payment of an Administrative Fine.**

(1) Unless another time period is specified in the Director's order assessing an administrative fine, any administrative fine assessed pursuant to this Section shall be due and payable within thirty (30) days of service of the notice of the Director's order assessing the fine.

(2) This thirty (30) day period shall be stayed pending a hearing on the matter if the person(s) named in the order request(s) a hearing pursuant to §21.6 within thirty (30) days of service of the notice of the Director's order assessing the fine.

(g) **Method of Payment.** Payment for any administrative fine assessed pursuant to this Section shall be in the form of a cashier's check or certified check made payable to General Treasurer, State of Rhode Island.

21.4(h)

(h) **Failure to Pay.** If any person liable to pay any administrative fine assessed pursuant to this Section neglects or refuses to pay after demand, the amount together with interest and any other costs that may accrue shall be a lien in favor of the State upon only such real property of such person which is subject to the order, but only after the lien has been entered and recorded in the city or town in which the property is situated. Any person who has a license or certification pursuant to these Regulations and who neglects or refuses to pay an administrative fine after demand may not renew his or her license or certification until all outstanding administrative fines have been paid.

21.5 Variance from Regulations.

(a) A variance from compliance with one or more provisions of these Regulations may be granted by the Department in a specific case if the Department determines that a literal enforcement of the provision(s) would result in unnecessary hardship to a regulated person or entity and that such a variance will not be contrary to the public health or public interest.

(b) [**RESERVED**]

(c) A request for a variance must be submitted in writing, on a form approved by the Department, setting forth in detail the basis upon which the request is made. The applicant must further certify that the measures taken pursuant to the variance will be as protective of public health as the Regulations.

(d) The Department may declare any variance granted pursuant to this Section immediately null and void if the Department determines that the terms of the variance have been violated.

21.6 Administrative Hearing and Judicial Review.

(a) Any person who is subject to enforcement action by the Director or who is otherwise aggrieved by a final decision of the Director has the right to request an administrative hearing to contest the action or decision, provided that no request for a hearing on an immediate compliance order issued pursuant to RIGL 23-1-21 may be made.

(b) Any request for a hearing must be made in writing and must be received by the Director within thirty (30) days of service of the Director's order or notice of final action. Failure to make a timely request for a hearing or electing to waive such a hearing shall result in a final order of the Director.

(c) If a timely request for a hearing is made, the hearing shall be conducted in accordance with the provisions of Chapter 42-35 of the General Laws of Rhode Island and the *Rules and Regulations Governing the Practices and Procedures Before the Department of Health* (*R42-35-PP*).

(d) Judicial review of any final decision of the Administrative Hearing Officer shall be available in accordance with §42-35-15 of the General Laws of Rhode Island.

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SECTION 22.0 COMMUNICATIONS AND CORRESPONDENCE.

22.1 All inquires, correspondence, applications or required reports pertaining to these Regulations shall be directed to:

Rhode Island Department of Health
Childhood Lead Poisoning Prevention Program
3 Capitol Hill, Room 206
Providence, RI 02908-5097
Phone: (401) 222-5960
FAX: (401) 222- 2456

SECTION 23.0 INTERPRETATION AND SEVERABILITY.

23.1 **Interpretation and Severability.** The provisions of these Regulations shall be liberally construed and shall be held to be in addition to, and not in substitution for or a limitation of, the provisions of any other regulation or law. If any provision or part thereof of these Regulations or application thereof to any person or circumstance is held unconstitutional or otherwise invalid, the remainder of these Regulations and the application of such provisions to any other persons or circumstances other than those to which it is held invalid shall not be affected thereby.

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Tuesday, July 31, 2012