

**SYNOPSIS OF
PROPOSED AMENDMENTS TO THE
RULES OF THE DEPARTMENT OF NATURAL RESOURCES
ENVIRONMENTAL PROTECTION DIVISION
RELATING TO CHAPTER 391-3-24
LEAD-BASED PAINT ABATEMENT, CERTIFICATION AND ACCREDITATION**

Chapter 391-3-24, “Lead-Based Paint Abatement, Certification and Accreditation” The title of this chapter is being changed to “Lead-Based Paint Hazard Management” to reflect the broader scope of the lead-based paint regulatory responsibilities under the amended state statute and federal regulations.

Rule 391-3-24-.01, “Scope and Applicability” is being amended.

Purpose: Expands the scope and applicability to include renovation activities .

Main Features: Adds renovation activities to the Rule. Clarifies that the requirements of this Rule apply only to persons and firms performing lead-based paint and renovation activities. Requires training and certification. Incorporates the federal requirements for renovation activities in Paragraphs (3), (4), and (5) verbatim.

Rule 391-3-24-.02(2), “Enforcement,” is being amended.

Purpose: Expands the enforcement responsibilities to include renovation.

Main Features: Adds enforcement of renovation activities to the Rule.

Rule 391-3-24-.03, “Definitions,” is being amended.

Purpose: Adds definitions associated renovation activities and revises some existing definitions.

Main Features: Adds 11 new definitions consistent with the federal renovation rule. Adds the word “Certified” and Georgia-specific requirements to the federal definitions of “renovation firm,” “renovator,” and “dust sampling technician.” Adds three new state definitions: “certificate of mailing”; “disturb”; and “renovation activities” to clarify renovation activities. Expands two definitions in the existing regulations: “accredited training program” and “start date” to include renovation activities. Amends 13 definitions to correct grammatical errors and conform to existing federal regulations for lead-based paint hazards and lead-based paint activities, 40 CFR, Part 745, Subparts D and L. Adds the definition of “floor” to clarify the requirements in the existing regulations.

Rule 391-3-24-.04, “Accreditation of Training Programs for Target Housing and Child-Occupied Facilities” is being amended.

Purpose: Simplifies the title from “Accreditation of Training Program for Target Housing and Child-Occupied Facilities” to “Accreditation of Training Programs”. Incorporates the federal renovation requirements for training providers that offer the renovator and dust sampling technician courses. Updates administrative procedures and corrects typographical errors.

Main Features: Includes the new federal renovation requirements for training providers offering the renovator and dust sampling technician training courses. Amends the Division’s application, notification, and renewal requirements for training providers. Sets a state fee schedule for renovator and dust sampling technician training courses. Adds the federal curricula requirements for both the initial and refresher renovation training courses. Adds a lower initial application fee for training programs already accredited with EPA.

Rule 391-3-24-.05, “Certification of Persons and Firms Conducting Lead-Based Paint Activities” is being amended.

Purpose: Replaces the title, “Certification Requirements and Application Procedures for Persons and Firms” with “Certification of Persons and Firms Conducting Lead-Based Paint Activities.” Revises certification and application requirements and administrative procedures. Corrects typographical errors.

Main Features: Revises existing administrative procedures (e.g., requiring the last four digits of the social security number, allowing electronic payment of fees, and specifying Division payment accounts).

Rule 391-3-24-.06, “Standards for Conducting Lead-Based Paint Activities” is being amended.

Purpose: Revises the title, “Standards for Conducting Lead-Based Paint Activities for Target Housing and Child-Occupied Facilities” to “Certification of Persons and Firms Conducting Lead-Based Paint Activities.” Revises the standards for conducting lead-based paint abatement activities and administrative procedures. Corrects typographical and grammatical errors.

Main Features: Amends subparagraph (2)(a) to allow for a combined inspector/risk assessor to conduct a lead inspection. Amends subparagraph (5)(h)(3) to prohibit lead-contaminated soil from a lead-based paint abatement project from being removed and placed on another site in potential violation of state solid and hazardous waste rules. Adds “interior” to subparagraph (5)(i)(4)(i) and (5)(i)(4)(ii). Amends subparagraph (5)(i)(4)(iii) to clarify that exterior sampling includes exterior floors and concrete associated with

the abatement project. Amends subparagraph (5)(i)(6) to add “concrete, window sills and window troughs” to make it consistent with Rule 391-3-24-.07. Amends subparagraphs (10) and (11)(d) to allow the electronic payment of project fees. Expands the project notification requirements in subparagraph (11)(b) to include the locations of material to be abated and the development of an occupant protection plan.

Rule 391-3-24-.08, “Information Distribution Requirements Before Conducting Renovation Activities” is being added.

Purpose: Adds the federal renovation rule notification requirements and pamphlet distribution requirements before beginning renovation activities.

Main Features: Adds the federal renovation rule notification requirement that persons conducting renovation activities notify and distribute pamphlets to owners or occupants of target housing or child-occupied facilities before beginning renovation activities. Revises subparagraph (3)(b) to clarify that if the owner of the child-occupied facility is not the manager of the building to provide the manager or management representative with a copy of the pamphlet.

Rule 391-3-24-.09, “Certification of Persons and Firms Conducting Renovation Activities” is being added.

Purpose: Adds federal renovation rule requirements for certification of renovation firms, renovators, and dust sampling technicians performing renovation activities in target housing and child-occupied facilities.

Main Features: Adds the new federal certification requirements for persons and firms conducting renovation activities and incorporates the Division’s existing certification requirements for persons and firms conducting lead-based paint activities found in Rule 391-3-24-.05. Recognizes certifications issued by EPA for certified renovators, certified dust sampling technicians and certified renovation firms prior to the effective date of this Rule as valid for the full term of the EPA certification in subparagraphs (3)(b)(2), (3)(c)(2) and (3)(d)(2). In subparagraphs (2)(a)(2)(iii), (2)(b)(1)(vi), and (2)(c)(1)(v), sets state certification fees and initial requirements. In subparagraphs (3)(b)(3)(v), (3)(c)(3)(v) and (3)(d)(5), sets state fees and requirements for renewal of certifications .

Rule 391-3-24-.10, “Standards for Conducting Renovation Activities” is being added.

Purpose: Adds the federal standards for renovation activities at target housing and child occupied facilities and adds Georgia-specific requirements.

Main Features: Adds federal standards prescribing renovator and dust sampling technician responsibilities, work practices, cleaning verification procedures and lead-dust testing clearance procedures. Replaces “remove” in subparagraph (3)(c)(2) with the word “disturb.” Amends paragraph (4) to add “window trough.”

Rule 391-3-24-.11, “Recordkeeping and Reporting Requirements for Renovation Activities” is being added.

Purpose: Adds recordkeeping and reporting requirements.

Main Features: Adds federal requirements of recordkeeping and reporting requirements consistent with the federal rule and adds appropriate cross-references in paragraphs (1) – (6).

Rule 391-3-24-.12, “Lead-Based Paint Hazard Management Program Fees” is being added.

Purpose: Provides a summary of the fees contained in this chapter.

Main Features: Summarizes the fees from Rules 391-3-24-.04, 391-3-24-.05, 391-3-24-.06, and 391-3-24-.09 in paragraphs (1) -(4) and Table 1.

STATEMENT OF RATIONALE

RULES AND REGULATIONS FOR LEAD-BASED PAINT ABATEMENT, CERTIFICATION AND ACCREDITATION CHAPTER 391-3-24

Through previous rule making under Chapter 391-3-24 Rules for Lead-Based Paint Abatement, Certification, and Accreditation, the Division adopted with some minor modifications *40 CFR Part 745, Subpart D – Lead-Based Paint Hazards (§745.61-745.65)* and *Subpart L – Lead-Based Paint Activities (§745.220-745.239)*. The Division is currently authorized by U.S. Environmental Protection Agency (EPA) to enforce Subpart D and Subpart L requirements of the federal rule. This authorization currently allows the Division to regulate lead abatement activities, in lieu of EPA in the state.

On April 22, 2008, EPA published its final rule: *Lead; Renovation, Repair and Painting (renovation) Program*. EPA's amendment to 40 CFR Part 745 made significant changes to Subpart E of this regulation. The Subpart E regulation applies to certain renovations performed for compensation in target housing and child-occupied facilities. The purpose of this subpart is to ensure that owners and occupants of target housing and child-occupied facilities receive information on lead-based paint hazards before these renovations begin; that individuals performing renovations are properly trained; that renovators, dust sampling technicians, and firms performing renovations are certified; and that certain work practices are followed during these renovations. EPA also amended portions of *40 CFR Part 745, Subpart L – Lead-Based Paint Activities* and *Subpart Q – State and Indian Tribal Programs* in its April 22, 2008 rule making.

The 2010 General Assembly amended the Georgia Lead Poisoning Prevention Act (O.C.G.A. §31-41-1 et seq), requiring EPD to promulgate rules to regulate renovation. The Division is proposing to amend the Lead-Based Paint Abatement, Certification and Accreditation rules to adopt portions of EPA's renovation rules.

These amendments will provide young children further protections from exposure to lead, ensure continued federal funding for the Division's Lead-Based Paint Program and allow the Division to obtain authorization to regulate lead-based paint renovation activities, instead of the federal government.

Young children are the most vulnerable to lead poisoning; however, workers and adult occupants are also at risk. Lead poisoning is a public health issue that is preventable. For every dollar spent on eliminating or controlling lead-based paint hazards, \$12 to \$155 is returned in greater health benefits, increased IQ, higher lifetime earnings, larger tax revenue, reduced spending on special education, and reduced criminal activity.

There are approximately 1.37 million occupied housing units in Georgia older than 1978. These units, which may be impacted by the renovation regulations, include both multi and single-family residences; they represent approximately 40% of all residential housing in Georgia. The Division, there are 2,393 child day care establishments, over 2,000 public schools, over 400 private, and 62 charter schools in Georgia. It is estimated that 40% of these facilities may be in pre-1978 structures.

Failure to adopt the new federal renovation rules could result in reduction of federal funding. The Division will incur costs to implement the lead-based paint renovation rule. The proposed amendments include a fee schedule to offset costs of operating the program.

While most of the proposed Rule amendments are not more restrictive than the federal regulations, and therefore do not incur any additional costs to any regulated entities and the public in Georgia beyond what would be required by EPA, there is one exception. The Division is proposing a fee schedule that differs in the length of time a certification is valid and is assessing higher fees to make the program self-sustaining.