

# **Kansas Administrative Regulations**

## **Department of Health and Environment**

### **Article 72.—Residential Childhood Lead Poisoning Prevention Program**

#### **28-72-11. Definitions.**

In addition to the definitions in K.S.A. 65-1,201 and amendments thereto, each of the following terms shall have the meaning assigned in this regulation:(a) "Largescale abatement project" means lead abatement for 10 or more residential dwellings or multifamily dwellings for 10 or more units.

(b) "Lead abatement" means any repair or maintenance activity or set of activities designed to last at least 20 years or to permanently eliminate lead-based paint hazards in a residential dwelling, child-occupied facility, or other structure designated by the secretary.

(1) Lead abatement shall include the following:

(A) The removal of lead-based paint and lead contaminated dust, the permanent enclosure or encapsulation of lead-based paint, the replacement of lead-painted surfaces or fixtures, and the removal or covering of lead-contaminated soil;

(B) all preparation, cleanup, disposal, and post-abatement clearance testing activities associated with these measures;

(C) any project for which there is a written contract or other documentation requiring an individual, firm, or other entity to conduct activities in any structure that are designed to permanently eliminate lead hazards;

(D) any project resulting in the permanent elimination of lead hazards that is conducted by lead activity firms; and

(E) any project resulting in the permanent elimination of lead hazards that is conducted in response to a lead hazard control order.

(2)(A) Lead abatement shall not include renovation, remodeling, landscaping, and other activities if these activities are not designed to permanently eliminate lead hazards, but are designed to repair, restore, or remodel a given structure or dwelling,

even though these activities could incidentally result in a reduction or an elimination of lead hazards.

(B) Lead abatement shall not include operations and maintenance activities, and other measures and activities designed to temporarily, but not permanently, reduce lead-based paint hazards.

(c) "Lead abatement supervisor" means an individual certified by the secretary to perform lead hazard control activities and to prepare occupant protection plans and abatement reports. Each applicant for a lead abatement supervisor shall meet all of the requirements specified in K.A.R. 28-72-8.

(d) "Lead abatement worker" means an individual certified by the secretary and meeting all of the requirements specified in K.A.R. 28-72-7.

(e) "Lead activity firm" means an individual or entity that meets all the requirements listed in K.A.R. 28-72-10.

(f) "Lead-based paint hazard" means any condition that causes exposure to lead from lead-contaminated dust, lead-contaminated soil, or lead based paint that is deteriorated or present in accessible surfaces, friction surfaces, or impact surfaces and that would result in adverse human health effects.

(g) "Lead-based paint inspection" means any effort to identify lead concentrations in surface coatings by means of a surface-by-surface investigation and the provision of a written report explaining the results of the investigation. The inspection shall not include any attempt to determine lead concentrations in soil, water, or dust.

(h) "Lead-based paint inspector" means an individual certified by the secretary to perform any efforts to identify lead concentrations in surface coatings by means of a surface-by-surface investigation. Each applicant for a lead-based paint inspector shall meet all of the requirements specified in K.A.R. 28-72-5.

(i) "Lead-contaminated dust" means surface dust in residential dwellings or child-occupied facilities that contains 40 micrograms per square foot or more on uncarpeted floors, 250 micrograms per square foot or more on windowsills, and 400 micrograms per square foot or more on window troughs or any other surface dust levels evidenced by research and determined by the secretary as contaminated.

(j) "Lead-contaminated soil" means bare soil on residential real property and on the property of a child-occupied facility that contains lead in excess of 400 parts per million for areas where child contact is likely and in excess of 1,200 parts per million in the rest of the yard, or any other lead in soil levels evidenced by research and determined by the secretary as contaminated.

(k) "Lead hazard" means any lead source that is readily accessible to humans in, on, or adjacent to a residential property, including paint, as defined in these regulations, in any condition, contaminated soils, dust, or any other item that contains lead in any amount and has been identified through an environmental investigation or risk assessment as a source of lead that could contribute to the lead poisoning of an individual.

(l) "Lead hazard control" means any activity implemented to control known or assumed lead hazards on or in any structure covered by this act. All implemented lead hazard control activities, at a minimum, shall utilize lead-safe work practices and shall be subject to work practice inspections by the KDHE.

(m) "Lead hazard control notice" means the written notification to compel the owner of a child-occupied facility that has been identified by the secretary as the major contributing cause of poisoning an EBL child to eliminate or remediate the lead hazards to make the child-occupied facility safe from continued exposure to lead hazards.

(n) "Lead hazard screen" means a limited risk assessment activity that involves limited deteriorated paint and dust sampling as described in K.A.R. 28-72-13 and K.A.R. 28-72-15. In target housing or a child occupied facility, at least two samples shall be taken from the floors and at least one sample shall be taken from the windows in all of the rooms where one or more children could have access. Additionally, in multifamily dwellings and child-occupied facilities, dust samples shall be taken from any common areas where one or more children have access.

(o) "Lead inspector" means an individual certified by the secretary to perform a surface-by-surface investigation on a structure to determine the presence of lead-based paint and provide a written report explaining the results of the investigation as specified in K.A.R. 28-72-14.

(p) "Lead-safe work practices" means work practices standards established to work safely with lead-based surface coatings as presented in the joint EPA-HUD curriculum titled "lead safety for remodeling, repair, & painting," excluding the appendices, dated June 2003 and hereby adopted by reference, or an equivalent KDHE-approved curriculum.

(q) "Living area" means any area or room equivalent, as defined in the HUD "guidelines for the evaluation and control of lead-based paint hazards in housing," which is adopted by reference in K.A.R. 28-72-13. This term shall include any porch of a residential dwelling used by at least one child who is six years of age and under or by a woman of childbearing age.

(r) "Local government" means a county, city, town, district, association, or other public body, including an agency comprised of two or more of these entities, created under state law.

(Authorized by and implementing K.S.A. 65-1,202; effective April 9, 2010.)

\*\*\*\*\* Authenticated Kansas Administrative Regulation \*\*\*\*\*