STATE COMMITTEE OF PUBLIC HEALTH
BUREAU OF ENVIRONMENTAL SERVICES
ADMINISTRATIVE CODE

CHAPTER 420-3-27
LEAD HAZARD REDUCTION CONTRACTOR CERTIFICATION

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420-3-27-.01 General Provisions.

(1) **Purpose** - This chapter establishes the procedures to be followed for certification of contractors or firms who perform lead hazard reduction activities in target housing and child-occupied facilities. This chapter also contains requirements that all persons engaged in lead hazard reduction activities are properly trained, that training programs are accredited, and that firms are certified; and that all lead-based paint activities in target housing and child-occupied facilities shall be performed by accredited individuals of certified firms according to the prescribed work practice standards contained in these rules. This chapter does not require the mandatory abatement of existing lead-based paint.

(2) S**tatutory authority** - The State Board of Health is authorized to adopt and promulgate these rules under and by virtue of the authority of Chapter 22-37A, Code of Ala. 1975.

(3) **Adoption by reference** - Lead clearance levels and hazard standards for lead in paint, dust, and soil established in 40 CFR Part 745, documented methodologies for performing any lead hazard reduction activity established in the U.S. Department of Housing and Urban Development (HUD) Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing, and Chapter 7 Lead-Based Paint Inspection are hereby incorporated by reference and made a part of these rules as if set out in full and all provisions thereof are adopted as a rule of the State Board of Health. These documents are available at http://alabamapublichealth.gov/lead .

Author: Phyllis Mardis, Salvador Gray, Charles Brookins, Gary Jones, Steven McDaniel

Statutory Authority: Code of Ala 1975, §22-37A-1, et seq.

History: New Rule: Filed July 20, 1998; effective August 24, 1998. **Amended:** Filed June 25, 2003; effective July 30, 2003. **Amended:** Published December 30, 2021; effective February 13, 2022.

420-3-27-.02 Applicability.

(1) This chapter applies to target housing and child-occupied facilities as defined in 40 CFR 745.223, and as further defined by this chapter.

(2) This chapter applies to all persons who are engaged in lead hazard reduction activities as defined in 40 CFR (Code of Federal Regulation) Part 745 §§.220-.227 and .233, and as further defined by this chapter.

(3) This chapter shall apply to any person contracted by the homeowner to perform lead hazard reduction activities, abatement, or to plan such activities and also apply where the owner performs such activities in or upon another structure which is not his or her private residence or the portion thereof.

(4) Each department, agency, and instrumentality of the executive, legislative, and judicial branches of the federal government or the state of Alabama having jurisdiction or control over any property or facility, or engaged in any activity resulting in or which may result in a lead-based paint hazard, and each officer, agent, or employee thereof, is subject to and must comply with all substantive and procedural requirements regarding lead-based paint, lead-based paint activities, and lead hazard reduction activities set out herein and in any local, state, or federal regulations.

(5) Individuals who perform these activities within their own residential dwellings are not bound by this chapter, unless the dwelling is occupied by a person or persons other than the owner

or the owner's immediate family or a child resides in the dwelling who has been identified as having an elevated blood lead level.
Author: Phyllis Mardis, Salvador Gray, Charles Brookins, Gary Jones, Steven McDaniel
Statutory Authority: Code of Ala 1975, §22-37A-1, et seq.
History: New Rule: Filed July 20, 1998; effective August 24, 1998. **Amended:** Filed June 25, 2003; effective July 30, 2003. **Amended:** Published December 30, 2021; effective February 13, 2022.

420-3-27-.03 Definitions.

(1) **Abatement** - any measure or set of measures designed to permanently eliminate lead-based paint hazards. Abatement includes, but is not limited to:

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

(b) All preparation, cleanups, disposal and post-abatement clearance testing activities associated with such measures.

(c) Specifically, abatement includes, but is not limited to:

1. Projects for which there is a written contract or other documentation, which provides that an individual or firm certified in accordance with this rule, will be conducting activities in or to a residential dwelling or a child-occupied facility that are designed to or will permanently eliminate lead-based paint hazards.

2. Projects resulting in the permanent elimination of lead-based paint hazards conducted by firms or individuals certified in accordance with this rule, unless such projects are covered by paragraph (d) of this definition.

3. Projects resulting in the permanent elimination of lead-based paint hazards, conducted by firms or individuals who, through their company name or promotional literature, represent, advertise, or hold themselves out to be in the business of performing lead-based paint activities as identified and defined by this section, unless such projects are covered by paragraph (d) of this definition.

4. Projects resulting in the permanent elimination of lead-based paint hazards, including lead-based paint and

lead-contaminated dust or soil, that are conducted in response to state or local abatement orders.

(d) Abatement does not include renovation, remodeling, landscaping or other activities, when such activities are not designed to permanently eliminate lead-based paint hazards, but, instead, are designed to repair, restore, or remodel a given structure or dwelling, even though these activities may incidentally result in a reduction or elimination of lead-based paint hazards. Furthermore, abatement does not include interim controls, operations and maintenance activities, or other measures and activities designed to temporarily, but not permanently, reduce lead-based paint hazards.

(e) Federally assisted housing and community development programs conducted in compliance with the U.S. Department of Housing and Urban Development Lead-Safe Final Rule 24 CFR Part 35 shall be considered to meet the requirements of this chapter.

(2) **Accredited Abatement Worker** - an individual who has been trained by an accredited training program, as defined in this section, and registered by Safe State to perform abatement.

(3) **Accredited Individual** - an individual who engages in lead hazard reduction activities, who has successfully completed a Safe State accredited lead training course appropriate for the type or category of lead hazard reduction activity to be provided, who meets all other personal accreditation requirements established by Safe State under this act, and who holds a valid registration in the state accreditation registry maintained by Safe State for the relevant type or category of lead hazard reduction activity. To perform any lead hazard reduction activities an accredited individual shall be certified by the Department pursuant to 420-3-27-.04 (Certification of Firms).

(4) **Accredited Lead-Based Paint Inspector** - an individual who has been trained by an accredited training program, as defined in this section, and registered by Safe State to conduct inspections to identify lead-based paint. An accredited lead-based paint, and certified by the Department pursuant to 420-3-27-.0 (Certification of Firms) to perform lead inspections. An accredited lead-based paint inspector also samples for the presence of lead in dust and soil for the purpose of abatement clearance testing.

(5) **Accredited Project Designer** - an individual who has been trained by an accredited training program, as defined in this section, and registered by Safe State to prepare abatement project designs, occupant protection plans, and post-abatement reports for lead abatement projects, and certified by the Department pursuant to 420-3-27-.04 (Certification of Firms) to perform abatement project designs.

(6) **Accredited Risk Assessor** - an individual who has been trained by an accredited training program, as defined in this section, and registered by Safe State to conduct risk assessments, and certified by the Department pursuant to 420-3-27-.04 (Certification of Firms) to perform risk assessments. A risk assessor also samples for the presence of lead in dust and soil for the purpose of identifying lead hazards and abatement clearance testing.

(7) **Accredited Supervisor**- an individual who has been trained by an accredited training program, as defined in this section, and registered by Safe State to supervise and conduct abatements, lead-based paint hazard control and to prepare occupant protection plans and post-abatement reports, and certified by the Department pursuant to 420-3-27-.04 (Certification of Firms) to perform abatements.

(8) **Accredited Training Program** - a training program that has been accredited either by Safe State or a state or tribe which Alabama has a written reciprocal agreement to provide training for individuals engaged in lead hazard reduction activities.

(9) **Adequate Quality Control** - a plan or design which ensures the authenticity, integrity, and accuracy of samples including dust, soil, and paint chip or paint fil samples. Adequate quality control also includes provision for representative sampling.

(10) **Administrative Procedures Act** - The Alabama Administrative Procedures Act, §41-22-1, et seq., Code of Ala. 1975.

(11) **Available** - being present at a work-site or reachable by telephone, pager, or answering service at all times when abatement activities are being conducted, and able to be present at the work site within 1 hour after notification.

(12) **Board** - the State Board of Health as defined in §22-2-1, et seq., Code of Ala. 1975.

(13) **Certified Firm** - a company, partnership, corporation, sole proprietorship, association, or other business entity that has submitted documentation to the Department stating that all its employees performing lead hazard reduction activities have received training from an accredited training program and registered by Safe State; and has been issued a certificate from the Department.

(14) **Chewable Surface** - means the interior or exterior surface painted with lead-based paint that a young child can mouth or chew. Hard metal substrates and other materials that cannot be dented by the bite of a young child are not considered chewable.

(15) **Child-Occupied Facility** - a building, or portion of a building constructed prior to 1978, visited regularly by the same

child, 6 years of age or under, on at least 2 different days within the same week (Sunday through Saturday period), provided each day's visit lasts at least 3 hours and the combined weekly visits last at least 6 hours, and the combined annual visits last at least 60 hours. Child-occupied facilities include, but are not limited to, day-care centers, preschools, and kindergarten classrooms. Child-occupied facilities may be located in target housing or in public or commercial buildings. With respect to common areas in public or commercial buildings that contain child-occupied facilities, the child- occupied facility encompasses only those common areas that are routinely used by children under age 6, such as restrooms and cafeterias. Common areas that children under age 6 only pass through, such as hallways, stairways, and garages are not included. In addition, with respect to exteriors of public or commercial buildings that contain child-occupied facilities, the child-occupied facility encompasses only the exterior of the building that are immediately adjacent to the child-occupied facility or the common areas routinely used by children under age 6 as defined in 40 CFR §745.103 (Definitions).

(16) **Clearance Levels** - values that indicate the maximum amount of lead permitted in soil or surface dust following completion of an abatement activity as identified by EPA, pursuant to 15 USC §2683.

(17) **Clearance Sampling** - a visual assessment and dust sample collection or soil sampling performed by an accredited lead-based paint inspector or risk assessor.

(18) **Common Area** - a portion of a building that is generally accessible to all occupants. Such an area may include, but is not limited to, hallways, stairways, laundry and recreational rooms, playgrounds, community centers, garages, boundary fences or outbuildings.

(19) **Component or Building Component** - specific design or structural elements or fixtures of a building, residential dwelling, or child-occupied facility that are distinguished from each other by form, function, and location. These include, but are not limited to, interior components such as: ceilings, crown molding, walls, chair rails, doors, door trim, floors, fireplaces, radiators and other heating units, shelves, shelf supports, stair treads, stair risers, stair stringers, newel posts, railing caps, balustrades, windows and trim (including sashes, window heads, jambs, sills, stools and troughs), built-in cabinets, columns, beams, bathroom vanities, counter tops, and air conditioners; and exterior components such as: painted roofing, chimneys, flashing, gutters and down spout, ceilings, soffits, fascias, rake boards, corner boards, bulkheads, doors and door trim, fences, floors, joists, lattice work, railings and railing caps, siding, handrails, stair risers and treads, stair stringers, columns, balustrades, window sills, casings, sashes, wells, and air conditioners.

(20) **Containment** - a process to protect workers, occupants and the environment by controlling exposures to the lead-contaminated dust and debris created during abatement activities.

(21) **Department** - the Alabama Department of Public Health.

(22) **Deteriorated Paint** - any interior or exterior paint or other coating that is peeling, chipping, chalking, cracking, or otherwise separating from the substrate of a building component.

(23) **Discipline**- one of the specific types or categories of lead hazard reduction activities identified in these rules for which individuals may receive training from accredited programs and become registered by Safe State. Includes, but not limited to supervisors, project designers, inspectors, risk assessors and abatement workers.

(24) **Dust Sample Collection** - a procedure using wipe sampling to collect samples of dust from surfaces for the purpose of determining if the dust is contaminated with lead or lead-based paint.

(25) **Elevated Blood Lead Level (EBLL)** - a single blood lead test at or above the blood lead reference value established by the Centers for Disease Control and Prevention.

(26) **Encapsulation** - the application of a liquid applied product (with or without reinforcement materials) or an adhesively bonded covering material which covers, seals, and forms a permanent barrier between lead-based paint and the environment in a manner which is designed to reduce human exposure to lead and is warranted by the manufacturer to perform for at least 20 years as a durable barrier.

(27) **Enclosure**- the use of rigid, durable construction materials that are mechanically fastened to the substrate in order to act as a barrier between lead-based paint and the environment.

(28) **EPA** - the United State Environmental Protection Agency.

(29) **Friction Surface** - an interior or exterior surface that is subject to abrasion or friction, including, but not limited to, certain window, floor, and stair surfaces.

(30) **Health Officer** - the State Health Officer of the State of Alabama Department of Public Health or a County Health Officer as provided in Code of Ala. 1975, §22-2-8 and 22-3-4; or his/her authorized representatives and any officer or agent or employee of the Department authorized to act for the Department with respect to the enforcement and administration of these rules.

(31) **HUD** - the United State Department of Housing and Urban Development.

(32) **Impact Surface** - an interior or exterior surface that is subject to damage by repeated sudden force such as certain parts of door frames.

(33) **Inspection** - See Lead-Based Paint Inspection.

(34) **Interim Control**- a measure or set of measures designed to temporarily reduce human exposure or likely exposure to lead-based paint hazards. Interim controls include, but are not limited to, repairs, painting, temporary containment, specialized cleaning, ongoing lead-based paint maintenance activities, and the establishment and operation of management and resident education programs.

(35) **Large-Scale Abatement Project** - is a project consisting of five or more dwelling units under the same contractor with the abatement cost totaling $10,000 or more. A design prepared by a project designer employed by an Alabama certified firm is required for all large-scale abatement projects.

(36) **Lead-Based Paint** - paint or other surface coatings that contain lead equal to or in excess of 1.0 milligrams per square centimeter (1.0 mg/cm2) or 0.5 percent by weight unless other standards are established by the EPA, which will be adopted by reference.

(37) **Lead-Based Paint Free** - means a status or designation for target housing or child-occupied facilities in which a written determination has been made by an accredited lead-based paint inspector or risk assessor that all components are free of paint or other surface coatings that contain lead equal to or in excess of 1.0 mg/cm2 or 0.5 percent by weight, or more stringent criteria as set by EPA which shall be adopted by reference for the purpose of this definition.

(38) **Lead-Based Paint Hazard** - any condition that causes exposure to lead from lead-contaminated dust, lead contaminated soil, or lead-contaminated paint that is deteriorated or subject to deterioration or damage or is present on accessible surfaces, friction surfaces, or impact surfaces that would result in adverse human health effects identified by an accredited lead risk assessor pursuant to the Toxic Substances Control Act, (TSCA) §403, as amended and 40 CFR.745.65.

(39) **Lead-Based Paint Inspection**- a surface-by-surface investigation to determine the presence of lead-based paint and the provision of a report explaining the results of the investigation.

(40) **Lead-Contaminated Dust**- surface dust in residential dwellings, or child-occupied facilities that contains an area or mass concentration of lead at or exceeding levels identified by the Department to follow EPA current guidelines.

(41) **Lead-Contaminated Soil** - bare soil on residential real estate property and on the property of a child-occupied facility that contains lead at or exceeding levels identified by the Department to follow EPA current guidelines.

(42) **Lead Hazard Reduction Contractor** - any person operating as a firm that employs individuals to perform lead hazard reduction activities. Firms include consultants who design, perform, oversee, or evaluate lead hazard reduction projects as well as self-employed individuals who engage in lead-hazard reduction activities.

(43) **Lead Hazard Reduction Activities** - activities designed to reduce human exposure to lead in residences or child occupied facilities and include lead-based paint inspections, risk assessments, enclosure, encapsulation, component removal, or removal of lead-based paint or lead contamination, or both, clearance sampling following abatement, the design and planning of such activities, and other related activities as established in Title IV of the Toxic Substances Control Act, as amended.

(44) **Lead Hazard Screen** - a limited risk assessment activity that involves limited paint and dust sampling as described in Section 420-3-27-.10(7).

(45) **Living Area** - areas of a residential dwelling used by one or more children 6 years of age or under, including, but not limited to, living rooms, kitchen areas, dens, play rooms, and children's bedrooms.

(46) **Multi-Family Dwelling** - a structure that has more than one separate residential dwelling unit, which is used or occupied, or intended to be used or occupied in whole or in part, as the home or residence of one or more persons.

(47) **Paint In Poor Condition**- more than 10 square feet of deteriorated paint on exterior components with large surface areas; or more than 2 square feet of deteriorated paint on interior components with large surface areas (e.g., walls, ceilings, floors, doors); or more than 10 percent of the total surface area of the component is deteriorated on interior or exterior components with small surface areas (e.g., window sills, baseboards, soffits, trim).

(48) **Permanently Covered Soil**- soil which has been separated from human contact by the placement of a barrier consisting of solid, relatively impermeable materials, such as pavement or concrete. Grass, mulch, and other landscaping materials are not considered permanent covering.

(49) **Person** - individuals, firms, corporations, partnerships, commissions, state agencies, county governmental bodies, municipalities, parties, companies, associations, or any other

private or public legal entities; any Indian Tribe; any interstate body; any department, agency, or instrumentality of the federal government.

(50) **Project** - for the purpose of this rule, a project is an abatement of lead-based paint from one or more single family residential dwelling units, multi-family residential dwelling units, (including attached structures and outbuildings), child occupied facilities, or any combination located within the same local government jurisdiction and submitted under a common project notification.

(51) **Project Design** - a written or graphic plan, to be included as part of an abatement contract, prepared by a Safe State registered project designer specifying how an abatement project is to be conducted. The design must include, at a minimum, the scope of work, cost allocation or similar document, technical specifications, lead-based paint hazard control methods, interior dust abatement and cleanup methods, requirements for clearance sampling or testing, waste disposal, and integration of lead hazard reduction activities with modernization and rehabilitation projects. The registered project designer's signature and accreditation number shall be on all such lead abatement designs.

(52) **Registered Individual** - a person such as an accredited abatement worker, supervisor, lead-based paint inspector, risk assessor, project designer, or other individual involved in lead hazard reduction activities who has been accredited by Safe State or by a state or tribe with which Alabama has entered into a written reciprocal agreement and who is registered in the Registry.

(53) **Registry** - the Alabama statewide "Registry of Lead Hazard Reduction Activities Training Courses and Individuals" maintained by Safe State.

(54) **Renovation/Remodeling** - modification of all or part of any existing structure in housing that disturbs a painted surface, including:

(a) Modification of painted surfaces, components, or structures;

(b) Surface preparation activities (sanding, scraping, or other activities that may create dust); or

(c) Any other activities that disturb painted surfaces unless those surfaces have been found to be lead-based paint free by a Safe State registered lead based-paint inspector or risk assessor.

(55) **Residential Dwelling**- target housing that is:

(a) A detached single-family dwelling unit, including any attached or unattached structures located within the same lot line such as porches and stoops, garages, play equipment, and fences.

(b) A single family dwelling unit in a structure that contains more than one separate residential dwelling unit, including common areas, which is used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of one or more persons.

(56) **Risk Assessment Is:**

(a) An on-site investigation to determine the existence, nature, severity, and location of lead-based paint hazards, and

(b) The provision of a report by the individual or the firm conducting the risk assessment, explaining the results of the investigation and options for reducing lead-based paint hazards.

(57) **Safe State** - the Safe State Program, is a division of the University of Alabama, designated by statute to accredit lead training providers and individual abatement professionals performing lead hazard reduction activities.

(58) **Target Housing** - any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless one or more children age 6 years or under resides or is expected to reside in such housing for the elderly or person with disabilities) or any zero-bedroom dwelling. Any attached or unattached structure build or added after 1978 located within the same lot lines are not included.

(59) **TSCA** - the Toxic Substances Control Act, 15 et seq. U.S.C. §2601 as amended.

(60) **Visual assessment**- a procedure to determine the presence of visible dust, paint chips, painted debris, and/or deteriorated paint.

(61) **Visual inspection for clearance testing** - the visual examination of a residential dwelling or a child-occupied facility following an abatement to determine whether or not the abatement has been successfully completed.

(62) **Visual inspection for risk assessment** - the visual examination of a residential dwelling or a child-occupied facility to determine the existence of deteriorated lead-based paint or other potential sources of lead-based paint hazards.

(63) **Wipe Sample** - a sample collected by wiping a representative surface of a known area(s), as determined by ASTM E 1728, "Standard Practice for Field Collection of Settled Dust Samples Using Wipe Sampling Methods for Lead Determination by Atomic Spectrometry Techniques," or equivalent method, with an acceptable wipe material as defined in ASTM E 1792, "Standard Specification for Wipe Sampling Materials for Lead in Surface Dust," or equivalent.

(64) **Wipe Sampling** - a procedure to determine the presence of lead in dust following established wipe protocol as specified in ASTM as stated in the wipe sample definition, sample proposal as specified in 40 CFR §745.63.
Author: Phyllis Mardis, Salvador Gray, Charles Brookins, Gary Jones, Michael Cassidy, Steven McDaniel
Statutory Authority: Code of Ala 1975, §22-37A-1, et seq.
History: New Rule: Filed July 20, 1998; effective August 24, 1998. **Amended:** Filed June 25, 2003; effective July 30, 2003. **Amended:** Published December 30, 2021; effective February 13, 2022.

420-3-27-.04 Certification Of Firms.

(1) Any firm which performs or offers to perform lead hazard reduction activities as described in 420-3-27-.10 must be certified by the Alabama Department of Public Health prior to performing or offering to perform such work including bidding for lead-based paint abatement projects.

(2) A firm seeking certification shall submit to the Department an application for certification on a form provided by this Department, a non-refundable application fee. The certification and renewal fees for the Lead Certification Branch are listed in Rule 420-1-5-.08(1), Ala. Admin. Code (State Level Fees). A certification is required for each discipline and a letter attesting that the firm shall only employ individuals accredited by Safe State to conduct lead hazard reduction activities, and that the firm and its employees shall follow the work practice standards as outlined in 420-3-27-.10 of this chapter for conducting lead hazard reduction activities. A list of employees who have been accredited by Safe State shall be provided with the application along with their accreditation numbers and registration expiration dates.

(3) Permit or Certification denials, suspensions, and revocations - The Health Officer's denial, suspension and/ or revocation of a permit or certification shall be governed by the Alabama Administrative Procedure Act, §41-22-1, et seq., Code of Ala. 1975. The Department shall fulfill any request for certification or permit within 28 calendar days after receiving the application

or notify the applicant of the reason for failure to issue the certification or permit.

(4) The firm shall maintain all records pursuant to the requirements in 420-3-27-.15. (Record Keeping).
Author: Phyllis Mardis, Sal Gray, Charles Brookins, Gary Jones, Steven McDaniel
Statutory Authority: Code of Ala 1975, §22-37A-1, et seq.
History: New Rule: Filed July 20, 1998; effective August 24, 1998. **Amended:** Filed June 25, 2003; effective July 30, 2003. **Amended:** Published December 30, 2021; effective February 13, 2022.

420-3-27-.05 Denial Of Applications For Certification.

(1) The Department may deny an application for certification to any applicant who fails to meet the standards or who does not follow the procedures established by the regulations, including, but not limited to:

(a) Failure to submit the required information, fee payment, and documentation with the application.

(b) Omission on the part of the applicant, of any required information.

(c) Failure to comply with applicable requirements, procedures, and standards set forth in law or this chapter.

(d) Submission of false information on an application, supplying false statements, or failure to disclose required information.

(e) Any past violations of state or federal law pertaining to lead hazard reduction activities within the last 2 years.

(2) The applicant may appeal the denial through the Board pursuant to the Alabama Administrative Code, Chapter 420-1-3; Hearing of Contested Cases.
Author: Phyllis Mardis, Salvador Gray, Charles Brookins, Gary Jones, Steven McDaniel
Statutory Authority: Code of Ala 1975, §22-37A-1, et seq.
History: New Rule: Filed July 20, 1998; effective August 24, 1998. **Amended:** Filed June 25, 2003; effective July 30, 2003. **Amended:** Published December 30, 2021; effective February 13, 2022.

420-3-27-.06 Renewal.

To maintain the validity of certification, a firm must be renewed annually. All certified firms shall renew their certification licenses before the effective date of November 1 of each year. The certification and renewal fees for the Lead Certification Branch are listed in Rule 420-1-5-.08, Ala. Admin. Code (State Level Fees). Applications for renewal along with a non-refundable application fee for each discipline must be received at the Department no later than 45 days prior to the date listed above. Failure to maintain the annual certification validation will require re-application according to Rule 420-3-27-.04 (Certification of Firms).
Author: Phyllis Mardis, Salvador Gray, Charles Brookins, Gary Jones, Steven Mc Daniel
Statutory Authority: Code of Ala 1975, §22-37A-1, et seq.
History: New Rule: Filed July 20, 1998; effective August 24, 1998. **Amended:** Filed June 25, 2003; effective July 30, 2003. **Amended:** Published December 30, 2021; effective February 13, 2022.

420-3-27-.07 Suspension, Revocation, And Modification Of Certifications.

The Department, after providing a written notice to the violator may suspend, revoke, or modify a firm's certification if a firm has:

(1) Performed work requiring certification at a job site with individuals who are not accredited and registered by Safe State.

(2) Failed to comply with the work practice standards established in 420-3-27-.10.

(3) Misrepresented materials facts in its letter of application for certification to the Department.

(4) Failed to maintain required records pursuant to 420-3-27-.10 (Standards for Conducting Lead Hazard Reduction Activities in Target Housing and Child-occupied Facilities) and 420-3-27-.15 (Record Keeping).

(5) Failed to comply with federal, state, or local lead-based paint statutes, rules, or regulations.

(6) In addition to an administrative or judicial finding of violation, for purposes of this section only, execution of a

consent agreement in settlement of an enforcement action constitutes evidence of a failure to comply with relevant statutes or regulations.

Author: Phyllis Mardis, Charles Brookins, Sal Gray, Gary Jones, Steven McDaniel
Statutory Authority: Code of Ala 1975, §22-37A-1, et seq.
History: New Rule: Filed July 20, 1998; effective August 24, 1998. **Amended:** Filed June 25, 2003; effective July 30, 2003. **Amended:** Published December 30, 2021; effective February 13, 2022.

420-3-27-.08 Hearings.

Contested case hearings shall be provided in accordance with the Alabama Administrative Procedure Act, §41-22-1, et seq., Code of Ala. 1975, and the State Board of Health's Contested Case Hearing Rules, Chapter 420-1-3. Informal settlement conferences may be conducted as provided in the State Board of Health's Contested Case Hearing Rules, Chapter 420-1-3.

Author: Phyllis Mardis, Charles Brookins, Sal Gray, Gary Jones, Steven McDaniel
Statutory Authority: Code of Ala 1975, §22-37A-1, et seq.
History: New Rule: Filed July 20, 1998; effective August 24, 1998. **Amended:** Filed June 25, 2003; effective July 30, 2003. **Repealed and New Rule:** Published December 30, 2021; effective February 13, 2022.

420-3-27-.09 Reciprocity.

Any firm certified and licensed by another state or tribal program to perform lead hazard reduction activities may petition the Department on a form provided by the Department along with the application fee, to grant certification, provided that each employee involved in lead hazard reduction activities is accredited and registered by Safe State. The denial of such is subject to review pursuant to the State Board of Health’s Rules for Hearing of Contested Cases, Ala. Admin. Code, Chapter 420-1-3.

Author: Phyllis Mardis, Salvador Gray, Charles Brookins, Gary Jones, Steven McDaniel
Statutory Authority: Code of Ala 1975, §22-37A-1, et seq.
History: New Rule: Filed July 20, 1998; effective August 24, 1998. **Amended:** Filed June 25, 2003; effective July 30, 2003. **Amended:** Published December 30, 2021; effective February 13, 2022.

420-3-27-.10 Standards For Conducting Lead Hazard Reduction Activities In Target Housing And Child-Occupied Facilities.

(1) All lead hazard reduction activities shall be performed pursuant to the work practice standards contained in this section.

(2) When performing any lead hazard reduction activity, an accredited individual of a certified firm must perform that activity in compliance with the appropriate documented methodologies. Documented methodologies appropriate for this section are found in:

(a) The U. S. Department of Housing and Urban Development (HUD) Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing, and Chapter 7 Lead-Based Paint Inspection.

(b) The U.S. Environmental Protection Agency (EPA) 40 CFR Part 745 Lead; Identification of Dangerous Levels of Lead; Final Rule.

(3) Types of detection/testing methods include but are not limited to:

(a) Laboratory analysis. Only NLLAP-approved laboratories recognized by the EPA pursuant to Section 405(b) TSCA, as capable of performing analysis for lead compounds in paint chip, dust, and soil samples may be used. Each sample must be accompanied by a chain-of-custody documentation.

(b) X-ray fluorescence (XRF) spectroscopy. XRF instruments may be used for on-site lead detection following the manufacturer's protocol. Inconclusive or questionable results should be verified through the testing of paint chip samples by a NLLAP-approved laboratory. This paragraph shall not be construed as to relieve the XRF user of any duty to comply with other applicable requirements. XRF testing is not approved at this time for clearance purposes. Should EPA approve XRF methodology for clearance testing it will be adopted by reference.

(4) Clearance levels. The EPA Standards on Residential Lead-Based Paint, Lead Contaminated Dust, and Lead Contaminated Soil, or other equivalent standards according to Lead; Identification of Dangerous Levels of Lead or according to 40 CFR §745.227.

(5) Authority to Enter. The Health Officer or his designee, after proper identification, shall be permitted to enter an abatement area at any reasonable time for the purpose of conducting

investigations to determine compliance with these rules. The Health Officer or his designee, shall be permitted to examine the records of the firm to determine compliance with these rules.

(6) Inspection. A lead-based paint inspection shall be conducted only by persons accredited by Safe State and registered as an inspector or risk assessor, and must be conducted under a certified firm according to the procedures in this Section.

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

1. For every residential dwelling and child-occupied facility, each component with a distinct painting history in every room and each exterior component with a distinct painting history shall be tested for lead-based paint except those components that the inspector or risk assessor determines to have been replaced after 1977, or to not contain lead-based paint; and

2. If conducting an inspection in a child-occupied facility or multi-family dwelling, all components with a distinct painting history in every common area except those components that the inspector or risk assessor determines to have been replaced after 1977, or to not contain lead-based paint.

(i) The collection and analysis of paint samples to determine the presence of lead-based paint shall be conducted using documented methodologies which incorporate adequate quality control procedures as stated in paragraph (2) of this Section.

(ii) The accredited inspector shall prepare an inspection report which shall include the following information:

I. Date of inspection.

II. Addresses of buildings and units, including street address or location, city, county, and state.

III. Date of construction of buildings and units.

IV. Unit numbers (if applicable).

V. Name, address, and telephone number of the owner and property manager of buildings and units.

VI. Name and signature of each accredited inspector and risk assessor conducting testing, including accreditation number and registration expiration date.

VII. Name, address, telephone number, and the Department issued certification number of the certified firm employing each inspector or risk assessor.

VIII. Name, address, and telephone number of each NLLAP-approved laboratory conducting an analysis of collected samples.

IX. Each testing method and device and sampling procedure employed for paint analysis, including quality control data, and if used, the make, model, and serial number of any XRF device.

X. Specific locations of each painted component tested for the presence of lead-based paint.

XI. The results of the inspection expressed according to the sampling method used.

(7) Lead hazard screens can only be conducted by persons accredited and registered by Safe State as a risk assessor, and must be conducted under a certified firm as follows:

(a) Background information regarding the physical characteristics and occupant use patterns of the residential unit or child-occupied facility that may cause lead-based paint exposure to one or more children age 6 and under; and a visual inspection of the unit shall be conducted to determine if any deteriorated paint is present, and to locate at least two dust sampling locations. Background information shall also include a schematic site plan, the age of the original structure and its additions, and a copy of any previous lead-based paint test results.

(b) If paint in poor condition is present, each surface with deteriorated paint shall be tested for the presence of lead-based paint using documented methodologies which incorporate adequate quality control procedures.

(c) In residential dwellings, dust samples shall be collected, one from the floors and the other from the windows, in rooms or areas where children age 6 and under are most likely to come in contact with dust.

(d) In multi-family dwellings and child-occupied facilities, in addition to the floor and window samples, the risk assessor shall also collect dust samples in common areas where one or

more children age 6 and under are most likely to come in contact with dust.

(e) Dust and paint samples shall be collected using documented methodologies that incorporate adequate quality control procedures and shall be analyzed by a NLLAP-approved laboratory to determine the presence of a quantifiable amount of lead.

(f) The threshold for lead hazard screens will be according to Section 420-3-27-.13 of this chapter.

(g) The risk assessor shall prepare a lead hazard screen report which shall include all relevant information as listed in paragraph (8) of this section and recommendations for a follow-up risk assessment, if warranted, and any further actions as appropriate.

(8) Risk assessments shall be conducted only by persons accredited and registered by Safe State as a risk assessor, and conducted under a certified firm as follows:

(a) A visual inspection of the residential dwelling or child-occupied facility shall be undertaken to locate the existence of paint in poor condition, assess the extent and causes of the deterioration, and other potential sources of lead-based paint hazards.

(b) Background information, regarding the physical characteristics of the residential dwelling or child-occupied facility and occupant use patterns that may pose a lead-based paint hazard to children age 6 years and under, shall be collected.

(c) Each surface with paint in poor condition, and with a distinct painting history, shall be tested for the presence of lead. All other surfaces determined to be a potential lead-based paint hazard and having a distinct painting history, shall be tested for the presence of lead.

(d) For single-family dwelling, dust samples from the window sills, window troughs (wells), and/or floors shall be collected in all living areas where children age six and under are most likely to come into contact with dust.

(e) For multi-family dwellings and child-occupied facilities, the samples required in the above paragraph shall be taken. In addition, window and floor dust samples shall be collected in the following locations:

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

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

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

(g) Dust and paint samples shall be collected using documented methodologies that incorporate adequate quality control procedures and shall be analyzed by a NLLAP-approved laboratory to determine the presence of a quantifiable amount of lead.

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

1. Exterior play areas where bare soil is present; and

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

(i) Soil samples shall be collected using documented methodologies that incorporate adequate quality control procedures and shall be analyzed by a NLLAP-approved laboratory to determine the presence of a quantifiable amount of lead.

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

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

1. Date of assessment.

2. Addresses of residences and buildings.

3. Date of construction of residences and buildings.

4. Unit numbers (if applicable).

5. Name, address, and telephone number of the owner of residences and buildings.

6. Name, signature, and accreditation number of the risk assessor conducting the assessment.

7. Name, address, telephone number, and certification number of the certified firm employing each risk assessor.

8. Name, address, and telephone number of each NLLAP-approved laboratory conducting analyses of collected samples.

9. Results of the visual inspection.

10. Testing method and sampling procedure for paint analysis employed.

11. Specific locations of each painted component tested for the presence of lead-based paint.

12. All data collected from on-site testing (including XRF serial number and quality control data, if used).

13. All results of laboratory analysis on collected paint, soil, and dust samples.

14. Any other sampling results.

15. Any background information collected pursuant to (b) of this Section.

16. To the extent that they are utilized as part of the lead-based paint hazard determination, an evaluation of the adequacy of any previous inspections or analyses for the presence of lead-based paint, or other assessments of lead-related hazards.

17. A description of the location, type, and severity of identified lead-based paint hazards and any other potential lead hazards.

18. A description of recommended interim controls and abatement options for each identified lead-based paint hazard, and a suggested prioritization for taking each action based on the immediacy and severity of the hazard.

19. Any other information deemed necessary.

(9) Abatement shall be conducted only by an individual accredited and registered by Safe State as a worker or supervisor, and shall be conducted under a certified firm as follows:

(a) Plans and specifications shall be unique and specific for each project and signed by an accredited project designer.

Plans and specifications shall be submitted to the Department at least 15 calendar days prior to the commencement of abatement activities.

(b) An accredited supervisor is required for each abatement project and shall be onsite during all work site preparation and during the post-abatement cleanup of work areas. At all other times when abatement activities are being conducted, the accredited supervisor shall be onsite or available by telephone, pager, or answering service and able to be present at the work site within 1 hour.

(c) The accredited supervisor, and the certified lead hazard reduction contractor or firm employing that supervisor, shall ensure that all abatement activities are conducted according to the requirements of this section and all other federal, state and local requirements.

(d) Notification of the intent to perform lead-based paint abatement activities in child-occupied facilities, residential dwellings or as a result of a federal, state, or local order shall be given to the Department, according to the procedures established in 420-3-27-.11, prior to the commencement of abatement activities.

(e) A written occupant protection plan shall be developed by an accredited project designer or accredited supervisor for all abatement projects, and shall be prepared as follows:

1. The occupant’s protection plan shall be unique to each residential dwelling, multi-family dwelling (with the same construction type, painting history, and abatement plan) or child-occupied facility and developed prior to the abatement; and

2. The occupant protection plan shall describe the measures and management procedures that will be taken during the abatement to protect the building occupants and their belongings from exposure to any lead-based paint hazards.

(f) The work practices listed below shall be restricted during abatement:

1. Open-flame burning or torching is prohibited.

2. Machine sanding, grinding, abrasive blasting, or sandblasting is prohibited unless used with High Efficiency Particulate Air(HEPA)exhaust control capable of removing particles of 0.3 microns or larger from air at 99.97 percent or greater efficiency.

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

4. Operating a heat gun is permitted only at a temperature below 1100 degrees Fahrenheit.

5. Certain paint strippers as defined at 24 CFR 35.140 (Prohibited Methods of Pain Removal) of the HUD Lead Safe Housing Rule.

(g) If soil abatement is conducted, it must be performed in one of the following ways:

1. If soil is removed, the lead-contaminated soil shall be replaced with non-contaminated soil; or,

2. If soil is not removed, the contaminated soil shall be permanently covered.

(10) Post-abatement clearance procedures shall be performed by an accredited inspector or risk assessor of a certified firm in accordance with documented methodologies:

(a) Following an abatement, a visual inspection shall be performed to determine if deteriorated painted surfaces, debris, residue, or visible amounts of dust are still present. If deteriorated painted surfaces, debris, residue, or visible amounts of dust are present, these conditions must be eliminated and re-cleaned prior to the continuation of the clearance procedures.

(b) Following the visual inspection, clearance sampling for dust shall also be conducted. Clearance sampling shall be conducted by single-surface sampling.

(c) Dust samples for clearance purposes shall be taken a minimum of one hour after completion of the final post abatement clean-up activities.

(d) The following locations shall be sampled for lead-contaminated dust and soil as appropriate based upon the extent or manner of abatement activities in or on the residential dwelling or child-occupied facility:

1. After conducting an abatement with containment between abated and unabated areas, one sample shall be taken from one window (if available) and one dust sample shall be taken from the floor of no less than four rooms, hallways or stairwells within the containment area. If there are less than four rooms, hallways, or stairwells within the

containment area, then all rooms, hallways, or stairwells shall be sampled. In addition, one sample shall be taken from the floor outside the containment area (within 10 feet of the containment area).

2. After conducting an abatement with no containment, two dust samples shall be taken from no less than four rooms, hallways, or stairwells in the residential dwelling or child-occupied facility. One sample shall be taken from one window (if available) and one floor of each room. If there are less than four rooms, hallways, or stairwells in the dwelling, all rooms, hallways, and stairwells shall be sampled.

3. Following an exterior paint abatement, a visual inspection shall be conducted. All horizontal surfaces in the outdoor living area closest to the abated surface shall be found to be cleaned of visible dust and debris. In addition, a visual inspection shall be conducted to determine the presence of paint chips on the dripline or next to the foundation below any exterior surface abated. If paint chips are present, they must be removed from the site and properly disposed of in accordance with applicable state standards. After visual inspection is completed a minimum of one exterior dust (exterior window troughs or porch floors), one interior dust and one composite soil sample shall be taken.

(e) Dust sampling shall be performed using documented methodologies which incorporate adequate quality control procedures.

(f) The accredited inspector or risk assessor shall compare the residual lead level (as determined by the laboratory analysis) from each dust and soil sample with applicable clearance levels. If the residual levels exceed the clearance level, all areas represented by the failed sample shall be recleaned and retested until clearance levels are met. If the residual soil levels exceed clearance standards, soil abatement must be accomplished.

(g) Soil sampling shall be performed according to documented methodology which incorporates adequate quality control procedures.

1. If soil abatement is performed the residual soil lead levels shall not exceed clearance standards.

2. If exterior lead abatement is performed, the residual soil lead levels shall not exceed clearance standards or pre-abatement soil lead levels.

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

1. The individuals who abate or clean the residential dwelling do not know which residential dwellings will be selected for the random sample.

2. A sufficient number of residential dwellings are selected for dust sampling to provide a 95 percent level of confidence that no more than 5 percent or 50 of the residential dwellings (whichever is smaller) in the randomly sampled population exceed the appropriate clearance levels.

(i) The randomly selected residential dwellings shall be sampled and evaluated for clearance according to the procedures outlined in 420-3-27-.10(10)(d) and (f).

(j) Dust, paint, and soil samples shall be collected using documented methodologies that incorporate adequate quality control procedures and shall be analyzed by a NLLAP-approved laboratory to determine the presence of a quantifiable amount of lead.

(k) Management and disposal of abatement debris and waste shall be done using documented methods as outlined in the Resource Conservation Recovery Act (RCRA) or other methods approved by EPA Subtitle C (40 CFR part 261).

(l) A post abatement report shall be prepared by an accredited supervisor or project designer and submitted to the Department within 30 calendar days of the final clearance. The abatement report shall include the following information:

1. Start and completion dates of abatement.

2. The name and address of each certified firm conducting the abatement and the name and accreditation number of each supervisor assigned to the abatement project.

3. The occupant protection plan prepared pursuant to Rule 420-3-27-.10(9)(e).

4. The name, address, accreditation number, and signature of each accredited risk assessor or accredited inspector conducting clearance sampling and the date of clearance testing.

5. The results of clearance testing and all soil analysis (if applicable) and the name and address of each recognized NLLAP-approved laboratory that conducted the analysis.

6. A detailed written description of the abatement, including abatement methods used, locations of rooms and components where abatement occurred, reason for selecting particular abatement methods for each component, and any suggested monitoring of encapsulant or enclosures.

(m) For long term intermittent projects a completed post abatement report must be submitted to the Department after each project phase in accordance with 420-3-27-.10 (Standards for Conducting Lead Hazard Reduction Activities in Target Housing an Child-occupied Facilities).

(n) Collection and laboratory analysis of samples shall be carried out pursuant to Rule 420-3-27-.10(2).

(11) De minimis levels. Work practice requirements, applicable certification, occupant protection, and clearance requirements are found in this chapter and in regulations issued by EPA at 40 CFR part 745, subpart L and in regulations issued by the Department of Housing and Urban Development (HUD) at 24 CFR part 35, subpart R. The work practice standards in those regulations do not apply when lead hazard reduction activities disturb painted surfaces that total less than:

(a) 20 square feet (2 square meters) on exterior surface;

(b) 2 square feet (0.2 square meters) in any one interior room or space, or

(c) 10 percent of the total surface area on an interior or exterior type of component with small surface areas (examples include window sills, baseboard, and trim).

Author: Phyllis Mardis, Salvador Gray, Charles Brookins, Gary Jones, Michael Cassidy, Steven McDaniel
Statutory Authority: Code of Ala 1975, §22-37A-1, et seq.
History: New Rule: Filed July 20, 1998; effective August 24, 1998. **Amended:** Filed June 25, 2003; effective July 30, 2003. **Amended:** Published December 30, 2021; effective February 13, 2022.

420-3-27-.11 Notification Of Lead Inspection And Risk Assessment Activities.

(1) Notification of the intent to perform lead inspections and risk assessments shall be made in writing on a form provided by the Department and must be received at least 3 working days prior to commencement of the inspection or risk assessment. Forms can be faxed or electronically transmitted to the Department.

Author: Phyllis Mardis, Salvador Gray, Charles Brookins, Gary Jones, Steven McDaniel
Statutory Authority: Code of Ala 1975, §22-37A-1, et seq.

History: New Rule: Filed June 25, 2003; effective July 30, 2003. **Amended:** Published December 30, 2021; effective February 13, 2022.

420-3-27-.12 Project Notification And Project Fees.

(1) No firm or supervisor shall engage in a lead-based paint abatement project prior to notifying the Department of such activities and being issued a project permit. All applications shall be made in writing on a form provided by the Department, and must be received at least 15 calendar days prior to commencement of the same.

(2) For emergency lead-based paint projects where a 15-day notice is not feasible, the firm or supervisor shall notify the Department within 5 calendar days after commencement of such emergency projects.

(3) The notification shall state:

(a) The physical address and vicinity map of the location of the project;

(b) The building owner's and manager's names and addresses;

(c) The dates when the project will begin and end; and

(d) The name of the accredited supervisor and workers for each project.

(e) Any other information required by the Department.

(4) The notification shall be accompanied by a project design drawing and specifications, if applicable, and a fee.

(5) Project fees for the Lead Certification Abatement Projects are listed in Rule 420-1-5-.08, Ala. Admin. Code (State Level Fees).

(6) Applications for permit revisions shall be made by the applicant in writing on a form provided by the Department and shall be received by the program in accordance with the following:

(a) Revision to a start date for a project that will begin after the start date stated in the approved permit shall be received on or before the previously stated or previously revised start date;

(b) Revision to a start date for a project that will begin before the start date stated in the approved permit or subsequent revisions shall be received at least ten working days before the new start date;

(c) Revision to a completion date to extend the date beyond the stated completion date on the approved permit shall be received by the completion date stated on the current permit;

(d) Revision to a completion date that will be earlier than the completion date stated in the approved permit or subsequent revision shall be received by the new completion date; and

(e) For long term intermittent projects, notification shall be made by phone or fax to the Department at least 72 hours prior to start and completion of each phase.

(f) Any other permit revisions shall be submitted to the Department prior to initiating the activities or changes that the revision addresses.

(7) The following shall be maintained on the site during abatement activities and shall be available for review by the Department:

(a) A copy of the abatement permit issued by the Department and all revisions with the Department's confirmation of receipt;

(b) Safe State-issued photo identification cards for all personnel performing lead abatement activities;

(c) The occupant protection plan; and

(d) Any applicable abatement design and specifications, risk assessment and inspection reports.

(8) Upon completion of the project, the firm or supervisor shall certify to the Department, on forms provided by the Department that the project was completed in accordance with rules contained in this Chapter.

Author: Phyllis Mardis, Salvador Gray, Charles Brookins, Gary Jones, Steven McDaniel
Statutory Authority: Code of Ala 1975, §22-37A-1, et seq.
History: New Rule: Filed July 20, 1998; effective August 24, 1998. **Amended:** Filed June 25, 2003; effective July 30, 2003. **Amended:** Published December 30, 2021; effective February 13, 2022.

420-3-27-.13 Clearance Levels And Lead Hazard Levels.

Clearance procedures shall be conducted on all abatement projects by an accredited inspector or risk assessor of a certified firm after appropriate cleaning has been completed.

(1) Independence/Conflict of Interest - Clearance testing shall be performed by accredited persons or entities independent of those performing hazard reduction activities. If accredited in-house employees are used to conduct clearance testing, the in-house accredited employee shall not have played a part in performing that abatement work.

(2) Clearance Levels and Lead Hazard Levels for Risk Assessment – Clearance levels established in 40 CFR Part 745 must be met. If the residual lead level exceeds the applicable clearance level, the components represented by the failed sample shall be recleaned and retested.

Author: Phyllis Mardis, Salvador Gray, Charles Brookins, Gary Jones, Steven McDaniel
Statutory Authority: Code of Ala 1975, §22-37A-1, et seq.
History: New Rule: Filed July 20, 1998; effective August 24, 1998. **Amended:** Filed June 25, 2003; effective July 30, 2003. **Amended:** Published December 30, 2021; effective February 13, 2022.

420-3-27-.14 Enforcement.

The administration and enforcement of these rules shall be in accordance with the Alabama Lead Reduction Act of 1997, Code of Ala. 1975, §22-37A-1 et seq. Failure or refusal to comply with any requirement of these rules is a prohibited act under Sections 15 and 409 of TSCA (15 U.S.C. §2614, 2689).

(1) An owner or operator of an entity engaged in lead hazard reduction activities who fail to comply with 420-3-27-.04 (Certification of Firms), 420-3-27-.10 (Standards for Conducting Lead Hazard Reduction Activities in Target Housing and Child-Occupies Facilities), and 420-3-27-.12 (Project Notification and Project Fees) and rules adopted or orders issued by the Board shall be guilty of a Class C misdemeanor.

(2) If it appears that a person has violated, is violating, or is threatening to violate 420-3-27-.04 (Certification of Firms), 420-3-27-.10 (Standards for Conducting Lead Hazard Reduction Activities in Target Housing and Child-Occupied Facilities), 420-3-27-.12 (Project Notification and Project Fees), and rules adopted or orders issued by the Board, the State Health Officer, or a county health officer, as appropriate, may institute a civil suit in his or her own name in a circuit court to obtain injunctive relief to restrain the person from continuing the violation or threat of violation.

Author: Phyllis Mardis, Salvador Gray, Charles Brookins, Gary Jones, Steven McDaniel
Statutory Authority: Code of Ala 1975, §22-37A-1, et seq.
History: New Rule: Filed July 20, 1998; effective August 24, 1998. **Amended:** Filed June 25, 2003; effective July 30, 2003.

Amended: Published December 30, 2021; effective February 13, 2022.

420-3-27-.15 Record Keeping.

All reports or plans required by Section 420-3-27-.10 for Inspections, Lead Hazard Screens, Risk Assessments, Abatement, and Post Abatement Clearance Tests shall be maintained by the certified person or firm who prepared the report for no fewer than 3 years. The certified person or firm shall also provide copies of these reports to the building owner who contracted for its service.
Author: Phyllis Mardis, Salvador Gray, Charles Brookins, Gary Jones, Steven McDaniel
Statutory Authority: Code of Ala 1975, §22-37A-1, et seq.
History: New Rule: Filed July 20, 1998; effective August 24, 1998. **Amended:** Filed June 25, 2003; effective July 30, 2003.
Amended: Published December 30, 2021; effective February 13, 2022.

420-3-27-.16 Effective Date (Repealed 2/13/22).

(REPEALED)
Author: Phyllis Mardis, Salvador Gray, Charles Brookins, Gary Jones, Steven McDaniel
Statutory Authority: Code of Ala 1975, §22-37A-1, et seq.
History: New Rule: Filed July 20, 1998; effective August 24, 1998. **Amended:** Filed June 25, 2003; effective July 30, 2003.
Repealed: Published December 30, 2021; effective February 13, 2022.