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REGULATIONS COMPILER

1 CABINET FOR HEALTH AND FAMILY SERVICES

2 Department for Public Health

3 Division of Public Health Protection and Safety

4 (Amendment)

5 902 KAR 48:020. Training and certification requirements for persons who perform
6 lead-hazard detection or [~~lead-hazard~~] abatement.

7 RELATES TO: KRS 211.180, 211.900-211.905, 211.990, 211.994, 217.801

8 STATUTORY AUTHORITY: KRS 211.090(3), 211.9063, 211.9067,
9 211.9069[~~211.9061-211.9075~~]

10 NECESSITY, FUNCTION, AND CONFORMITY: KRS 211.9063(3) requires the
11 Department for Public Health to promulgate administrative regulations to establish the
12 training and testing requirements and procedures for certification of persons who
13 perform or offer to perform lead-hazard detection or [~~lead-hazard~~] abatement in target
14 housing or child-occupied facilities. KRS 211.9063(4) requires the department to
15 promulgate administrative regulations to provide for the enforcement of the certification
16 program. KRS 211.9067 requires the department to promulgate administrative
17 regulations to establish a schedule of fees for permits and certification and accreditation
18 programs. KRS 211.9069 authorizes the department to establish terms and conditions
19 for granting equivalent certificates. This administrative regulation establishes re-
20 quirements, procedures, and fees for lead-hazard[-] related permits, certification, and
21 accreditation, establishes terms and conditions for equivalent certification, and

1 establishes procedures for the enforcement of the certification program.

2 Section 1. Application Procedures. An applicant for certification shall submit to the
3 department:

4 (1) An application fee:

5 (a) In the amount established in Section 8 of this administrative regulation;

6 (b) By check or money order; and

7 (c) Made payable to the Kentucky State Treasurer;

8 (2) An "Application for Individual Certification"~~[A document containing the following~~
9 ~~information:~~

10 ~~(a) Name of applicant;~~

11 ~~(b) Company;~~

12 ~~(c) Address;~~

13 ~~(d) Phone number;~~

14 ~~(e) The discipline for which the applicant is requesting certification]; and~~

15 (3) The following documents:

16 (a) A current color photograph of the applicant~~[portrait]~~ at least two (2) by two (2)
17 inches in size;

18 (b) A copy of a course completion certificate received from a course approved by
19 the department; and

20 (c) Documentation demonstrating that the applicant has met the initial requirements
21 established for the indicated discipline, as described in Section 4 of this administrative
22 regulation.

23 Section 2. Departmental Review and Certification. (1) The department shall:

1 (a) Review and approve or disapprove the application for initial certification or
2 recertification; and

3 (b) Notify the applicant, within ten (10) working days of receipt of the application, of
4 the results of the review.

5 (2) An applicant whose application for a discipline requiring a third-party
6 examination is approved shall:

7 (a) Pay to the department ~~the~~^{an} examination fee in an amount established in
8 Section 8 of this administrative regulation;

9 (b) Schedule with the department a date and time to take the examination;

10 (c) Be permitted to take the examination three (3) times within a twelve (12) month
11 period of time;

12 (d) If the applicant fails the third examination, complete another approved course
13 before reapplying for certification;

14 (e) If the applicant passes or is not required to take an examination, shall pay a
15 discipline fee in an amount established in Section 8 of this administrative regulation.

16 (3) If an application is found to be deficient:

17 (a) The department shall notify the applicant that:

18 1. Specified supplemental documentation is required;

19 2. Additional education or training is required; or

20 3. Other specified information is necessary to determine the applicant's

21 qualifications.

22 (b) The applicant shall:

- 1 1. Submit the requested information before qualifying to take the required
- 2 examination or otherwise complete the application process; and
- 3 2. Within twelve (12) months, become certified by the department; or
- 4 3. Reapply for certification and pay additional specified fees.
- 5 (4) The department shall:
- 6 (a) Grant individual certification upon:
- 7 1. Satisfaction of the requirements for application approval and education or
- 8 training; and
- 9 2. Payment of the discipline fee;
- 10 (b) Issue a certification certificate and identification card valid for a period of two (2)
- 11 years from the date of completion of the required course of training.
- 12 Section 3. Certification Through Reciprocity. An applicant shall be considered for
- 13 certification by the department under an equivalent certification agreement established at
- 14 KRS 211.9069.
- 15 Section 4. Initial Requirements for Each Discipline. (1) Lead-hazard abatement
- 16 worker shall successfully complete a departmental-approved lead abatement worker
- 17 course.
- 18 (2) Lead-hazard inspector shall:
- 19 (a) Successfully complete an approved training course for inspectors;
- 20 (b) Have a high school diploma or equivalent; or
- 21 (c) Have a least one (1) year's related work experience.
- 22 (3) Lead-hazard risk assessor shall:

1 (a) Successfully complete an approved inspector course prior to the completion of
2 an approved risk assessor course; and

3 (b) Have at least one (1) of the following:

4 1. Certification as an industrial hygienist, professional engineer, registered architect,
5 or registered sanitarian;

6 2. A bachelor's degree, and one (1) year related work experience;

7 3. An associate degree, and two (2) years related work experience; or

8 4. A high school diploma or equivalent, and at least (3) years related work experience.

9 (4) Lead-hazard supervisor shall have:

10 (a) Successfully completed an accredited training course for supervisors;

11 (b) A high school diploma or equivalent; and

12 (c) At least two (2) years related work experience.

13 (5) Lead-hazard project designer shall have:

14 (a) Successfully completed an approved training course for supervisor prior to
15 successfully completing an approved project designer course; and

16 (b) One (1) of the following:

17 1. A bachelor's degree in engineering, architecture, or a related profession, and one
18 (1) year related work experience; or

19 2. Four (4) years related work experience.

20 (6) Lead dust sampling technician shall have:

21 (a) Successfully completed an approved training course; and

22 (b) Successfully completed department proficiency requirements.

1 Section 5. Certification of Lead-hazard Company. (1) A company shall be certified
2 by the department prior to conducting lead-hazard assessment and abatement activities
3 and shall qualify as follows.

4 (2) The company applying for certification shall:

5 (a) Pay an application fee as identified in Section 8 of this administrative regulation;
6 and

7 (b) Submit an "Application for Company Certification" with the following information:

8 1. A list of department certified employees; and

9 2. Notarized affidavit stating that the company is knowledgeable of and will follow
10 the work practice standards established by 902 KAR 48:040.

11 Section 6. Individual Recertification. (1) An applicant for recertification shall, at least
12 thirty (30) days before the expiration date indicated on the certificate, submit to the
13 department:

14 (a) A completed application;

15 (b) A fee established at Section 8 of this administrative regulation; and

16 (c) Documentation of successful completion of an approved refresher course, for the
17 appropriate discipline, taken within the last twelve (12) months of the certification period.

18 (2) An applicant who applies for recertification after the time specified in subsection
19 (1) of this section, but within six (6) months after the certification has lapsed, shall:

20 (a) Pass a department-approved refresher course; and

21 (b) Retake and pass the applicable third-party examination under the process
22 identified in Section 2 of this administrative regulation.

1 (3) An applicant who fails to reapply for certification after six (6) months from the
 2 date that the certification has lapsed shall:

3 (a) Pass an initial course; and

4 (b) Reapply through the certification process as identified in Section 2 of this
 5 administrative regulation.

6 Section 7. Company Recertification. A lead-hazard company shall apply for
 7 recertification by submitting:

8 (1) The fee established by Section 8 of this administrative regulation;

9 (2) A current listing, as of the date of recertification, of certification numbers
 10 identifying the employees engaged in lead-hazard activities; and

11 (3) A notarized affidavit certifying that the company:

12 (a) Has continued to use the work practice standards established by 902 KAR 48:040;
 13 and

14 (b) Uses only departmental-certified employees to conduct lead-hazard activities in
 15 target housing and child-occupied facilities in the Commonwealth.

16 Section 8. Fee Schedule.

Type or discipline	Fee
Application	\$50
Third-party exam	\$50
Lead dust sampling technician	\$100
Lead-hazard project designer	\$300
Lead-hazard risk assessor	\$250
Lead-hazard inspector	\$200
Lead-hazard supervisor	\$150

Lead-hazard abatement worker	\$75
Lead-hazard company	\$200
Reissue of lost certificate or identification card	\$25

1 Section 9. Suspension, Revocation, Denial and Modification of Certificates. If the
2 department suspends, revokes, denies, or modifies certification, it shall notify the
3 certificate holder, in writing, of the following:

4 (1) The legal and factual basis for the suspension, revocation, denial, or modification;

5 (2) The commencement date and duration of the suspension, revocation, or
6 modification;

7 (3) Action, if any, which the certified person may take to avoid suspension,
8 revocation, or modification, or to receive certification in the future;

9 (4) The opportunity and method for requesting a hearing prior to final department
10 action; and

11 (5) Other information the department deems appropriate.

12 Section 10. Administrative Hearings. An administrative hearing shall be conducted in
13 accordance with 902 KAR 1:400.

14 Section 11. Incorporation by Reference. (1) The following material is incorporated by
15 reference:

16 (a) "Application for Individual Certification", 5/2021 edition; and

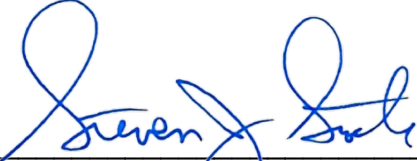
17 (b) "Application for Company Certification", 6/2021 edition.

18 (2) This material may be inspected, copied, or obtained, subject to applicable
19 copyright law, at the Environmental Lead Program, Division of Public Health Protection
20 and Safety, Department for Public Health, 275 East Main Street, Frankfort, Kentucky

- 1 40621, Monday through Friday, 8 a.m. to 4:30 p.m. or online at
- 2 <https://chfs.ky.gov/agencies/dph/dphps/psb/Pages/lead.aspx>.


902 KAR 48:020

REVIEWED:

 6/15/2021

Steven J. Stack, MD, MBA Date
Commissioner, Department for Public Health

APPROVED:

DocuSigned by:
 6/17/2021

Eric C. Friedlander Date
Secretary, Cabinet for Health and Family Services

PUBLIC HEARING AND PUBLIC COMMENT PERIOD:

A public hearing on this administrative regulation shall, if requested, be held on September 27, 2021, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by September 20, 2021, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends virtually will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until September 30, 2021. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, KY 40621; Phone: 502-564-6746; Fax: 502-564-7091; CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation: 902 KAR 48:020

Agency Contact: Julie Brooks, (502) 564-3970, julied.brooks@ky.gov or Krista Quarles, (502) 564-6746, CHFSregs@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the certification and training requirements for individuals and companies engaged in lead-hazard detection and abatement activities.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to ensure all those who engage in lead-hazard detection or abatement activities are properly certified by the cabinet. Lead is a toxic metal used in some paints made before 1978. Children are exposed to lead when older buildings are in poor condition. Today, childhood lead poisoning affects 310,000 children in the U.S. six years old and younger. Common renovations can create lead-hazards that can be harmful. Workers who disturb lead-based paint in structures built earlier than 1978 must be certified and follow work practices to keep children safe.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 211.9063 requires the Department for Public Health to create and administer a certification program for persons who perform or offer to perform lead-hazard detection or lead-hazard abatement services. All persons who perform or offer to perform lead-hazard detection or abatement services in target housing or child-occupied facilities shall be certified by the department. This administrative regulation establishes the certification process.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will ensure all persons who perform or offer to perform lead-hazard detection or abatement activities are properly certified and trained.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendment to this administrative regulation incorporates by reference the application for certification for an individual seeking certification as a lead-hazard inspector, risk assessor, supervisor, project designer, abatement worker, or sampling technician; and incorporates by reference the application for lead-hazard company certification.

(b) The necessity of the amendment to this administrative regulation: The amendment to this administrative regulation simplifies the certification process and makes it easier for the regulated entities to obtain and maintain certification for lead-hazard activities.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 211.9063 requires the Department for Public Health to create and administer a certification program for persons who perform or offer to perform lead-hazard detection or lead-hazard abatement services. The amendment to this administrative regulation

ensures those seeking certification are aware of the documentation and training requirements for certification.

(d) How the amendment will assist in the effective administration of the statutes: The amendment to this administrative regulation ensures individuals and companies applying for certification for lead-hazard activities are aware of the required forms.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Currently there are fifty-four (54) companies, 295 individuals, and seven (7) training providers registered with the department. The amendment to this administrative regulation affects those currently registered with the department to preform lead-hazard activities, and affects all future registrants.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in questions (3) will have to take to comply with this administrative regulation or amendment: Individuals seeking initial or renewal certification as a lead-hazard inspector, risk assessor, supervisor, project designer, abatement worker, or sampling technician will need to be aware of the documentation and training requirements. A company seeking initial or renewal certification as a lead-hazard company will need to be aware of the documentation requirements and will need to ensure all employees meet the individual certification and training requirements.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the identities identified in question (3): This amendment will not result in any increase in cost to regulated entities.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The amendment to this administrative regulation makes it easier for the regulated entities to obtain and maintain certification for lead-hazard activities.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: This is an ongoing program, there is no initial cost associated with this amendment.

(b) On a continuing basis: There are no additional costs associated with this amendment.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Environmental Lead Program is funded through a mix of federal dollars and revenue received from the fees for certification, permitting, and training program accreditation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new or by the change, if it is an

amendment: An increase in fees or funding is not necessary to implement the amendment to this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees. The fee schedule outlined in Section 8 of this administrative regulation is not changed.

(9) TIERING: Is tiering applied? (Explain why or why not.) Tiering is not applied. While there are different training requirements depending on the level of certification sought, all persons who perform or offer to perform lead-hazard detection or lead-hazard abatement services in target housing or child-occupied facilities shall be certified by the department.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Administrative Regulation: 902 KAR 48:020

Agency Contact: Julie Brooks, (502) 564-3970, julied.brooks@ky.gov or Krista Quarles, (502) 564-6746, CHFSregs@ky.gov

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation impacts the Public Safety Branch in the Division of Public Health, Protection and Safety.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 211.090(3), 211.9063, 211.9067, and 211.9069.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No change in revenue due to no change in fees.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No change in revenue due to no change in fees.

(c) How much will it cost to administer this program for the first year? No change in administration cost due to no change in work activities.

(d) How much will it cost to administer this program for subsequent years? No change in administration cost due to no change in work activities.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: The federal Environmental Protection Agency (EPA) provides eighty-five (85) to ninety (90) percent of the funding for the Environmental Lead Program. This funding is dependent upon the current grant cycle. Program income received from fees and state general fund dollars cover the remaining balance. Funds used to cover program expenses cycle between federal monies and the state program income depending upon receipt of the federal allotments. Grant funding periods range from three (3) to five (5) years. The Environmental Lead Program has maintained this grant since the late 1990s. At this time, the EPA does not see an end to this grant program and continues to fund all eligible states.

COMMONWEALTH OF KENTUCKY
CABINET FOR HEALTH AND FAMILY SERVICES
DEPARTMENT FOR PUBLIC HEALTH

902 KAR 48:020

Training and certification requirements for persons who perform lead-hazard detection or abatement.

Summary of Material Incorporated by Reference

1. The “Application for Individual Certification”, 5/2021 edition, is submitted by an individual seeking initial or renewal certification as a lead-hazard inspector, risk assessor, supervisor, project designer, abatement worker, or sampling technician. This is a newly incorporated form. This form has one (1) page.

2. The “Application for Company Certification”, 6/2021 edition, is submitted by a company seeking initial or renewal certification as a lead-hazard company. This is a newly incorporated form. This form has one (1) page.

The total number of pages incorporated by reference in this administrative regulation is two (2).

Certification # _____

Revised 4/29/21

Cabinet for Health and Family Services
Kentucky Department for Public Health

Application for Company Certification (Please Print Clearly)

Applicant Information

Company Name: _____

Address: _____
Street Address Apartment/Unit #

City State ZIP Code

Work Phone: _____ Fax Number: _____ Email: _____

Fees and Documentation

Initial Renewal Cert. # _____

\$50 nonrefundable application fee required for all certifications.

\$200 Company Fee

\$50 Application Fee + \$200 Company Fee = \$250.00 Total Fees

Additional Required Documents:

Notarized Affidavit List of Employees

Please make all checks out to Kentucky State Treasurer.

Disclaimer and Signature

This is to affirm that the above (and attached) information is accurate and has been provided by me:

Signature: _____ Date: _____

For Department For Public Health Use Only

Check: _____ Amount: _____

Date Received: _____ Processed By: _____



Mail To:
Certification
Environmental Lead Program
275 East Main Street HS1EB
Frankfort, KY 40621



Kentucky Public Health
Prevent. Promote. Protect.

Certification # _____

Revised 5/3/21

**Cabinet for Health and Family Services
Kentucky Department for Public Health**

Application for Individual Certification (Please Print Clearly)

Applicant Information

Full Name: _____ DOB: _____
Last First M.I.

Address: _____
Street Address Apartment/Unit #

City State ZIP Code

Work Phone: _____ Home Phone: _____ Email: _____

If you are employed by a lead-hazard company certified by the Department, provide the following:

Company Name: _____ Phone Number: _____

Certification Number: _____ Address: _____

Discipline

Initial Renewal Certification Number: _____

\$50 nonrefundable application fee required for all certifications.

If initial, or lapsed certification up to 6 Months, a 3rd Party exam is required \$50

Worker \$75 Supervisor \$150 Project Designer \$300 Inspector \$200 Risk Assessor \$250

\$50 Application Fee + _____ Discipline Fee + \$50 3rd party fee, if required = Total Fees _____

Replacement of ID card or certificate \$25

Additional Required Documents:

2x2 color photo Copy of Course Certificate Proof of Education, if required

Related work experience, if required

Please make all checks out to Kentucky State Treasurer.

Disclaimer and Signature

This is to affirm that the above (and attached) information is accurate and has been provided by me:

Signature: _____ Date: _____

For Department For Public Health Use Only

Check: _____ Amount: _____

Date Received: _____ Processed By: _____



Mail To:
Certification
Environmental Lead Program
275 East Main Street HS1EB
Frankfort, KY 40621



Kentucky Public Health
Prevent Promote Protect