TITLE 252. OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 110. LEAD-BASED PAINT MANAGEMENT

RULE IMPACT STATEMENT

Subchapter 1. General Provisions
252:110-1-1. Purpose [AMENDED]
252:110-1-2. Basis and authority [AMENDED]
252:110-1-7. Reference to 40 CFR [REVOKED]
Subchapter 5. Incorporation by Reference
252:110-5-1. Incorporation by reference [AMENDED]
Subchapter 15. Additional Renovation, Repair, and Painting (RRP) Requirements [NEW]
252:110-15-1. Definitions [NEW]
252:110-15-2. Scope [NEW]
252:110-15-3. Accreditation of training programs [NEW]
252:110-15-4. Renovator certification requirements [NEW]
252:110-15-5. Certification of firms conducting renovation services [NEW]
252:110-15-6. Fees [NEW]

Before the Air Quality Advisory Council, January 19, 2011, July 20, 2011, and October 5, 2011
Before the Environmental Quality Board, February 24, 2012

1. **DESCRIPTION:** The Department is proposing to amend OAC 252:110, Lead-based Paint Management, to add a new Subchapter 15, Additional Renovation, Repair, and Painting (RRP) Requirements. The proposed rule would establish state requirements that are consistent with those established by the U.S. Environmental Protection Agency (EPA) in 40 CFR Part 745, Subpart E, Residential Property Renovation, and affect contractors who perform renovation, repair, and painting projects in homes, child-care facilities, and schools built before 1978.

   This rule revision is essential to the Department's efforts to obtain EPA authorization to administer the Lead-based Paint Renovation Program in Oklahoma. The proposal would establish fees for obtaining and renewing firm certifications and other associated services, which would be assessed after EPA has delegated the Department authority for the program.

   This proposed state rule is no more stringent than the federal rule and would incorporate changes to be consistent with the Department's current rules. In addition, the proposal includes amending OAC 252:110-5, Incorporation by Reference, to be consistent with the new subchapter. This proposal provides that a fee for firm certification is to be paid to the Department upon expiration of any existing EPA renovation firm certification. The proposal will also establish an accreditation fee to be paid annually by the accredited facility for each renovation and dust sampling course along with other fees and requirements currently established in OAC 252:110-9, Additional Accreditation Requirements. Training programs previously accredited by EPA will submit fees for accreditation to the Department upon expiration of their current accreditation. Both the proposed firm certification and the accreditation fees are equal over time in amount to the corresponding fees in the federal rule.

The Department is proposing to revoke OAC 252:110-1-7, General Provisions, Reference to 40 CFR because it is a duplication of language already included in Subchapter 5, Incorporation by Reference. The Department is also proposing to amend OAC 252:110-1-1, Purpose, and OAC 252:110-1-2, Basis of Authority, to update statutory citations.

2. **CLASSES OF PERSONS AFFECTED:** Classes of persons affected are contractors performing renovations for compensation in target housing and child-occupied facilities, as well as owners and occupants, especially children, of said housing and facilities. Training providers that seek accreditation to offer renovation training courses will also be affected.

3. **CLASSES OF PERSONS WHO WILL BEAR COSTS:** The contractors will bear the cost to obtain training for certification and to apply to have their firms certified. Property owners may bear some costs that are passed through by the contractors. Also, training providers will be assessed fees to obtain accreditation to offer renovation training courses in Oklahoma.

4. **INFORMATION ON COST IMPACTS FROM PRIVATE/PUBLIC ENTITIES:** The DEQ has received no information on cost impacts from private or public entities.

5. **CLASSES OF PERSONS BENEFITTED:** Small children and families will experience the most benefit through protection from lead-based paint contamination.

6. **PROBABLE ECONOMIC IMPACT ON AFFECTED CLASSES OF PERSONS:** Minimal costs may be incurred by contractors or other persons that perform renovation, repair, and painting work for compensation. Property owners may incur increased costs that are passed through by the contractors. EPA estimates an average cost increase of approximately $35 per renovation.

7. **PROBABLE ECONOMIC IMPACT ON POLITICAL SUBDIVISIONS:** The Department anticipates no economic impact on political subdivisions.

8. **POTENTIAL ADVERSE EFFECT ON SMALL BUSINESS:** The Department does not anticipate any potential adverse effects on small business, as these rules are already codified at 40 CFR Part 745, Subpart E.

9. **LISTING OF ALL FEE CHANGES, INCLUDING A SEPARATE JUSTIFICATION FOR EACH FEE CHANGE:** The Department is proposing to add fees for firm certification and accreditation of renovation training courses. The proposed firm certification fees are equal over time to those established by EPA. A fee of $300 is to be paid to the Department by each firm every five (5) years with its certification and recertification application. Firms previously certified by EPA will not be required to pay an initial fee to the Department until expiration of their current certifications. The fees for accreditation of Renovation and Dust-Sampling Technician training courses will be equal to or less than the fee established by EPA, but assessed annually. Training programs previously accredited by EPA will be required to pay an initial fee to the Department upon expiration of their current accreditations.

10. **PROBABLE COSTS AND BENEFITS TO DEQ TO IMPLEMENT AND ENFORCE:** The Department does not expect significant cost increases associated with implementing and enforcing the proposed revision to OAC 252:110. The Department will benefit from the improved clarification of the requirements and improved customer service to the citizens of Oklahoma.

11. **PROBABLE COSTS AND BENEFITS TO OTHER AGENCIES TO IMPLEMENT AND ENFORCE:** None. No other agencies will be implementing or enforcing this proposed rule.

12. **SOURCE OF REVENUE TO BE USED TO IMPLEMENT AND ENFORCE RULE:** Federal grants and fees will continue to be used.

13. **PROJECTED NET LOSS OR GAIN IN REVENUES FOR DEQ AND/OR OTHER AGENCIES, IF IT CAN BE PROJECTED:** The proposed revision should have little effect on net revenues for DEQ and/or other agencies.

14. **COOPERATION OF POLITICAL SUBDIVISIONS REQUIRED TO IMPLEMENT OR ENFORCE RULE:** Cooperation of political subdivisions will not be required to implement or enforce the proposed rule.

15. **EXPLANATION OF THE MEASURES THE DEQ TOOK TO MINIMIZE COMPLIANCE COSTS:** No measures were necessary to minimize compliance costs as the increase in compliance costs should be minimal.

16. **DETERMINATION OF WHETHER THERE ARE LESS COSTLY OR NONREGULATORY OR LESS INTRUSIVE METHODS OF ACHIEVING THE PURPOSE OF THE PROPOSED RULE:** The Department has determined that there are no less costly or non-regulatory methods of achieving the purpose of the proposed rule.

17. **DETERMINATION OF THE EFFECT ON PUBLIC HEALTH, SAFETY AND ENVIRONMENT:** The proposed rule should result in improved public health and safety of the citizens of Oklahoma by reducing the risk of exposure to lead-based paint hazards, which could be caused by untrained and uncertified contractors during renovations.

18. **IF THE PROPOSED RULE IS DESIGNED TO REDUCE SIGNIFICANT RISKS TO THE PUBLIC HEALTH, SAFETY AND ENVIRONMENT, EXPLANATION OF THE NATURE OF THE RISK AND TO WHAT EXTENT THE PROPOSED RULE WILL REDUCE THE RISK:** Lead-based paint can cause a wide array of negative effects on multiple organ systems including: neurological development and function, reproduction and physical development, kidney function, cardiovascular function, and immune function. Most notable are the effects of lead-based paint in children under the age of six (6) years old who are still developing. Previous renovations have been performed on houses, which may have contained lead-based paint, but have had little or no protective measures taken to reduce contamination and possible poisoning of the residents. The proposed rules would result in improved public health, safety, and protection of the environment by reducing the risk of

exposure to lead-based paint hazards, which could be caused during renovations performed by untrained and uncertified contractors.

19. **DETERMINATION OF ANY DETRIMENTAL EFFECT ON THE PUBLIC HEALTH, SAFETY AND ENVIRONMENT IF THE PROPOSED RULE IS NOT IMPLEMENTED:** If the proposed rule is not implemented by the Department, the federal rule will still be in effect. However, there would likely be a reduction in customer service since EPA Region 6 would be responsible for Oklahoma's as well as several other states' implementation of the rule. This may lead to a delay in dealing with local and very time-sensitive problems. There is also concern that failure to pass this proposed rule would lead to conflicts with the existing DEQ Lead-based Paint program.

20. **PROBABLE QUANTITATIVE AND QUALITATIVE IMPACT ON BUSINESS ENTITIES (INCLUDE QUANTIFIABLE DATA WHERE POSSIBLE):** Quantitative impacts are anticipated to be minimal. EPA estimates an average cost increase of approximately $35 per renovation. The qualitative impact of the rule would be clarification requirements for Oklahoma renovators and would provide more localized customer service. In addition, the proposed rule would ensure accredited training providers have an equal standard of training for all providers to follow.

THIS RULE IMPACT STATEMENT WAS PREPARED ON: February 8, 2011
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