

TO ENACT THE CHOCTAW NATION OF OKLAHOMA LEAD-BASED PAINT CODE

**IN THE TRIBAL COUNCIL OF THE CHOCTAW NATION
JAMES DRY INTRODUCED THE FOLLOWING COUNCIL BILL**

A COUNCIL BILL

TO ENACT the Choctaw Nation of Oklahoma's (the "Nation") Lead-Based Paint Code (the "Code"); establishing a tribal program to address the risks of lead exposure in older homes and buildings; adopting as minimum standards federal administrative rules, regulations and guidelines regarding lead-based paint activities; establishing certification, accreditation, and pre-renovation education requirements; and providing penalties for violations.

WHEREAS, Article IX, Section 4 of the Constitution of the Choctaw Nation of Oklahoma provides that the Tribal Council of the Nation (the "Council") "shall enact legislation, rules, and regulations not inconsistent with the Constitution for the general good of the Choctaw Nation and for the administration and regulation of the affairs of the Choctaw Nation"; and

WHEREAS, the Nation has a vested interest in the health of its citizens, and particularly children, who are especially at risk of serious and permanent health problems resulting from exposure to lead-based paint; and

WHEREAS, there is a need to establish a lead-based paint code and a Lead-Based Paint Program Coordinator to administer the Code, conduct inspections, and issue citations for violations of the Code; and

WHEREAS, adoption of a lead-based paint code is a necessary step for the Nation to apply for and receive EPA "Treatment as a State" (TAS) designation under federal law; and

WHEREAS, the Nation, as a sovereign government, possesses the inherent authority to establish and enforce laws governing lead-based paint activities within its Reservation;

THEREFORE, BE IT ENACTED by the Council, that the Lead-Based Paint Code is hereby enacted as Chapter 4 of Title 105 of the Choctaw Statutes, entitled "Environmental Laws" and formally known as the "Environmental Protection and Enforcement Code," as follows:

Chapter 4. Lead-Based Paint Code

Article 1. General Provisions

Section 4-101. Short Title

This Code shall be known, and may be referred to as, the "Lead-Based Paint Code."

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Section 4-102. Legislative Purpose and Construction

A. The purpose of the Lead-Based Paint Code is to authorize and administer a lead-based paint identification and abatement program in accordance with requirements of the United States Environmental Protection Agency for treatment of the Choctaw Nation as a state for the purposes of the Code. This Code is established to promote the health, safety, and welfare of the members of the Choctaw Nation.

B. In the event of any conflict between the provisions of this Code and any other law of the Choctaw Nation or of the United States Government, the most stringent and protective provision shall be controlling.

C. To the extent that any federal laws, rules or standards are incorporated by reference or adopted herein, it is the intent of Choctaw Nation that such incorporation or adoption include subsequent amendments to such laws, rules or standards without further action by the Tribal Council; provided, however, that the Tribal Council retains the authority to revise this Code, notwithstanding the subsequent enactment of such amendments.

Section 4-103. Definitions

As used in this Code, unless the context requires otherwise:

1. "Abatement" means measures designed to reduce or eliminate human exposure to lead-based paint hazards.
2. "Choctaw Nation" means the Choctaw Nation of Oklahoma, a federally recognized Indian Tribe.
3. "Choctaw Reservation" means the geographical area described in Article I, Section 2 of the Constitution of the Choctaw Nation of Oklahoma.
4. "Code" means the Lead-Based Paint Code.
5. "EPS" means the Environmental Protection Service of the Choctaw Nation of Oklahoma.
6. "Lead-based paint" means paint or other surface coating that contains lead equal to or in excess of 1.0 milligrams per square centimeter or 0.5 percent by weight.
7. "Lead-based paint activities" means inspection, risk assessment, and abatement services as defined in 40 C.F.R. §754.103 and 40 C.F.R. §745.223.

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8. “Lead-based paint hazard” means any condition that causes exposure to lead-contaminated dust, lead-contaminated soil, or lead-contaminated paint that is deteriorated or present in accessible surfaces, friction surfaces, or impact surfaces that would result in adverse human health effects as established by the appropriate federal or tribal agency.

9. “Lead-Based Paint Program” means the planned series of actions, events, instructions, recommendations, or requirements of, or required by, this Code.

10. “Surface” includes, but is not limited to, accessible surfaces as defined in 42 U.S.C. §4851b(2), chewable surfaces as defined in 40 C.F.R. §745.63, friction surfaces as defined in 40 C.F.R. §745.63, impact surfaces as defined in 40 C.F.R. §745.63, exterior surfaces, and interior surfaces.

11. “Target Facility” means any residential, commercial, or industrial building or structure constructed prior to 1978.

12. “Tribe” means the Choctaw Nation of Oklahoma.

Section 4-104. Scope

A. This Code applies to:

1. Target Facilities; and
2. Persons who are engaged in lead-based paint activities in Target Facilities, except persons who perform these activities within residential dwellings that they own, unless the residential dwelling is occupied by a person or persons other than the owner or the owner’s immediate family while these services are being performed.

B. Nothing in this Code requires the owner of real property other than Target Facilities to inspect, evaluate, or test for lead-based paint or abate lead-based paint or lead-based paint hazards on the owner’s property that is used exclusively as the residence of the owner or the owner’s immediate family.

Article 2. Lead-Based Paint Program

Section 4-201. Establishment of Program

A. The Lead-Based Paint Program is hereby established and shall be administered and enforced by the EPS.

B. The Tribal Council designates the EPS as the lead agency for all purposes of this Code.

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C. Unless otherwise provided by law, all departments and agencies of the Choctaw Nation shall cooperate with the EPS in the administration and enforcement of the Lead-Based Paint Program.

Section 4-202. Lead-Based Paint Program Coordinator

A. The Chief of the Choctaw Nation shall appoint a Lead-Based Paint Program Coordinator who shall be a lead-based paint Risk Assessor, currently certified by an EPA-approved organization. The lead-based paint Coordinator shall be responsible for administering the Lead-Based Paint Program, conducting inspections of lead-based paint activities, issuing citations for violations of this Code, and exercising other powers and duties under this Code.

Section 4-203. Adoption of federal administrative rules, regulations, and guidelines

A. Until superseded by other law, the Tribal Council hereby adopts the following as minimum standards, which shall be administered and enforced by the EPS:

1. Sections 402, 403, and 404 of the Toxic Substances Control Act, 15 U.S.C. §§ 2682, 2683, and 2684;
2. Title X of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. §§ 4851–4856;
3. 24 C.F.R. Part 35;
4. 29 C.F.R. Parts 1900 and 1926; and
5. 40 C.F.R. Part 745.

B. The EPS shall adopt all rules, regulations, policies, procedures, and guidelines for the implementation of this Code.

Article 3. Certification and Accreditation

Section 4-301. Certification Required

- A. No person shall perform lead-based paint activities on the Choctaw Reservation or on lands off the Choctaw Reservation which are owned and/or operated by Choctaw Nation unless the person is currently certified by an EPA-approved organization in the appropriate lead-based paint discipline.
- B. Any person required by this Section to be certified must comply with the provisions of this Code and any rules or regulations adopted pursuant thereto.

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- C. No person registered to conduct a lead-based paint business may employ any individual to perform lead-based paint activities who is not certified in the appropriate lead-based paint discipline.
- D. Standards and requirements for certification of firms and individuals are prescribed in rules and regulations developed by tribal staff using EPA criteria for certification procedures as described in 40 C.F.R. Part 745.

Section 4-302. Accreditation of Training Programs

Any training program must be accredited by the EPA pursuant to 40 C.F.R. § 745.225 or through an EPA-approved state or tribal lead program.

Section 4-303. Federal Work Standards Incorporated

- A. The federal work standards for conducting lead-based paint activities (40 C.F.R. § 745.227) regulating conduct for lead program inspections, lead hazard screens, risk assessments, and abatements are incorporated herein by reference and must be met by all certified lead-based paint activity workers.
- B. The federal work standards for conducting lead-based paint residential property renovation (40 C.F.R. § 745.85) are incorporated herein by reference and must be met by all persons performing renovations for compensation except those renovations described in 40 C.F.R. § 745.82.

Article 4. Pre-Renovation Education/Disclosures

Section 4-401. Pre-Renovation Education

- A. The federal pre-renovation education and renovation notification requirements applicable to this Section are incorporated herein by reference, including 40 C.F.R. Part 745, Subpart E, and applicable state or tribal program requirements authorized under 40 C.F.R. Part 745, Subpart Q.
- B. Renovations performed for compensation in Target Facilities are subject to pre-renovation education and notification requirements, unless an exception under federal law applies.
- C. Required pre-renovation information shall be distributed in accordance with 40 C.F.R. § 745.84. The pamphlet or approved alternative information package must meet the applicable federal content requirements, including 40 C.F.R. § 745.326(b)(3), where applicable.

Section 4-402. Pre-Renovation Disclosures by Property Managers and Landlords

- A. Sellers, lessors, owners, landlords, agents, and property managers of Target Facilities shall comply with applicable lead-based paint disclosure requirements before a purchaser or lessee is obligated under a contract to purchase or lease Target Facilities.

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B. Required disclosures include (i) an EPA-approved lead hazard information pamphlet, (ii) disclosure of the presence of any known lead-based paint and/or lead-based paint hazards, (iii) available records or reports concerning lead-based paint and/or lead-based paint hazards, and (iv) the required lease or contract disclosure and acknowledgment language.

C. For leases of Target Facilities, the disclosure attachment or contract language shall include the required lessor, agent, and lessee acknowledgments and signatures, and shall be retained for the period required by federal law.

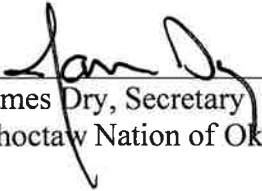
Article 5. Enforcement Authority and Remedies

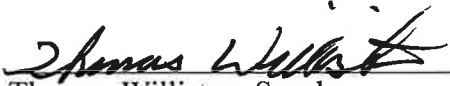
The penalties for violation of this Code are set forth in Sections 1-112 and 1-113 of this Title, up to the limits allowed by the Tribal Law and Order Act of 2010, found in 25 U.S.C. § 1302.

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CERTIFICATION

I, the undersigned, as Speaker of the Tribal Council of the Choctaw Nation of Oklahoma, do hereby certify that the Tribal Council is composed of twelve (12) seats. Eight (8) members must be present to constitute a quorum. I further certify that twelve (12) members answered roll call and that a quorum was present at the Regular Session of the Tribal Council at Tvshka Homma, Oklahoma on September 12, 2026. I further certify that the foregoing Council Bill CB-100 -26 was adopted at such meeting by the affirmative vote of twelve (12) members, zero (0) negative votes, and zero () abstaining.


James Dry, Secretary
Choctaw Nation of Oklahoma Tribal Council


Thomas Williston, Speaker
Choctaw Nation of Oklahoma Tribal Council


Gary Patton, Chief
Choctaw Nation of Oklahoma

Date 9-14-26

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Purpose/Need of Council Bill:

Title of Council Bill: A Council Bill enacting the Choctaw Nation Lead-Based Paint Code

Agency: Choctaw Nation

CNO Department: Environmental Protection Service, Air Quality Division

Maximum Federal Award Not to Exceed: N/A

CNO Match: N/A

Maximum Budget for Total Project: N/A

Request by Project Director/SEO: Tye Baker- Senior Director Environment