



RULE-MAKING ORDER

R-103P (May 2009)
(Implements RCW 34.05.360)

Agency:
Department of Commerce, Lead-Based Paint Program

Permanent Rule Only

Effective date of rule:

Permanent Rules

- 31 days after filing.
- Other (specify) (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

Yes No If Yes, explain:

Purpose:

This rule amends the Lead-Based Paint Abatement Activities Rule, which provides the Department of Commerce, Washington Administrative Code regulations (WAC 365-230) to seek federal authorization from the U.S. Environmental Protection Agency to administer and enforce the Lead Based Paint Renovation Activities Rule along with the Lead-Based Paint Abatement Activities Rule in Washington State. This provides for accreditation of training firms, certification of individuals, certification of firms, information distribution requirements, and enforcement of renovation and lead-based paint activities in Washington State.

Citation of existing rules affected by this order:

Repealed:
Amended: WAC 365-230
Suspended:

Statutory authority for adoption: RCW 70.103.10, 70.103.20, 70.103.30, 70.103.40, 70.103.50, 70.10.80, and 70.103.90

Other authority : None

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 10-21-085 on October 19, 2010. Describe any changes other than editing from proposed to adopted version:

(Response to public hearings)

WAC 365-230-040—changes written for the requirement of Renovation principal instructors to have eight minimum hours of lead course training per 40 CFR Part 745.225. WAC 365-230-160 changes written to provide recertification for Lead-Based Paint disciplines only. WAC 365-230-360 removes requirement for certified Renovation firms to provide surety bonds and insurance in its application to the department. WAC 365-230-380 provides recertification period to five years for Renovators.

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name:	phone () _____
Address:	fax () _____
	e-mail _____

Date adopted: *March 21, 2011*

NAME (TYPE OR PRINT)

Rogers Weed

SIGNATURE

TITLE

Director-Department of Commerce

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
STATE OF WASHINGTON

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WSR 11-07-067

Chapter 365-230 WAC

ACCREDITATION OF LEAD-BASED PAINT TRAINING PROGRAMS AND THE
CERTIFICATION OF FIRMS AND INDIVIDUALS CONDUCTING LEAD-BASED
PAINT ACTIVITIES AND RENOVATION

AMENDATORY SECTION (Amending WSR 07-07-044, filed 3/13/07,
effective 4/13/07)

WAC 365-230-010 Authority, purpose and scope. (1) The
authority for these regulations is chapter 70.103 RCW.

(2) Purpose.

(a) These regulations address Washington's need for a
qualified and properly trained work force to perform (~~inspection,
risk assessment and abatement of hazards associated with lead-based
paint,~~) lead-based paint activities, and lead-based paint
renovation work, as defined in these rules, to safeguard the
environment and protect human health, especially for children under
six years of age and other high-risk groups from lead-based paint
hazards.

(b) These regulations prescribe the accreditation requirements
for training providers offering lead-based paint activities and
lead-based paint renovation training courses to qualify individuals
for lead-based paint certification and will require that all lead-
based paint training courses be offered or provided only by
accredited training providers.

(c) These regulations prescribe the certification requirements
of individuals and firms engaged in lead-based paint activities and
renovation in target housing and child occupied facilities.

(d) These regulations establish work practice standards for
the performance of lead-based paint abatement, inspection, risk
assessment, (~~and abatement activities for~~) renovation, dust
sampling by individuals and firms, and will require that only
certified individuals and the certified firms employing such
individuals perform these lead-based paint activities and lead-
based paint renovations.

(3) Scope.

(a) These rules apply to all individuals and firms that are
engaged in lead-based paint activities and lead-based paint
renovation as defined in these regulations, (WAC 365-230-200 and
365-230-330) 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 activities are being performed, or a child residing in the building has been identified as having an elevated blood lead level.

(b) These rules establish the requirement that lead-based paint activities and renovation be performed only by certified individuals and the certified firms employing such individuals.

(c) These rules prescribe the requirements for, and the manner of, certifying competency of applicants for certification of lead-based paint inspector, risk assessor, renovator, dust sampling technician, supervisor, project designer, and abatement worker, and of legally registered firms employing such individuals.

(d) These rules prescribe work practice standards for ~~((the))~~ lead-based paint abatement and renovation, and for the performance of lead-based paint ~~((and))~~, risk assessment, renovation, dust sampling, and those actions or circumstances that constitute failure to achieve or maintain competency, or that otherwise are contrary to the public interest, for which the department may deny, suspend, revoke, or modify certification.

(e) These rules establish application fees for certification and accreditation.

(f) These rules establish a procedure by which training providers may apply for and obtain accreditation to offer initial and refresher lead-based paint ~~((activity))~~ courses in any of the following disciplines: Inspector, risk assessor, renovator, dust sampling technician, supervisor, project designer, and abatement worker.

(g) These rules prescribe the requirements for training programs to provide, offer, or claim to provide accredited lead-based paint activities and renovation courses.

(h) These rules prescribe those actions or circumstances that constitute failure to achieve or maintain competency, or that otherwise are contrary to the public interest, for which the department may deny, suspend, revoke or modify accreditation.

(i) These rules describe the actions or failures to act that constitute violations of these rules and for which the department may issue fines.

(j) These rules establish a schedule of penalties for failure to comply with these rules.

AMENDATORY SECTION (Amending WSR 07-07-044, filed 3/13/07, effective 4/13/07)

WAC 365-230-016 Contact information for accreditation and certification matters. Application materials and information concerning lead-based paint accreditation and certification as described in these rules can be obtained from the lead-based paint program via the following contact information:

(1) Mailing address: Lead-Based Paint Program, P.O. Box
42525, Olympia, WA 98504-2525
(2) Telephone number: 360-586-LEAD (5323)
(3) ((~~Fax number: 360-586-5880~~
(4)) Web site: ((~~www.cted.wa.gov/lead~~))
www.commerce.wa.gov/lead.

AMENDATORY SECTION (Amending WSR 07-07-044, filed 3/13/07,
effective 4/13/07)

WAC 365-230-020 Definitions. As used in these rules unless
otherwise required by context:

(1) "Abatement" means any measure or set of measures designed
to permanently eliminate lead-based paint hazards including, but
not limited to:

(a) The removal of paint and dust, the permanent enclosure or
the encapsulation of lead-based paint with an EPA-approved
encapsulant, the replacement of painted surfaces or fixtures, or
the removal or covering of soil, when lead-based paint hazards are
present in such paint, dust or soil; and

(b) All preparation, cleanup, disposal, and postabatement
clearance testing activities associated with such measures.

Specifically, abatement includes, but is not limited to:

(i) Projects for which there is a written contract or other
documentation, which provides that an individual or firm will be
conducting activities in or to a residential dwelling or child-
occupied facility that results in permanent elimination of lead-
based paint hazards or designed to permanently eliminate lead-based
paint hazards and described in (a) and (b) of this subsection.

(ii) Projects resulting in the permanent elimination of lead-
based paint hazards, conducted by certified and licensed firms or
individuals, unless such projects are covered under (c) of this
subsection.

(iii) Projects resulting in the permanent elimination of lead-
based paint hazards, conducted by firms or individuals who, through
(~~the~~) their company name or promotional literature, represent,
advertise, or hold themselves out to be in the business of
performing lead-based paint activities, unless such projects are
covered under (c) of this subsection.

(iv) Projects resulting in the permanent elimination of lead-
based paint hazards, that are conducted in response to state or
local abatement orders.

(c) 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.

(2) "Accreditation" means the process whereby the department has reviewed and approved a training provider's written application with associated materials for accreditation, and has conducted an on-site audit finding the training program is in compliance as specified in these rules.

(3) "Accredited training program" means a training program accredited by the department, either directly or through a reciprocity agreement with other jurisdictions, to provide training for individuals engaged in lead-based paint activities, renovation, or dust sampling.

(4) "Accredited training course" means either an initial or a refresher training course accredited by the department, either directly or through a reciprocity agreement with other jurisdictions, that provides training for individuals engaged in lead-based paint activities and renovation.

(5) "Accredited training provider" means an individual, corporation, partnership or other unincorporated association or public entity to which the department has approved accreditation to offer one or more lead-based paint courses.

(6) "Approved" means approved in writing by the department.

(7) "Arithmetic mean" means the algebraic sum of data values divided by the number of data values (e.g., the sum of the concentration of lead in several soil samples divided by the number of samples).

(8) "Business day" means Monday through Friday with the exception of legal Washington state holidays.

(9) "Certified" means issued a certificate by the department based on meeting requirements for the appropriate discipline. Those requirements include, but are not limited to, the following:

(a) Successful completion of a training program accredited by the department; and

(b) Receiving a passing score on a certification examination administered by the department, or by the training firm in the certification of lead-based paint workers, renovators, and dust sampling technicians; and

(c) Satisfaction of any other requirements for the appropriate discipline; and

(d) Submittal and approval of the appropriate application by the department for inspection, risk assessment or abatement activities in target housing and child-occupied facilities; and

(e) Submittal and approval of the appropriate renovator or dust sampling technician application by the department.

Note: Guidance policy is written to grandfather in all Washington state residents previously certified by EPA as renovators, dust sampling technicians, or Washington renovation firms into the department. Out-of-state residents are required to submit appropriate renovator, dust sampling technician, or renovation firm application and fee to the department.

(10) "Certified firm" means a company, partnership, corporation, sole proprietorship, association, or other business entity that performs lead-based paint activities to which the

department has issued a certificate under these rules.

(11) "Child-occupied facility" means a building, or a portion of a building, constructed prior to 1978, visited regularly by the same child, under the age of six, on at least two different days within any week (Sunday through Saturday period), provided that each day's visit lasts at least three hours and the combined weekly visit lasts at least six hours, and the combined annual visits last at least sixty hours. Child-occupied facilities may 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 six, such as restrooms and cafeterias. Common areas that children under age six 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 sides of the building that are immediately adjacent to the child-occupied facility or the common areas routinely used by children under age six.

(12) "Clearance levels" are values that indicate the maximum amount of lead permitted in dust on a surface following completion of an abatement activity.

(13) "Clearance examination standards" means a maximum of 40 micrograms of lead in dust per square foot on floors, 250 micrograms of lead in dust per square foot on interior window sills, and 400 micrograms of lead in dust on window troughs.

(14) "Common area" means a portion of a building that is generally accessible to all occupants that may include, but that is not limited to, hallways, stairways, laundry and recreational rooms, playgrounds, community centers, garages, and boundary fences.

(15) "Common area group" means a group of common areas that are similar in design, construction, and function. Common area groups include, but are not limited to, hallways, stairwells, and laundry rooms.

(16) "Component or building component" means 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 or 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 downspouts, ceilings, soffits, fascias, rake boards, cornerboards, 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 or stools and troughs, casings, sashes and wells, and air conditioners.

(17) "Concentration" means the relative content of a specific substance contained within a larger mass, such as the amount of lead (in micrograms per gram or parts per million by weight) in a sample of dust or soil.

(18) "Containment" means a process to protect workers and the environment by controlling exposures to the lead-contaminated dust and debris created during an abatement or renovation.

(19) "Course agenda" means an outline of the key topics to be covered during a training course, including the time allotted to teach each topic.

(20) "Course test" means an evaluation of the overall effectiveness of the training which shall test the trainees' knowledge and retention of the topics covered during the course.

(21) "Course completion date" means the final date of classroom instruction and/or student examination of an accredited lead-based paint training course.

(22) "Course completion certificate" means documentation issued by an accredited training provider to an individual as proof of successful completion of a department-approved lead-based paint course or initial training course. All course completion certificates are valid for six months from the course completion date.

(23) "Course test blueprint" means written documentation identifying the proportion of course test questions devoted to each major topic in the course curriculum.

(24) "Demonstration testing" means the observation and scoring of a student's job task and equipment use skills taught during an initial or refresher training course.

(25) "Department" means the ((Washington)) department of ((community, trade, and economic development)) commerce.

(26) "Deteriorated paint" means any interior or exterior paint or other coating that is peeling, chipping, chalking or cracking, or any paint or coating located on an interior or exterior surface or fixture that is otherwise damaged or separated from the substrate.

(27) "Director" means the director of the ((Washington)) department of ((community, trade, and economic development)) commerce.

(28) "Discipline" means one of the specific types or categories of lead-based paint activities or renovation identified in these rules for which individuals may receive training from accredited programs and become certified by the department. For example, "abatement worker" is a discipline.

(29) "Distinct painting history" means the application history, as indicated by the visual appearance or a record of application, over time, of paint or other surface coatings to a component or room.

(30) "Documented methodologies" are the methods or protocols

used to sample for the presence of lead in paint, dust, and soil.

(31) "Dripline" means the area within three feet surrounding the perimeter of a building.

(32) "Dust-lead hazard" means surface dust in a residential dwelling or child-occupied facility that contains a mass-per-area concentration of lead equal to or exceeding 40 $\mu\text{g}/\text{ft}^2$ on floors or 250 $\mu\text{g}/\text{ft}^2$ on interior window sills based on wipe samples.

(33) "Elevated blood lead level (EBL)" means an excessive absorption of lead that is a confirmed concentration of lead in whole blood of 20 $\mu\text{g}/\text{dl}$ (micrograms of lead per deciliter of whole blood) for a single venous test or of 15-19 $\mu\text{g}/\text{dl}$ in two consecutive tests taken three to four months apart.

(34) "Encapsulant" means ((a)) an EPA-approved substance that forms a barrier between lead-based paint and the environment using a liquid applied coating (with or without reinforcement materials) or an adhesively bonded covering material.

(35) "Encapsulation" means the application of an encapsulant.

(36) "Enclosure" means 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.

(37) "EPA" means the Environmental Protection Agency.

(38) "Firm" means a sole proprietorship, corporation, association, firm, partnership, or joint stock company legally registered with the Washington department of licensing to conduct business in the state of Washington.

(39) "Friction surface" means an interior or exterior surface that is subject to abrasion or friction, including, but not limited to, certain window, floor, and stair surfaces.

(40) "Guest instructor" means an individual designated by the training program manager or principal instructor to provide instruction specific to the lecture, hands-on activities, or work practice components of a course.

(41) "Hands-on training" means training during which students practice skills that they will be expected to perform at the worksite.

(42) "Hands-on skills assessment" means an evaluation which tests the trainees' ability to satisfactorily perform the work practices and procedures identified in WAC 365-230-200 or 365-230-330 as well as any other skill taught in a training course.

(43) "Impact surface" means an interior or exterior surface that is subject to damage by repeated sudden force such as certain parts of door frames.

(44) "Initial training course" means a full, accredited lead-based paint training course required for certification. It is different than a refresher course.

(45) "Inspection" means a surface-by-surface investigation to determine the presence of lead-based paint and the provision of a report, in writing, explaining the results of the investigation.

(46) "Inspector" means an individual who is certified by the department to conduct in target housing and child-occupied facilities a surface-by-surface investigation to determine the presence of lead-based paint and the provision of a report, in

writing; and conduct clearance procedures in accordance with WAC 365-230-200. An inspector may also collect dust and soil samples ((and)) to perform clearance testing. An inspector may cite the applicable standard for the medium being sampled, but may not evaluate the results or assess risk.

(47) "Interim controls" mean a set of measures designed to temporarily reduce human exposure or likely exposure to lead-based paint hazards, including specialized cleaning, repairs, maintenance, painting, temporary containment, ongoing monitoring of lead-based paint hazards or potential hazards, and the establishment and operation of management and resident education programs.

(48) "Interior window sill" means the portion of the horizontal window ledge that protrudes into the interior of the room.

(49) "Lead-based paint" means paint or other surface coatings that contain lead equal to or in excess of 1.0 milligram per square centimeter, 5000 parts per million, or 0.5 percent by weight.

(50) "Lead-based paint activities" mean, in the case of target housing and child-occupied facilities, inspection, risk assessment, and abatement, as defined in these rules.

(51) "Lead-based paint activities courses" mean training courses (worker, supervisor, inspector, risk assessor, project designer) provided by accredited training providers.

(52) "Lead-based paint hazard" means hazardous lead-based paint, dust-lead hazard or soil-lead hazard as identified in these rules.

(53) "Lead-hazard screen" is a limited risk assessment activity that involves limited paint and dust sampling as described in WAC 365-230-200.

(54) "Licensed" means a person who has been certified by the department in one or more disciplines.

(55) "Living area" means any area of a residential dwelling used by one or more children under the age of six, including, but not limited to, living rooms, kitchen areas, dens, play rooms, and children's bedrooms.

(56) "Loading" means the quantity of specific substance present per unit of surface area, such as the amount of lead in micrograms contained in the dust collected from a certain surface area divided by the surface area in square feet or square meters.

(57) "Multifamily dwelling" means a structure that contains 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.

(58) "Multifamily housing" means a housing property consisting of more than four dwelling units.

(59) "Paint-lead hazard" means any of the following:

(a) Any lead-based paint on a friction surface that is subject to abrasion and where the lead dust levels on the nearest horizontal surface underneath the friction surface (e.g., the window sill, or floor) are equal to or greater than the dust-lead hazard levels identified in these rules.

(b) Any damaged or otherwise deteriorated lead-based paint on an impact surface that is caused by impact from a related building component (such as a door knob that knocks into a wall or a door that knocks against its door frame).

(c) Any chewable lead-based painted surface on which there is evidence of teeth marks.

(d) Any other deteriorated lead-based paint in any residential building or child-occupied facility or on the exterior of any residential building or child-occupied facility.

(60) "Permanent" means having an expected design life of twenty years.

(61) "Person" means any natural or judicial person including any individual, corporation, partnership, or association; any Indian tribe, state, or political subdepartment thereof; any interstate body; and any department, agency, or instrumentality of the federal government.

(62) "Play area" means an area of frequent soil contact by children of less than six years of age as indicated by, but not limited to, such factors including the following: The presence of play equipment (e.g., sandboxes, swing sets, and sliding boards), toys, or other children's possessions, observations of play patterns, or information provided by parents, residents, care givers, or property owners.

(63) "Preliminary clearance" means clearance of interior living areas according to which an inspector or risk assessor determines that residual lead levels (as determined by laboratory analysis) do not exceed clearance levels.

(64) "Principal instructor" means the individual who has the primary responsibility for organizing and teaching a particular course.

(65) "Proficiency test" means any alternative to a conventional written examination that is used to measure a trainee's mastery of course content. An oral examination offered to a trainee with a manual disability is an example of a proficiency test.

(66) "Project designer" means an individual who is certified by the department to interpret lead inspection or risk assessment reports and to develop plans, specifications, and project procedures for large lead abatement projects in target housing and child-occupied facilities, including occupant notification and protection, cleanup and clearance, and abatement reports.

(67) "Refresher training course" means a minimum (~~seven-hour training course~~) of eight training hours, or four training hours for project designer (+), renovator, or dust sampling technician accredited by the department to update an individual's knowledge and skills in the discipline in which training is offered.

(68) "Renovator courses" means certified renovator or certified dust sampling technician courses accredited by the department.

(69) "Residential dwelling" means:

(a) A detached single-family dwelling unit, including attached structures such as porches and stoops; or

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

((+69+)) (70) "Risk assessment" means an on-site investigation to determine the existence, nature, severity, and location of lead-based paint hazards, and 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.

((+70+)) (71) "Risk assessor" means an individual who is certified by the department to conduct in target housing and child-occupied facilities on-site investigation to determine the existence, nature, severity, and location of lead-based paint hazards, and to provide a report explaining the results of the investigation and options for reducing lead-based paint hazards; and who may conduct a lead-hazard screen, in accordance with WAC 365-230-200.

((+71+)) (72) "Room" means a separate part of the inside of a building, such as a bedroom, living room, dining room, kitchen, bathroom, laundry room, or utility room. To be considered a separate room, the room must be separated from adjoining rooms by built-in walls or archways that extend at least six inches from an intersecting wall. Half walls or bookcases count as room separators if built-in. Movable or collapsible partitions or partitions consisting solely of shelves or cabinets are not considered built-in walls. A screened-in porch that is used as a living area is a room.

((+72+)) (73) "Sample quality control" means a plan or design which ensures the authenticity, integrity, and accuracy of samples, including dust, soil, and paint chip or film samples. Sample quality control also includes provisions for representative sampling and control samples.

((+73+)) (74) "Scope of work" means a written description of all of the abatement activities to be conducted at a specific abatement project site.

((+74+)) (75) "Soil-lead hazard" means bare soil on residential real property or on the property of a child-occupied facility that contains total lead equal to or exceeding 250 parts per million ((+mg/g+)) or, (mg/kg) based on soil samples.

((+75+)) (76) "Soil sample" means a sample collected in a representative location using ASTM E1727, "*Standard Practice for Field Collection of Soil Samples for Lead Determination by Atomic Spectrometry Techniques*," or equivalent method. ASTM standards can be obtained from ASTM International, P.O. Box C700, West Conshohocken, PA 19428-2929, via phone at 610-832-9525, or electronically at www.astm.org

((+76+)) (77) "Supervisor" means an individual who is certified by the department to either conduct or oversee and direct the work-site conduct of lead-based paint abatement and clearance activities in target housing and child-occupied facilities, and to prepare occupant protection plans and abatement reports in

accordance with WAC 365-230-200.

~~((77))~~ (78) "Target housing" means any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any one or more children under the age of six resides or is expected to reside in such housing for the elderly or persons with disabilities) or any 0-bedroom dwelling.

~~((78))~~ (79) "These rules" means Washington Administrative Code (WAC) 365-230-010 through ~~((365-230-270))~~ 365-230-385.

~~((79))~~ (80) "Train-the-trainer course" means a course that includes, but is not limited to, instruction in the planning and teaching of adult education, adult learning principles, designing training objectives, selecting and designing training activities, creating an effective learning environment, facilitating group involvement and discussions, and strategies for dealing with difficult training situations and difficult learners.

~~((80))~~ (81) "Training curriculum" means an established set of course topics for instruction in an accredited training program for a particular discipline designed to provide specialized knowledge and skills.

~~((81))~~ (82) "Training hour" means at least fifty minutes of actual learning, including, but not limited to, time devoted to lecture, learning activities, small group activities, demonstrations, evaluations, and/or hands-on experience.

~~((82))~~ (83) "Training manager" means the individual responsible for administering a training program and monitoring the performance of principal instructors and guest instructors.

~~((83))~~ (84) "Training provider" means any business entity accredited under WAC 365-230-035 and 365-230-040 that offers lead-based paint activities and renovation courses.

~~((84))~~ (85) "Weighted arithmetic mean" means the arithmetic mean of sample results weighted by the number of subsamples in each sample. Its purpose is to give influence to a sample relative to the surface area it represents. A single surface sample is comprised of a single subsample. A composite sample may contain from two to four subsamples of the same area as each other and of each single surface sample in the composite. The weighted arithmetic mean is obtained by summing, for all samples, the product of the sample's result multiplied by the number of subsamples in the sample, and dividing the sum by the total number of subsamples contained in all samples. For example the weighted arithmetic mean of a single surface sample containing $60 \mu\text{g}/\text{ft}^2$, a composite sample (three subsamples) containing $100 \mu\text{g}/\text{ft}^2$, and a composite sample (four subsamples) containing $110 \text{ mg}/\text{ft}^2$ is $100 \mu\text{g}/\text{ft}^2$. This result is based on the equation $[60 + (3 \cdot 100) + (4 \cdot 110)] / (1 + 3 + 4)$.

~~((85))~~ (86) "Window trough" means for a typical double-hung window, the portion of the exterior window sill between the interior window sill (or stool), and the frame of the storm window. If there is no storm window, the window trough is the area that receives both the upper and lower window sashes when they are both lowered. The window trough is sometimes referred to as the window "well."

((+86+)) (87) "Wipe sample" means a sample collected by wiping a representative surface of known area, as determined by ASTM E1728, "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." ASTM standards can be obtained from ASTM International, P.O. Box C700, West Conshohocken, PA 19428-2929, via phone at 610-832-9525, or electronically at www.astm.org

((+87+)) (88) "Worker" means an individual who is certified by the department and licensed by the construction contractors' board to conduct lead-based paint abatement activities in target housing and child-occupied facilities in accordance with WAC 365-230-200.

AMENDATORY SECTION (Amending WSR 07-07-044, filed 3/13/07, effective 4/13/07)

WAC 365-230-030 Accreditation required. (1) No firm, individual or other entity shall provide, offer, or claim to provide a department-accredited lead-based paint training course without applying for and receiving accreditation from the department as required by these rules.

(2) A training provider may be accredited for the initial inspector, risk assessor, renovator, dust sampling technician, abatement worker, supervisor, and project designer training courses or for refresher training courses within the same disciplines.

(3) Only accredited training providers are eligible to offer initial and refresher lead-based paint training courses.

(4) To qualify for and maintain accreditation, a training provider shall:

(a) Propose and offer at least one accredited lead-based paint training course.

(b) Conform to personnel, operational and curriculum requirements.

(c) Comply with accreditation application and procedural requirements.

AMENDATORY SECTION (Amending WSR 07-07-044, filed 3/13/07, effective 4/13/07)

WAC 365-230-035 Application process. The following are procedures a training program must follow to receive accreditation by the department to offer lead-based paint activities training

courses, or renovation and dust sampling technician courses:

(1) A training program seeking accreditation shall submit a complete written application to the department. To be considered complete, the application must be on the appropriate departmental form and include all required documentation and attachments.

(2) Information that must be provided with the application is as follows:

(a) Name, address, and phone number of training provider and training program manager.

(b) A list of course(s) for which accreditation is being applied. For the purposes of this section, courses taught in different languages and electronic learning courses are considered different courses, and each must independently meet the accreditation requirements.

(c) The name and documentation of the qualifications of the training manager.

(d) The name(s) and documentation of qualifications of any principal instructor(s).

(e) A statement signed by the training program manager certifying that the training program meets the requirements under WAC 365-230-040.

~~((d))~~ (f) If a training program uses EPA-recommended model training materials, or training materials approved by an EPA-authorized state or Indian tribe, the training manager shall include a statement certifying that. If the training program makes any changes or additions to the model curriculum, the training manager shall submit a statement indicating the changes or additions and shall submit a copy of the new or changed curriculum. It is not necessary to submit unchanged model training curriculum materials.

~~((e))~~ (g) If a training program does not use model training materials as described in ~~((d))~~ (f) of this subsection, the training manager shall include: A copy of the entire course instruction curriculum, including, but not limited to: Learning objectives; documentation of course agenda with time allocation for each course topic; the sequence of topics to be covered during the course(s); student and instructor manuals, and any other materials to be used for the course.

~~((f))~~ (h) All applications for accreditation shall include:

(i) A copy of the course test blueprint describing the portion of test questions devoted to each major course topic.

(ii) A description of the facilities and equipment to be used for lecture and hands-on training, respectively.

(iii) A description of the activities and procedures that will be used for conducting the assessment of hands-on skills for each course.

(iv) A copy of the quality control plan developed by the training manager. The plan shall be used to maintain and improve the training program and contain at least the following elements:

(A) Procedures for periodic revision of training materials and course test to be current with innovations in the field.

(B) Procedures for the training manager's annual review of

principal instructor competency.

(v) Documentation of accreditation by other state or federal agencies, if applicable.

(vi) A check or money order made out to the department of ~~((community, trade, and economic development))~~ commerce in the amount as described in WAC 365-230-120.

AMENDATORY SECTION (Amending WSR 07-07-044, filed 3/13/07, effective 4/13/07)

WAC 365-230-040 Requirements for the accreditation of training programs. For a training program to obtain accreditation from the department to offer lead-based paint activities courses, lead-based paint renovation courses or dust sampling technician courses, the program shall meet the following requirements:

(1) The training program shall employ a training manager who has:

(a) At least two years of experience, education, or training in teaching workers or adults; or

(b) A bachelor's or graduate degree in building construction technology, engineering, industrial hygiene, safety, public health, education, business administration or program management or a related field; or

(c) Two years of experience in managing a training program specializing in environmental hazards; and

(d) Demonstrated experience, education, or training in the construction industry including: Lead or asbestos abatement, painting, carpentry, renovation, remodeling, occupational safety and health, or industrial hygiene.

(2) The training manager shall designate a qualified principal instructor for each course who has:

(a) Demonstrated experience, education, or training in teaching workers or adults; and

(b) Successfully completed at least sixteen hours of any department-accredited, EPA-accredited or tribal-accredited lead-specific training for instructors of lead-based paint activities courses; or at least eight hours of any department-accredited, EPA-accredited or tribal-accredited lead-specific training for instructors of renovator or dust sampling technician courses; and

(c) Demonstrated experience, education, or training in lead or asbestos abatement, painting, carpentry, renovation, remodeling, occupational safety and health, or industrial hygiene.

(3) The principal instructor shall be responsible for the organization of the course and oversight of the teaching of all course material. The training manager may designate guest instructors as needed to provide instruction specific to the lecture, hands-on activities, or work practice components of a course.

(4) The following documents shall be recognized by the department as evidence that training managers and principal instructors have the education, work experience, training requirements or demonstrated experience, specifically listed in subsections (1), (2), and (3) of this section. This documentation need not be submitted with the accreditation application, but, if not submitted, shall be retained by the training program as required by WAC 365-230-090. Those documents include the following:

(a) Official academic transcripts or diploma as evidence of meeting education requirements.

(b) Resumes, letters of reference, or documentation of work experience, as evidence of meeting the work experience requirements.

(c) Certificates from train-the-trainer courses and lead-specific training courses, as evidence of meeting the training requirements.

(5) The training program shall ensure the availability of, and provide adequate facilities for, the delivery of the lecture, course test, hands-on training, and assessment activities. This includes providing training equipment that reflects current work practices and maintaining or updating the equipment and facilities as needed.

(6) To become accredited in the following disciplines, the training program shall provide training courses that meet the following training hour requirements:

(a) The inspector course shall last a minimum of twenty-four training hours, with a minimum of eight hours devoted to hands-on training activities. The minimum curriculum requirements for the inspector course are contained in WAC 365-230-050.

(b) The risk assessor course shall last a minimum of sixteen training hours, with a minimum of four hours devoted to hands-on training activities. The minimum curriculum requirements for the risk assessor course are contained in WAC 365-230-050.

(c) The supervisor course shall last a minimum of thirty-two training hours, with a minimum of eight hours devoted to hands-on activities. The minimum curriculum requirements for the supervisor course are contained in WAC 365-230-050.

(d) The project designer course shall last a minimum of eight training hours. The minimum curriculum requirements for the project designer course are contained in WAC 365-230-050.

(e) The abatement worker course shall last a minimum of sixteen training hours, with a minimum of eight hours devoted to hands-on training activities. The minimum curriculum requirements for the abatement worker course are contained in WAC 365-230-050.

(f) The renovator course must last a minimum of eight training hours, with a minimum of two hours devoted to hands-on training activities. The minimum curriculum requirements for the renovator course are contained in WAC 365-230-050(6).

(g) The dust sampling technician course must last a minimum of eight training hours, with a minimum of two hours devoted to hands-on training activities. The minimum curriculum requirements for

the dust sampling technician course are contained in WAC 365-230-050(7).

(7) For each course offered, the training program shall conduct ((either)) a course test at the completion of the course, and if applicable, a hands-on skills assessment, or in the alternative, a proficiency test for that discipline. Each individual must successfully complete the hands-on skills assessment and receive a passing score on the course test to pass any course, or successfully complete a proficiency test.

(a) The training manager is responsible for maintaining the validity and integrity of the hands-on skills assessment or proficiency test to ensure that it accurately evaluates the trainees' performance of the work practices and procedures associated with the course topics contained in WAC 365-230-050.

(b) The training manager is responsible for maintaining the validity and integrity of the course test to ensure that it accurately evaluates the trainees' knowledge and retention of the course topics.

(c) The course test shall be developed in accordance with the test blueprint submitted with the training accreditation application.

(8) The training program shall issue unique course completion certificates to each individual who passes the training course. The course completion certificate shall include:

(a) The name, a unique identification number, and address of the individual.

(b) The name of the particular course that the individual completed.

(c) Dates of course completion/test passage.

(d) The name, address, and telephone number of the training program.

(9) The training manager shall develop and implement a quality control plan. The plan shall be used to maintain and improve the quality of the training program over time. This plan shall contain at least the following elements:

(a) Procedures for periodic revision of training materials and the course test to reflect innovations in the field.

(b) Procedures for the training manager's annual review of principal instructor competency.

(10) The training program shall offer courses that teach the work practice standards for conducting lead-based paint activities contained in WAC 365-230-200((7)); and shall offer the renovator or dust sampling technician courses that teach the applicable work practice standards contained in WAC 365-230-200 and 365-233-330, as well as other standards developed by EPA pursuant to Title IV of TSCA. These standards shall be taught in the appropriate courses to provide trainees with the knowledge needed to perform the lead-based paint activities and renovation or dust sampling they are responsible for conducting.

(11) The training manager shall be responsible for ensuring that the training program complies at all times with all of the requirements in this section.

(12) A course audit shall include, but not be limited to, a review of: Instructional curriculum; examination design, administration and security procedures, and results, including those of demonstration testing; classroom instruction; audio-visual materials; course content; coverage; and teaching facilities.

(13) An accredited training provider may not implement changes in method or content that affects one half-hour or more of contact instruction without ten business days advance notice of the changes to department.

(14) The training provider is responsible for ensuring that the training manager and principal instructor comply with the requirements of this rule.

(15) Whenever there is a change in either the training manager or principal instructor for an accredited training course, the training provider shall notify the department of this change within thirty days, along with documentation demonstrating the appropriate qualifications as described in this section.

(16) The training provider shall use a system for verifying the positive identification of all trainees. Trainees without proper identification may not take the course exam.

AMENDATORY SECTION (Amending WSR 04-10-037, filed 4/29/04, effective 5/30/04)

WAC 365-230-050 Minimum training curriculum requirements. To become accredited to offer lead-based paint courses instruction in the specific disciplines listed below, training programs must ensure that their courses of study include, at a minimum, the following course topics. Requirements ending in an asterisk (*) indicate areas that require hands-on activities as an integral component of the course.

(1) Inspector.

(a) Role and responsibilities of an inspector.

(b) Background information on lead and its adverse health effects.

(c) Background information on federal, state, and local regulations and guidance that pertains to lead-based paint and lead-based paint activities.

(d) Lead-based paint inspection methods, including selection of rooms and components for sampling or testing.*

(e) Paint, dust, and soil sampling methodologies.*

(f) Clearance standards and testing, including random sampling.*

(g) Preparation of the final inspection report.*

(h) Recordkeeping.

(2) Risk assessor.

(a) Role and responsibilities of a risk assessor.

(b) Collection of background information to perform a risk

assessment.

(c) Sources of environmental lead contamination such as paint, surface dust and soil, water, air, packaging, and food.

(d) Visual inspection for the purposes of identifying potential sources of lead-based paint hazards.*

(e) Lead hazard screen protocol.

(f) Sampling for other sources of lead exposure.*

(g) Interpretation of lead-based paint and other lead sampling results, including all applicable state or federal guidance or regulations pertaining to lead-based paint hazards.*

(h) Development of hazard control options, the role of interim controls, and operations and maintenance activities to reduce lead-based paint hazards.

(i) Preparation of a final risk assessment report.

(3) Supervisor.

(a) Role and responsibilities of a supervisor.

(b) Background information on lead and its adverse health effects.

(c) Background information on federal, state, and local regulations and guidance that pertain to lead-based paint abatement.

(d) Liability and insurance issues relating to lead-based paint abatement.

(e) Risk assessment and inspection report interpretation.*

(f) Development and implementation of an occupant protection plan and abatement report.

(g) Lead-based paint hazard recognition and control.*

(h) Lead-based paint abatement and lead-based paint hazard reduction methods, including restricted practices.*

(i) Interior dust abatement/cleanup or lead-based paint hazard control and reduction methods.*

(j) Soil and exterior dust abatement or lead-based paint hazard control and reduction methods.*

(k) Clearance standards and testing.

(l) Cleanup and waste disposal.

(m) Recordkeeping.

(4) Project designer.

(a) Role and responsibilities of a project designer.

(b) Development and implementation of an occupant protection plan for large scale abatement projects.

(c) Lead-based paint abatement and lead-based paint hazard reduction methods, including restricted practices for large-scale abatement projects.

(d) Interior dust abatement/cleanup or lead hazard control and reduction methods for large-scale abatement projects.

(e) Clearance standards and testing for large scale abatement projects.

(f) Integration of lead-based paint abatement methods with modernization and rehabilitation projects for large scale abatement projects.

(5) Abatement worker.

(a) Role and responsibilities of an abatement worker.

(b) Background information on lead and its adverse health effects.

(c) Background information on federal, state and local regulations and guidance that pertain to lead-based paint abatement.

(d) Lead-based paint hazard recognition and control.*

(e) Lead-based paint abatement and lead-based paint hazard reduction methods, including restricted practices.*

(f) Interior dust abatement methods/cleanup or lead-based paint hazard reduction.*

(g) Soil and exterior dust abatement methods or lead-based paint hazard reduction.*

(6) Renovator.

(a) Role and responsibilities of a renovator.

(b) Background information on lead and its adverse health effects.

(c) Background information on EPA, HUD, OSHA, and other local regulations and guidance that pertains to lead-based paint and renovation activities.

(d) Procedures for using acceptable test kits to determine whether paint is lead-based paint.*

(e) Renovation methods to minimize the creation of dust and lead-based paint hazards.*

(f) Interior and exterior containment and clean-up methods.*

(g) Methods to ensure that the renovation has been properly completed, including cleaning verification and clearance testing.*

(h) Waste handling and disposal.

(i) Providing on-the-job training to other workers.

(j) Record preparation.

(7) Dust sampling technician.

(a) Role and responsibilities of a dust sampling technician.

(b) Background information on lead and its adverse health effects.

(c) Background information on EPA, HUD, OSHA, and other federal, state, and local regulations and guidance that pertains to lead-based paint and renovation activities.

(d) Dust sampling methodologies.*

(e) Clearance standards and testing.

(f) Report preparation.*

AMENDATORY SECTION (Amending WSR 07-07-044, filed 3/13/07, effective 4/13/07)

WAC 365-230-060 Requirements for the accreditation of refresher training courses. A training program may seek accreditation to offer refresher training courses in any of the following disciplines: Inspector, risk assessor, supervisor, project designer, ~~((and))~~ abatement worker, renovator, and dust

sampling technician. A training program may apply for accreditation of a refresher training course concurrently with its application for accreditation of an initial training course. All applications for accreditation of a refresher training course must follow the application process as described in WAC 365-230-035. To obtain department accreditation to offer refresher training, a training program must meet the requirements for accreditation of a training program as described in WAC 365-230-040, except for the minimum training-hour requirements in WAC 365-230-040 (6)(a) through ~~((e))~~ (g). In addition, applicants for accreditation of a refresher training course must meet the following minimum requirements:

(1) Each refresher course shall review the curriculum topics of the full-length courses listed in WAC 365-230-050, as appropriate. In addition, to become accredited to offer refresher training courses, training programs shall ensure that their courses of study include, at a minimum, the following:

(a) An overview of current safety practices relating to lead-based paint activities in general, as well as specific information pertaining to the appropriate discipline.

(b) Current laws and regulations relating to lead-based paint activities in general, as well as specific information pertaining to the appropriate discipline.

(c) Current technologies relating to lead-based paint ~~((activities))~~ in general, as well as specific information pertaining to the appropriate discipline.

(2) Each refresher course, except for the project designer, renovator, and dust sampling technician course, shall last a minimum of eight training hours. ~~((The))~~ Project designer, renovator, and dust sampling technician refresher courses shall last a minimum of four training hours.

(3) For each course offered, the training program shall conduct a hands-on assessment (if applicable), and at the completion of the course, a course test.

AMENDATORY SECTION (Amending WSR 07-07-044, filed 3/13/07, effective 4/13/07)

WAC 365-230-100 Notification of lead-based paint training activity. (1) The training manager shall provide notification of lead-based paint activities courses or renovator and dust sampling technician courses offered.

(a) ~~((The training manager shall provide the department with notice of all lead-based paint activities courses offered.))~~ The original notice must be received by the department at least ~~((ten))~~ seven business days prior to offering any lead-based paint activities or renovator and dust sampling technician courses.

(b) The training manager shall provide the department updated

notice when lead-based paint activities or renovator and dust sampling technician courses will begin on a date other than the one specified in the original notification, as follows:

(i) For lead-based paint activities or renovator and dust sampling technician courses beginning prior to the original start date an updated notice must be received by the department at least ~~((ten))~~ seven business days before the revised start date.

(ii) For lead-based paint activities or renovator and dust sampling technician courses beginning after the original start date an updated notice must be received by the department at least two business days before the original start date.

(c) The training manager shall update the department of any change in location of lead-based paint activities or renovator and dust sampling technician courses at least ~~((ten))~~ seven business days prior to the scheduled course start date.

(d) The training manager shall also update the department regarding any course cancellations, or any other change to the original notice. Updated notices must be received by the department at least two business days prior to the scheduled course start date.

(e) Each notice, including updates, shall include the following:

(i) Notification type (original, update, cancellation).

(ii) Training program name, department accreditation number, address, and phone number.

(iii) Course discipline, type (initial/refresher), and the language in which instruction will be given.

(iv) Date(s) and time(s) of training.

(v) Training location(s) phone number, and street address.

(vi) Principal instructor's name.

(vii) Training manager's name and signature.

(f) Notification shall be accomplished using ~~((any))~~ one of the following methods: ~~Written ((notice, or by e-mail)) or electronic. ((All notices submitted by e-mail must be followed with written notice within twenty-four hours of submission. Written))~~ Notification of lead-based paint activities, renovator, or dust sampling technician course schedules can be accomplished by using either the sample form titled "~~((Lead-Based Paint Activities Training Course Schedule))~~ Pre-Training Notification" or a similar form developed by the training program containing the required information. All written notices shall be delivered by U.S. Postal Service, fax, commercial delivery service, or hand delivery. (Persons submitting notification by U.S. Postal Service are reminded that they should allow three additional business days for delivery in order to ensure that the department receives the notification by the required date.) Instructions and sample forms can be obtained from the department at 360-586-5323, or on the internet at ~~((http://www.cted.wa.gov/lead))~~ http://www.commerce.wa.gov/lead.

(g) Lead-based paint activities or renovator and dust sampling technician courses shall not begin on a date, or at a location other than that specified in the original notice unless an updated

notice identifying a new date or location is submitted, in which case the course must begin on the date and location specified in the updated notice.

(h) No training program shall provide lead-based paint activities or renovator and dust sampling technician courses without first notifying the agency of such activities in accordance with the requirements of this ((paragraph)) subsection (1)(h).

(2) The training manager shall provide notification following completion of lead-based paint activities or renovator and dust sampling technician courses.

(a) The training manager shall provide the department with notice after the completion of any lead-based paint activities or renovator and dust sampling technician course that shall be received by the department no later than ((twenty)) ten business days following course completion.

(b) The notice shall include the following:

(i) Training program name, department accreditation number, address, and phone number.

(ii) Course discipline and type (initial/refreshers).

(iii) Date(s) of training.

(iv) The following information for each student who took the course:

(A) Name.

(B) Address.

(C) Course completion certificate number.

(D) Student test score.

(v) Training manager's name and signature.

(c) Notification shall be accomplished using ((any)) one of the following methods: Written ((notice, or by e-mail)) or electronic. ((All notices submitted by e-mail must be followed with written notice within twenty-four hours of submission. Written)) Notification following lead-based paint activities ((training)), renovator, or dust sampling technician courses can be accomplished by using either the sample form titled "((Lead-Based Paint Activities Training Course Follow-up)) Post-Training Notification" or a similar form developed by the training program containing the required information. All written notices shall be delivered by U.S. Postal Service, fax, commercial delivery service, or hand delivery. (Persons submitting notification by U.S. Postal Service are reminded that they should allow three additional business days for delivery in order to ensure that the department receives the notification by the required date.) Instructions and sample forms can be obtained from department at 360-586-5323, or on the internet at ((http://www.cted.gov/lead)) http://www.commerce.gov/lead.

AMENDATORY SECTION (Amending WSR 04-10-037, filed 4/29/04, effective 5/30/04)

WAC 365-230-120 Accreditation fees. The following fees are established for accreditation:

(1) A nonrefundable application fee of two hundred dollars for accreditation of an initial or refresher lead-based paint training course.

(2) A nonrefundable application fee of two hundred dollars for reaccreditation of an initial or a refresher lead-based paint training course.

(3) If an initial or refresher course provides instruction for more than one discipline, a separate application fee of two hundred dollars for each discipline is required.

(4) All fees shall be in the form of a check or money order made out to the department of (~~community, trade, and economic development~~) commerce.

CERTIFICATION OF INDIVIDUALS AND FIRMS ENGAGED IN LEAD-BASED PAINT ACTIVITIES: TARGET HOUSING AND CHILD-OCCUPIED FACILITIES

Note: Renovation firms, renovator, and dust sampling technician certification requirements are found under WAC 365-230-360 and 365-230-380.

AMENDATORY SECTION (Amending WSR 07-07-044, filed 3/13/07, effective 4/13/07)

WAC 365-230-130 Certification of individuals. (1) No individual shall perform any lead-based paint activity as described in WAC 365-230-200 without first becoming certified by the department. Certified individuals may perform only specific lead-based paint activities for which they are certified. Individuals seeking certification by the department to engage in lead-based paint activities must:

~~((a))~~ Submit a complete application as described in WAC ~~((365-230-170))~~ 365-230-150 and must provide documentation that the applicant has either:

~~((i))~~ (a) Met the certification requirements as described in WAC 365-230-132 for the inspector, risk assessor, or supervisor disciplines; or WAC 365-230-134 for the project designer or worker disciplines; or

~~((ii))~~ (b) Holds a valid certification issued by EPA or by a state or tribal program that has been authorized by EPA according to 40 CFR 745.324.

~~((A))~~ (i) Applicants for certification based on certification from another state or tribal program must document to the department that they have read and understand the certification and work practice standards as described in these rules.

~~((B))~~ (ii) Certification based on a valid lead-based paint certification issued by EPA or by an EPA-authorized state or tribal program shall be issued with an expiration date not to exceed the date of expiration listed on the EPA or EPA-authorized state or tribal certification.

(2) Individuals may first apply to the department for certification to engage in lead-based paint activities pursuant to this section on or after the effective date of these rules.

(3) Following the submission of an application demonstrating that all the requirements of this section have been met, the department shall certify an applicant as an inspector, risk assessor, supervisor, project designer, or abatement worker, as appropriate.

(4) Upon receiving the department certification, individuals conducting lead-based paint activities shall comply with the work practice standards for performing the appropriate lead-based paint activities as established in the Work practice standards section (WAC 365-230-200).

(5) It shall be a violation of these rules for an individual to conduct any of the lead-based paint activities described in the Work practice standards section (WAC 365-230-200) that has not been certified by the department.

AMENDATORY SECTION (Amending WSR 07-07-044, filed 3/13/07, effective 4/13/07)

WAC 365-230-132 Inspector, risk assessor, or supervisor. (1) To become certified by the department as an inspector, risk assessor, supervisor, pursuant to WAC 365-230-130, an individual must:

(a) Successfully complete an accredited course in the appropriate discipline and receive a course completion certificate from an accredited training program.

(b) Pass the certification exam in the appropriate discipline offered by the department; and

(c) Meet or exceed the following experience and/or education requirements:

(i) Inspectors. No additional experience and/or education requirements.

(ii) Risk assessors.

(A) Successful completion of an accredited training course for inspectors; and

(B) Bachelor's degree and one year of experience in a related field (e.g., lead, asbestos, environmental remediation work, or

construction), or an associates degree and two years experience in a related field (e.g., lead, asbestos, environmental remediation work, or construction); or

(C) Certification as an industrial hygienist, an engineer, a registered architect, certified safety professional, registered sanitarian, or registered environmental specialist; or

(D) A high school diploma (or equivalent), and at least three years of experience in a related field (e.g., lead, asbestos, environmental remediation work or construction).

(iii) Supervisor:

(A) One year of experience as a certified lead-based paint abatement worker; or

(B) At least two years of experience in a related field (e.g., lead, asbestos, or environmental remediation work) or in the building trades.

(2) In order to be eligible to take the certification examination for a particular discipline, an individual must:

(a) Successfully complete an accredited course in the appropriate discipline and receive a course completion certificate from an accredited training program.

(b) Meet or exceed the education and experience requirements described in this section.

(c) Submit a completed application as described in WAC 365-230-150.

(3) An individual may take the certification exam no more than three times within six months of receiving a course completion certificate.

(4) If an individual does not pass the certification exam and receive a certificate within six months of receiving his/her course completion certificate, the individual must successfully complete the appropriate lead-based paint course from an accredited training program before reapplying for certification from the department.

(5) A passing score on third-party, qualifying examination administered by the department is seventy or above.

(6) After successfully completing the appropriate training and application requirements as described in these rules, an individual shall be certified by the department.

(7) To maintain certification, an individual must be recertified as described in WAC (~~(365-230-170)~~) 365-230-160.

(8) Certification shall be nontransferable.

AMENDATORY SECTION (Amending WSR 07-07-044, filed 3/13/07, effective 4/13/07)

WAC 365-230-150 Application requirements for an individual.

(1) Applications for an individual shall be submitted on forms prescribed by the department and shall be accompanied, as appropriate, by either:

(a) Documentation that the applicant has met the required training, experience, and education requirements as described in WAC 365-230-132 ((or)), 365-230-134, and 365-230-380. Acceptable documentation includes the following:

(i) As proof of meeting the training requirements, a valid lead-based paint training course completion certificate issued by a department-accredited training provider.

(ii) As proof of meeting the work experience requirements, documentation must include name and address of employer, name and telephone number of supervisor; employment dates, description of specific duties performed. The supervisor or employer must sign the documentation verifying that the information is true and correct. A self-employed individual must provide the name, address and Uniform Business Identifier of business, dates of self-employment, and a description of specific duties. Documentation of work experience must be provided on the appropriate departmental form.

(iii) As proof of meeting the educational requirements, documentation such as an official transcript or diploma; or

(b) Documentation that the applicant holds a valid certification in the appropriate discipline issued by EPA or by an EPA-authorized state or tribe.

(i) Applicants seeking certification based on an EPA or EPA-authorized state or tribal certification must document to the department that they have read and will comply with the certification and work practice standards of these rules.

(ii) Certification based on an EPA or EPA-authorized state or tribal certification shall be issued with an expiration date not to exceed the date of expiration listed on the EPA or EPA-authorized state or tribal certification.

(2) All applications for certification shall be accompanied by:

(a) Two current passport-size photos.

(b) Applicant's name, signature and date.

(c) A check or money order made out to the department of ((community, trade, and economic development)) commerce in the amount as described in the certification fees section of these rules.

(3) Application materials can be obtained by mail from Department of ((Community, Trade, and Economic Development)) Commerce, Lead-Based Paint Program, P.O. Box 42525, Olympia, WA 98504-2525, by phone, 360-586-5323, or electronically at ((<http://www.cted.wa.gov/lead>)) <http://commerce.wa.gov/lead>.

AMENDATORY SECTION (Amending WSR 07-07-044, filed 3/13/07, effective 4/13/07)

WAC 365-230-160 Recertification. (1) To maintain certification in a ((particular)) Lead-Based Paint Activities discipline, a certified individual shall apply to and be recertified by the department in that discipline either:

(a) Every three years after the original date of issue if the individual completed a training course with a course test and hands-on assessment; or

(b) Every five years if the individual completed a training course with a proficiency test.

(2) An individual shall be recertified if the individual:

(a) Successfully completes the appropriate accredited refresher training course; and

(b) Submits a valid copy of the appropriate refresher course completion certificate; and

(c) Complies with the following application requirements established by the department:

(i) Submit a complete and signed application; and

(ii) Submit two recent passport-size photographs; and

(iii) Submit a check or money order made out to the department of community, trade, and economic development in the amount as described in WAC 365-230-260.

(3) Application materials can be obtained by mail from Department of ((Community, Trade, and Economic Development)) Commerce, Lead-Based Paint Program, P.O. Box 42525, Olympia, WA 98504-2525, by phone, 360-586-5323, or electronically at ((<http://www.cted.wa.gov/lead>)) <http://commerce.wa.gov/lead>.

(4) An individual whose certification expires may obtain certification by completing the requirements described in WAC 365-230-150 and 365-230-130.

AMENDATORY SECTION (Amending WSR 04-10-037, filed 4/29/04, effective 5/30/04)

WAC 365-230-180 Application requirements for a firm. (1) Applications for a firm shall be submitted on forms prescribed by the department and shall be accompanied, by the following:

A letter of compliance, signed by an officer of the firm, or an individual authorized to sign on the firm's behalf, certifying the following:

(a) The firm will employ only certified employees of the appropriate discipline to conduct lead-based paint activities as prescribed in these rules.

(b) The firm will follow the standards for conducting lead-based paint activities as prescribed in these rules.

(c) The firm shall maintain all records pursuant to these

rules.

(2) A check or money order made out to the department of (~~community, trade, and economic development~~) commerce in the amount as described in WAC 365-230-260.

AMENDATORY SECTION (Amending WSR 07-07-044, filed 3/13/07, effective 4/13/07)

WAC 365-230-200 Work practice standards. (1) Only certified individuals and the certified firms employing such individuals shall perform or offer to perform lead-based paint activities.

(2) Documented methodologies that are appropriate for this section are found in the following: The U.S. Department of Housing and Urban Development (HUD) *Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing* (Revised, October, 1997); the EPA Guidance on Residential Lead-Based Paint, Lead-Contaminated Dust, and Lead-Contaminated Soil; the EPA Residential Sampling for Lead: Protocols for Dust and Soil Sampling (EPA report number 7474-R-95-001); regulations, guidance, methods or protocols issued by this department; any other equivalent methods and guidelines.

(3) Clearance levels appropriate for the purposes of this section may be found in subsection (8) (~~(c)~~) (q) (i) and (v) of this section or other equivalent guidelines.

(4) Work practice requirements. Applicable certification, occupant protection, and clearance requirements and work practice standards are found in regulations described in this section, and in regulations issued by the Department of Housing and Urban Development (HUD) at 24 CFR part 35, subpart R.

(a) The work practice standards in those regulations do not apply when treating paint-lead hazards of less than:

(i) Two square feet of deteriorated lead-based paint per room or equivalent;

(ii) Twenty square feet of deteriorated paint on the exterior building; or

(iii) Ten percent of the total surface area of deteriorated paint on an interior or exterior type of component with a small surface area.

(b) When performing any lead-based paint activity described as a lead-based paint inspection, lead hazard screen, risk assessment or abatement, a certified individual must perform that activity in compliance with these rules, documented methodologies, work practice requirements, and the work practice standards described in this section.

(5) Inspection. Only a person certified by the department as an inspector or risk assessor may conduct an inspection.

(a) Locations shall be selected according to documented methodologies and tested for the presence of lead-based paint as

follows:

(i) In target housing and child-occupied facilities, each interior and exterior component with a distinct painting history shall be tested for lead-based paint, except those components determined to have been replaced after 1978 or determined to not contain lead-based paint; and

(ii) In a multifamily dwelling or child-occupied facility, each component with a distinct painting history in every common area shall be tested, except those components determined to have been replaced after 1978 or determined to not contain lead-based paint.

(b) Paint shall be tested for the presence of lead using documented methodologies which incorporate sampling quality control procedures and all paint chip, dust, and soil samples shall be analyzed for detectable levels of lead by a laboratory accredited under the National Lead Laboratory Accreditation Program (NLLAP).

(c) Inspection reports shall be prepared and include at least:

(i) Inspection date;

(ii) Building address;

(iii) Date of construction;

(iv) Apartment identification (numbers, letters, names if applicable);

(v) Name, address and telephone number of owner or owners of each unit;

(vi) Name, signature, and certification number of each inspector or risk assessor conducting testing;

(vii) Name, address and telephone number of the certified firm employing each inspector or risk assessor;

(viii) Each testing method and device or sampling procedure employed for paint analysis, including sample quality control data, and if used, the serial number of any X-ray fluorescence (XRF) device; and

(ix) Specific locations of each painted component tested and the results of the inspection expressed in appropriate units for the sampling method used.

(6) Lead hazard screen. A lead hazard screen shall be conducted only by a person certified by the department as a risk assessor and shall be conducted as follows:

(a) Background information shall be collected about the physical characteristics of the target housing or child-occupied facility and occupant use patterns that may cause lead-based paint exposure to one or more children age six years and under shall be collected.

(b) A visual inspection shall be conducted to determine the presence of any deteriorated paint and locate at least two dust sampling locations.

(c) If deteriorated paint is present, each deteriorated paint surface determined using documented methodologies, and to have a distinct painting history shall be tested for the presence of lead.

(d) In residential dwellings, two composite dust samples shall be collected, one from the floors and the other from the windows, in rooms, hallways or stairwells where one or more children age six

or under are likely to come in contact with dust.

(e) In multifamily dwellings and child-occupied facilities, floor and window composite dust sampling shall be conducted as specified for conducting lead hazard screens in residential dwellings in the Work Practice Standard section of these rules. In addition, composite dust samples shall be collected in common areas where one or more children age six or under are likely to come in contact with dust.

(f) All dust samples shall be collected using documented methodologies that incorporate sample quality control procedures and analyzed by a laboratory accredited under the National Lead Laboratory Accreditation Program (NLLAP) to determine detectable lead.

(g) A lead hazard screen report shall be prepared by the risk assessor and include:

(i) Information in a risk assessment report as specified in subsection (7) including (i)(i) through (xiv) and excluding (i)(xv) through (xviii). Additionally, any background information collected pursuant to the lead hazard screen shall be included.

(ii) Any recommendations for follow-up risk assessment and other further actions.

(7) Risk assessment. Only an individual certified by the department as a risk assessor may conduct a risk assessment of target housing or child-occupied facility. A risk assessment shall be conducted as follows:

(a) A visual inspection shall be conducted to locate the existence of deteriorated paint, assess the extent and cause of deterioration, and other potential lead-based hazards.

(b) Background information shall be collected regarding the physical characteristics and occupant use patterns that may cause lead-based paint exposure to one or more children age six years and under.

(c) The following surfaces which are determined, using documented methodologies, to have a distinct painting history, shall be tested for the presence of lead:

(i) Each friction surface or impact surface with visibly deteriorated paint.

(ii) All other surfaces with visibly deteriorated paint.

(d) In residential dwellings, dust samples (either composite or single-surface samples) from the interior window sill(s) and floor shall be collected and analyzed for lead concentration in all living areas where one or more children, age six and under, are most likely to come in contact with dust.

(e) For multifamily dwellings and child-occupied facilities, the samples required in "residential dwellings" as described in (b) of this subsection shall be taken. In addition, interior window sill and floor dust samples (either composite or single-surface samples) shall be collected and analyzed for lead concentration in the following locations:

(i) Common areas adjacent to sampled target house or child-occupied facility; and

(ii) Other common areas in the building where the risk

assessor determines that one or more children, age six and under, are likely to come in contact with dust.

(f) For child-occupied facilities, interior window sill and floor dust samples (either composite or single-surface samples) shall be collected and analyzed in each room, hallway or stairwell utilized by one or more children, age six and under, and in other common areas in the child-occupied facility where the risk assessor determines one or more children, age six and under, are likely to come in contact with dust.

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

- (i) Exterior play areas where bare soil is present; and
- (ii) The rest of the yard (i.e., nonplay areas) where bare soil is present.

(h) Any paint, dust or soil sampling or testing shall be conducted using documented methodologies that incorporate sample quality control procedures and analyzed by a laboratory accredited under the National Lead Laboratory Accreditation Program (NLLAP) to determine detectable lead.

(i) The certified risk assessor shall prepare a risk assessment report which shall include as a minimum the following information:

- (i) Assessment date.
- (ii) Address of each building.
- (iii) Date of construction of buildings.
- (iv) Apartment identification (numbers, letters, names if applicable).
- (v) Name, address and telephone number of each owner of each building.
- (vi) Name, signature, and certification number of each risk assessor conducting the assessment.
- (vii) Name, address and telephone number of the certified firm employing each risk assessor.
- (viii) Name, address and telephone number of each laboratory conducting analysis of collected samples.
- (ix) Results of the visual inspection.
- (x) Testing method and sampling procedure employed for paint analysis.
- (xi) Specific locations of each painted component tested for the presence of lead.
- (xii) All data collected from on-site testing, including quality control data, and if used, the serial number of any X-ray fluorescence (XRF) device.
- (xiii) All results of laboratory analysis on collected paint, soil, and dust samples.
- (xiv) Any other sampling results.
- (xv) Any background information collected pursuant to subsection background information portion of the risk assessment work practice standard of this section.
- (xvi) To the extent used as part of the lead-based paint hazard determination, the results of any previous inspections or analyses for the presence of lead-based paint, or other assessments

of lead-based paint related hazards.

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

(xviii) A description of interim controls and/or abatement options for each identified lead-based paint hazard and a recommended prioritization for addressing each hazard. If the use of an encapsulant or enclosure is recommended, the report shall recommend a maintenance and monitoring schedule for the encapsulant or enclosure.

(8) Abatement. An abatement project shall be conducted only by certified individuals and the certified firms employing such individuals. Abatement shall be conducted as follows:

(a) A certified supervisor or project designer is required for each abatement project and shall be on-site during all worksite preparation and during postabatement cleanup of work areas. At all other times, the certified supervisor or project designer shall be on-site or available by telephone, pager, or answering service, and be able to be present at the worksite in no more than two hours.

(b) The certified supervisor or project designer, as well as the certified firm employing that individual shall ensure that all abatement activities are conducted according to the requirements of these rules and all federal, state and local requirements.

(c) A certified project designer may replace and assume the responsibilities of a certified supervisor required for an abatement project. If a certified project designer provides supervision on an abatement project, the project designer shall be responsible for preparing the occupant protection plan and the abatement report.

(d) A written occupant protection plan shall be developed prior to all abatement projects, be prepared by a certified supervisor or project designer, be unique to each target housing or child-occupied facility, describe the measures and management procedures that will be taken during the abatement to protect the building occupants from exposure to any lead-based paint hazards. The written occupant protection plan shall be present at the project site and must be made available on demand for inspection.

(e) A scope of work for the abatement project shall be present at the project site and must be made available on demand for inspection.

(f) These work practices shall be restricted during abatement and paint removal:

(i) Open-flame burning or torching of lead-based paint is prohibited;

(ii) Uncontained hydro blasting or high-pressure washing of lead-based paint is prohibited;

(iii) Machine sanding or grinding or abrasive blasting or sandblasting of lead-based paint is prohibited unless used with high efficiency particulate air (HEPA) exhaust control which removes particles of 0.3 microns or larger from the air at 99.97 percent or greater efficiency;

(iv) Dry scraping of lead-based paint is permitted only in

conjunction with heat guns or around electrical outlets or when treating defective paint spots totaling no more than two square feet in any room, hallway or stairwell or totaling no more than twenty square feet on exterior surfaces; and

(v) Operating a heat gun on lead-based paint is permitted only at temperatures below 1100°F.

(g) When soil abatement is conducted, if the soil is removed:

(i) The soil shall be replaced by soil with a lead concentration as close to local background as practicable, but (~~no greater~~) less than 250 parts per million (<250 ppm).

(ii) The soil that is removed shall not be used as top soil at another residential property or child-occupied facility.

(iii) If the soil is not removed, the soil shall be permanently covered so as to be separated from human contact by the placement of a barrier consisting of solid, relatively impermeable materials, such as pavement, asphalt or concrete.

(h) Soil interim controls:

(i) Grass, mulch, shrubbery and other landscaping materials are not considered permanent covering, but may be used as interim controls that eliminate contact with bare soils.

(ii) Interim control measures are acceptable in areas where bare soils contain less than the current HUD abatement standard for lead in soils, except in:

(A) A child's play area, or any bare soil area where a child under six years of age regularly plays. Interim control measures are not acceptable in these areas where soil lead levels exceed 250 ppm.

(B) A garden area, or any other area where bare soils produce edibles intended for human consumption. Interim controls are not acceptable in these areas where soil lead levels exceed 250 ppm.

(iii) On-going monitoring and evaluation of interim soil control measures must follow HUD Guidelines - Table 6.1, Standard Reevaluation Schedule Number 6, under the column header entitled, "Visual Survey," as a requirement for interim soils control. This requirement must be included in a written report provided to the owner and occupants of the property.

~~((+h))~~ (i) The following clearance procedures shall be performed only by a certified and licensed inspector or risk assessor and according to the following procedures:

(i) A visual inspection shall be performed to determine if deteriorated painted surfaces and/or visible amounts of dust, debris or residue are still present. If deteriorated painted surfaces or visible amounts of dust, debris or residue are present, these conditions must be eliminated prior to the continuation of the clearance procedures.

(ii) If exterior work on a project cannot be completed due to inclement weather or other factors, the project supervisor or designer may apply in writing to the department for authorization of a preliminary clearance. The application must include the following:

(A) The project address.

(B) The name and certification number of the abatement project

supervisor or project designer.

(C) A description of the conditions that justify issuance of a waiver.

(D) A description of the abatement work that remains to be done on the project.

(E) A schedule for completion of the abatement work that remains to be done.

(F) A plan for monitoring and controlling potential lead-based paint contamination until work can be completed.

(G) At the conclusion of all work on a project for which preliminary clearance has been authorized, the project supervisor or designer shall present the department with documentation that clearance testing has been performed on exterior and interior areas according to these rules and that all clearance test results are below clearance levels.

(iii) Following the visual inspection and any postabatement cleanup required in subsection (8)(i) of this section, clearance sampling for lead in dust shall be conducted. Clearance sampling may be conducted by employing single-surface sampling or composite sampling techniques.

(iv) Dust samples for clearance purposes shall be taken using documented methodologies that incorporate sample quality control procedures and shall be taken a minimum of one hour after completion of final cleanup activities.

(v) Postabatement clearance activities shall be conducted based upon the extent or manner of work activities conducted in or on the target housing or child-occupied facility as follows:

((+it)) (j) After conducting an abatement with containment between containment and noncontainment areas, one dust sample shall be taken from one interior window sill and from one window trough (if present) and one dust sample shall be taken from the floors of no less than four rooms, hallways or stairwells within the containment area. In addition, one dust sample shall be taken from the floor outside the containment area. If there are fewer than four rooms, hallways or stairwells within the containment area, then all rooms, hallways or stairwells shall be sampled.

(i) After conducting ((an)) abatement with no containment, two dust samples shall be taken from no fewer than four rooms, hallways or stairwells in the residential dwelling or child-occupied facility. One dust sample shall be taken from one interior window sill and from one window trough (if present) and one dust sample shall be taken from the floor of each room, hallway or stairwell selected. If there are fewer than four rooms, hallways or stairwells within the target housing or child-occupied facility then all rooms, hallways or stairwells shall be sampled.

(ii) Following exterior paint abatement, a visual inspection shall be conducted. All horizontal surfaces in the outdoor living area closest to the abated surfaces shall be found to be cleaned of visible dust and debris. The surfaces shall be recleaned when visible dust and debris is present. The visual inspection shall be conducted to determine the presence of paint chips on the dripline or next to the foundation below any exterior abated surface. Paint

chips, if present, shall be removed from the site and disposed of according to federal, state and local requirements.

(iii) The rooms, hallways or stairwells selected for sampling shall be selected according to documented methodologies.

(iv) The certified and licensed inspector or risk assessor shall compare residual lead levels (as determined by laboratory analysis) from each single surface dust sample with clearance examination standards as defined in these rules for lead in dust on floors and interior window sills, and window troughs, divided by half the number of subsamples in the composite sample. If the residual lead level in a single surface dust sample equals or exceeds the applicable clearance examination refresher or if the residual lead level in a composite dust sample equals or exceeds the applicable clearance examination refresher divided by half the number of subsamples in the composite sample, the components represented by the failed sample shall be recleaned and retested until clearance examination standards are met.

(v) The clearance levels for lead in dust are less than 40 $\mu\text{g}/\text{ft}^2$ for floors, less than 250 $\mu\text{g}/\text{ft}^2$ for interior window sills, and less than 400 $\mu\text{g}/\text{ft}^2$ for window troughs.

~~((j))~~ (k) In a multifamily dwelling with similarly constructed and maintained residential dwellings, random sampling for the purposes of clearance may be conducted provided:

(i) The certified individuals who work on or clean the residential dwellings do not know which residential dwelling will be selected for the random sample.

(ii) The randomly selected residential dwellings shall be sampled and evaluated for clearance according to subsection (8)(i) of this section.

(iii) A sufficient number of residential dwellings are selected for dust sampling to provide a ninety-five percent level of confidence that no more than five percent or fifty of the residential dwellings (whichever is smaller) in the randomly sampled population exceeds the appropriate clearance examination standards.

~~((k))~~ (l) An abatement report shall be prepared by a certified and licensed supervisor or project designer and shall include as a minimum the following information:

(i) Start and completion dates of abatement.

(ii) The name, address and telephone number of each certified firm conducting the abatement and the name of each supervisor or project designer assigned to the abatement project.

(iii) The occupant protection plan.

(iv) The name, address and signature of each certified and licensed inspector or risk assessor conducting clearance sampling and the date(s) that clearance sampling was performed.

(v) The results of clearance sampling and all soil analyses and the name of each laboratory conducting analysis of collected samples.

(vi) A detailed written description of the abatement, including abatement methods, location of rooms and/or components where abatement occurred, reason for selecting particular abatement

methods for each component, and any suggested monitoring of encapsulants or enclosures.

((~~(i)~~)) (m) A clearance report shall be prepared by a certified inspector or risk assessor. The clearance report shall include the following information:

(i) The property address where the clearance sampling occurred.

(ii) The abatement clean-up completion date and time.

(iii) The date and time of clearance sampling.

(iv) Name and certification number of each inspector or risk assessor conducting the clearance.

(v) The signature of the inspector or risk assessor conducting the clearance.

(vi) Name, address, telephone number, and certification number of the certified firm employing the inspector or risk assessor.

(vii) Results of the visual inspection.

(viii) Identification of containment or noncontainment applications.

(ix) Identification of location(s) where clearance samples were collected.

(x) Name, address, and telephone number of the laboratory analyzing the collected samples.

(xi) All results of laboratory analysis on collected samples, including quality control results.

(xii) Documented methodology used for sampling.

(9) Sampling. Any paint chip, dust, or soil samples collected pursuant to this section shall be collected by a certified inspector or risk assessor. Such sampling shall incorporate sample quality control procedures and the samples shall be analyzed by a laboratory accredited under the National Lead Laboratory Accreditation Program (NLLAP).

(10) Composite sample. Composite dust sampling may only be conducted when conducting a lead hazard screen, risk assessment, or postabatement activities. If conducted, the composite dust samples shall consist of at least two subsamples, every component that is being tested shall be included in the sampling, and shall not consist of subsamples from more than one type of component.

(11) Reports or plans. All lead-based paint activity reports or plans shall be maintained by the certified firms or individual who prepared the report for no fewer than three years and six months.

(a) The following reports must be submitted to the department as specified in WAC 365-230-100 and 365-230-220:

(i) Notification of lead-based paint activities course to take place.

(ii) Notification of lead-based paint activities course that has taken place.

(iii) Notice of abatement.

(b) All reports required by these rules may be submitted on forms available from the department. The exhibit referred to in this rule is not printed in this WAC. Copies are available as follows from department of ~~((community, trade, and economic~~

development)) commerce:

Lead-Based Paint Program, P.O. Box 42525, Olympia, WA 98504-2525

Telephone number: ((~~360-586-5373~~)) 360-586-5323

((~~Fax number: 360-586-5880~~))

Web site: ((~~www.cted.wa.gov/lead~~)) www.commerce.wa.gov/lead.

AMENDATORY SECTION (Amending WSR 07-07-044, filed 3/13/07, effective 4/13/07)

WAC 365-230-210 Determinations of lead-based paint and lead-based paint hazards. (1) Lead-based paint is present:

(a) On any surface that is tested and found to contain lead equal to or in excess of 1.0 milligrams per square centimeter, equal to or in excess of 5,000 parts per million, or equal to or in excess of 0.5 percent by weight; and

(b) On any surface similar to a surface tested in the same room equivalent that has a similar painting history and is found to be lead-based paint.

(2) A paint-lead hazard is present:

(a) On any friction surface that is subject to abrasion and where the lead dust levels on the nearest horizontal surface (e.g., the window sill or floor) are equal to or greater than the dust hazard levels identified in the "clearance examination standards" definition of these rules;

(b) On any chewable lead-based paint surface on which there is evidence of teeth marks;

(c) Where there is any damaged or otherwise deteriorated lead-based paint on an impact surface that is caused by impact from a related building component (such as a door knob that knocks into a wall or a door that knocks against a door frame); and

(d) If there is any other deteriorated lead-based paint in any residential building or child-occupied facility or on the exterior of any residential building or child-occupied facility.

(3) A dust lead-hazard is present in a residential dwelling or child-occupied facility:

(a) In a residential dwelling on floors and interior window sills when the weighted arithmetic mean lead loading for all single surface or composite samples of floors and interior window sills is equal to or greater than 40 $\mu\text{g}/\text{ft}^2$ for floors and 250 $\mu\text{g}/\text{ft}^2$ for interior window sills, respectively;

(b) On floors or interior window sills in an unsampled residential dwelling in a multifamily dwelling, if a dust-lead hazard is present on floors or interior window sills, respectively, in at least one sampled residential unit on the property; and

(c) On floors or interior window sills in an unsampled common area in a multifamily dwelling, if a dust-lead hazard is present on floors or interior window sills, respectively in at least one

sampled common area in the same common area group on the property.

(4) A soil-lead hazard is present in a residential dwelling or child-occupied facility when the soil-lead concentration from a composite sample of bare soil is equal to or greater than 250 ppm.

AMENDATORY SECTION (Amending WSR 07-07-044, filed 3/13/07, effective 4/13/07)

WAC 365-230-220 Notice of abatement. A certified firm shall notify the department of lead-based paint abatement activities as follows:

(1) Except as provided in subsection (2) of this section, the department must be notified prior to conducting lead-based paint abatement activities. The original notice must be received by the department at least five business days before lead-based paint abatement activities begin.

(2) Notice for abatement activities required in response to an elevated blood lead level (EBL) determination, or federal, state, tribal, or local emergency abatement order must be received by the department as early as possible before, but not later than the day lead-based paint abatement activities begin. Documentation showing evidence of an EBL determination or a copy of the federal/state/tribal/local emergency abatement order must be included in the notification to take advantage of this abbreviated notification period.

(3) Updated notice of a new start date must be provided to the department for lead-based paint abatement activities that will begin on a date other than the date specified in the original notification notice, as follows:

(a) For lead-based paint abatement activities beginning prior to the original start date, an updated notice must be received by the department at least five business days before the revised start date.

(b) For lead-based paint abatement activities beginning after the original start date, an updated notice must be received by the department on or before the original start date.

(4) The certified firm shall update the department of any change in location of lead-based paint abatement activities at least five business days prior to the project start date.

(5) The certified firm shall also update the department regarding the cancellation of any lead-based paint abatement activities, or other significant changes including, but not limited to, when the square footage or acreage to be abated changes by at least twenty percent. This updated notice must be received by the department on or before the start date provided to the department, or if work has already begun, within twenty-four hours of the change.

(6) The following shall be included in each notice:

(a) Notification type (original, updated, cancellation).

(b) Date when lead-based paint abatement activities will commence.

(c) Date when lead-based paint abatement activities will end (approximation using best professional judgment).

(d) Firm's name, the department certification number, address, phone number.

(e) Type of building (e.g., single-family dwelling, multifamily dwelling, child-occupied facilities) on/in which abatement work will be performed.

(f) Property name (if applicable).

(g) Property address including apartment or unit number (if applicable) for abatement work.

(h) Documentation showing evidence of an EBL determination or a copy of the federal/state/tribal/local emergency abatement order, if applicable.

(i) Name and department certification number of the certified supervisor or project designer.

(j) Approximate square footage/acreage to be abated.

(k) Brief description of abatement activities to be performed.

(l) Name, title, and signature of the representative of the certified firm who prepared the notification.

(7) Notification shall be accomplished using ~~((any))~~ one of the following methods: ~~Written ((notice, or by e-mail)) or electronic. ((All notices submitted by e-mail must be followed by written notice within twenty-four hours of submission. Written))~~ Notification can be accomplished using either the sample form titled "Notice of Abatement" or similar form. All written notices shall be delivered by U.S. Postal Service, fax, commercial delivery service, or hand delivery. (Persons submitting notification by U.S. Postal Service are reminded that they should allow sufficient time for delivery to ensure that the department receives the notification by the required date.) Instructions and sample forms can be obtained from the department via phone 360-586-5323 ~~((or fax 360-588-5880))~~, or on the internet at ~~((http://www.cted.gov/lead))~~ http://www.commerce.gov/lead.

(8) In the event of changes to the information provided in the original notification, lead-based paint abatement activities shall not begin on a date, or at a location, other than that specified in either an original or updated notice.

(9) No firm or individual shall engage in lead-based paint abatement activities, as defined in WAC 365-230-200 prior to notifying the department of such activities according to requirements of this section. No lead-based paint abatement activities described in the notice of abatement may begin until the notice has been approved by the department.

WAC 365-230-240 Suspension, revocation and modification of accredited training course or lead-based paint certification. (1) The department may suspend, revoke or modify accreditation of a training course, or the lead-based paint certification of an individual or firm, and may assess a civil penalty, if the individual, entity, or responsible party under these rules has:

(a) Failed to comply with a requirement of chapter 70.103 RCW or the rules adopted thereunder; or

(b) Obtained or retained accreditation or certification by error, misrepresentation, or fraud.

(2) The department may assess a civil penalty against any person who engages in lead-based paint (~~(activity)~~) activities or renovation without certification from the department or who offers to provide or provides lead-based paint training courses without accreditation from the department.

(3) Prior to denying, suspending, revoking, or modifying an accreditation or certification, or imposing a civil penalty, the department in writing shall notify the affected entity of:

(a) The factual and legal basis for the alleged violation;

(b) The penalty assessed for the alleged violation;

(c) The date on which the penalties take effect; and

(d) The opportunity to contest the action by requesting an adjudicative proceeding within twenty days of notice of the action.

(4) Whenever an affected entity does not timely request an adjudication proceeding to contest the department's action, the action becomes final and binding on the day specified in the notification of action. Except as provided in subsection (3) of this section, the filing of a timely request for an adjudicative proceeding stays any action against the affected entity until completion of the adjudicative proceeding.

(5) Whenever the department determines that the public health, safety, or welfare warrants immediate action, the department may summarily suspend accreditation or certification prior to the opportunity for an adjudicative proceeding, as provided in RCW 34.05.479.

(6) Any request for adjudicative proceeding shall be conducted by the department under chapters 34.05 RCW and 10-08 WAC.

(7) The public shall be notified of the suspension, revocation, modification or reinstatement of a training program's accreditation through appropriate mechanisms.

(8) Department shall maintain a list, available to the public, of entities whose accreditation has been suspended, revoked, or modified.

AMENDATORY SECTION (Amending WSR 04-10-037, filed 4/29/04, effective 5/30/04)

WAC 365-230-250 Schedule of penalties. (1) The standard penalty for each violation shall be a maximum:

First violation of any section, five hundred dollars and/or ten days suspension.

Second violation of any section, one thousand dollars and/or twenty days suspension.

Third violation of any section, one thousand five hundred dollars and/or thirty days suspension.

Fourth violation of any section, two thousand dollars and/or one year suspension or revocation.

Fifth violation of any section, five thousand dollars and/or one year suspension (or more) or revocation.

(2) The department may aggravate the maximum standard penalty in an amount not to exceed (~~five~~) ten thousand dollars per violation and/or revocation, based on the following factors:

(a) The violation caused or had the potential to cause injury to humans or significant property damage;

(b) The violation involved fraud or intentional misrepresentation;

(c) The violation was similar to a previous violation; or

(d) The violator obstructed or failed to cooperate with the department's investigation of the violation.

(3) The department may mitigate the maximum standard penalty if the violator has cooperated with the department's investigation and has voluntarily undertaken steps to prevent reoccurrence of the same violation.

(4) Any person or entity whose accreditation or certification has been revoked shall not be eligible to reapply for one year from the effective date of the final order of revocation.

AMENDATORY SECTION (Amending WSR 04-10-037, filed 4/29/04, effective 5/30/04)

WAC 365-230-260 Certification fees. The following fees are established for certification:

(1) Firms, inspectors, risk assessors, renovators, dust wipe sampling technicians, supervisors, project designers and workers shall pay a nonrefundable certification or recertification fee of twenty-five dollars.

(2) All fees shall be in the form of a check or money order made out to the department of (~~community, trade, and economic development~~) commerce.

LEAD-BASED PAINT RENOVATION

Renovation Definitions, Work Practices, Renovator and Dust Wipe Sampling Technician Certification, Renovation Firm Certification, Information Distribution Requirements, etc.

Residential property renovation rules.

This part contains regulations developed under sections 402 and 406 of the Toxic Substances Control Act (15 U.S.C. 2682 and 2686) cite RCW statutory authority here and applies to all renovations performed for compensation in target housing and child-occupied facilities.

NEW SECTION

WAC 365-230-280 Purpose. (1) Owners and occupants of target housing and child-occupied facilities receive information on lead-based paint hazards before these renovations begin; and
(2) Individuals performing renovations regulated in accordance with WAC 365-230-300 are properly trained; renovators and firms performing these renovations are certified; and the work practices in WAC 365-230-330 are followed during these renovations.

NEW SECTION

WAC 365-230-290 Effective dates. (1) Training, certification and accreditation requirements, and work practice standards. The training, certification and accreditation requirements, and work practice standards in this section are applicable in Washington state. The training, certification and accreditation requirements, and work practice standards in this section will become effective as follows:

(a) Training programs. Effective May 15, 2011, no training program may provide, offer, or claim to provide training or refresher training for department certification as a renovator or a dust sampling technician without accreditation from the department under WAC 365-230-030. Training programs may apply for accreditation under WAC 365-230-030 beginning March 15, 2011.

(b) Firms.

(i) Firms may apply for certification under WAC 365-230-360 beginning March 15, 2011.

(ii) On or after the implementation date, no firm may perform,

offer, or claim to perform renovations for compensation without certification from the department under WAC 365-230-360 in target housing or child-occupied facilities, unless the renovation qualifies for one of the exceptions identified in WAC 365-230-300(1).

(c) Individuals. On or after the implementation date, all renovations must be directed by renovators certified in accordance with WAC 365-230-380(1) and performed by certified renovators or individuals trained in accordance with WAC 365-230-340 (2)(b) in target housing or child-occupied facilities, unless the renovation qualifies for one of the exceptions identified in WAC 365-230-300(1).

(d) Work practices. On or after the implementation date, all renovations must be performed in accordance with the work practice standards in WAC 365-230-330 and the recordkeeping requirements in WAC 365-230-340 (2)(a) and (f) in target housing or child-occupied facilities, unless the renovation qualifies for one of the exceptions identified in WAC 365-230-300(1).

(e) Suspension and revocation provisions in WAC 365-230-390 are effective upon implementation of these rules.

(2) Renovation-specific pamphlet. Renovators or firms performing renovations in Washington state must provide owners and occupants with "*The Lead-Safe Certified Guide To Renovate Right.*"

(3) Prerenovation education rule. With the exception of the requirement to use the pamphlet entitled "*The Lead-Safe Certified Guide To Renovate Right*" the provisions of the prerenovation education rule have been in effect since June 1999, Toxic Substance Control Act (TSCA 406b).

NEW SECTION

WAC 365-230-300 Applicability. This section applies to all renovations performed for compensation in target housing and child-occupied facilities, except for the following:

(1) Renovations in target housing or child-occupied facilities in which a written determination has been made by an inspector or risk assessor (certified pursuant to WAC 365-230-130) that the components affected by the renovation are free of paint or other surface coatings that contain lead equal to or in excess of 1.0 milligram per square centimeter (mg/cm²) or 0.5 percent by weight, where the firm performing the renovation has obtained a copy of the determination.

(2)(a) Renovations in target housing or child-occupied facilities in which a certified renovator, using an EPA-recognized test kit as defined in WAC 365-230-350 and following the kit manufacturer's instructions, has tested each component affected by the renovation and determined that the 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. If the components make up an integrated whole, such as the individual stair treads and risers of a single staircase, the renovator is required to test only one of the individual components, unless the individual components appear to have been repainted or refinished separately.

(b) The information distribution requirements in WAC 365-230-320 do not apply to emergency renovations, which are renovation activities that were not planned but result from a sudden, unexpected event (such as nonroutine failures of equipment) that, if not immediately attended to, presents a safety or public health hazard, or threatens equipment and/or property with significant damage. Interim controls performed in response to an elevated blood-lead level in a resident child are also emergency renovations. Emergency renovations other than interim controls are also exempt from the warning sign, containment, waste handling, training, and certification requirements in WAC 365-230-330, 365-230-360, and 365-230-380 to the extent necessary to respond to the emergency. Emergency renovations are not exempt from the cleaning requirements of WAC 365-230-330 (1)(e), which must be performed by certified renovators or individuals trained in accordance with WAC 365-230-385 (1)(b), the cleaning verification requirements of WAC 365-230-330(2), which must be performed by certified renovators, and the recordkeeping requirements of WAC 365-230-340 (2)(f).

NEW SECTION

WAC 365-230-310 Definitions. For purposes of this chapter, the definitions in WAC 365-230-020 and the following definitions apply:

"Cleaning verification card" means a card developed and distributed, or otherwise approved, by EPA for the purpose of determining, through comparison of wet and dry disposable cleaning cloths with the card, whether postrenovation cleaning has been properly completed.

"Department" means the Washington department of commerce lead-based paint program.

"Dry disposable cleaning cloth" means a commercially available dry, electrostatically charged, white disposable cloth designed to be used for cleaning hard surfaces such as uncarpeted floors or countertops.

"Firm" means a company, partnership, corporation, sole proprietorship or individual doing business, association, or other business entity; a federal, state, tribal, or local government agency; or a nonprofit organization.

"HEPA vacuum" means a vacuum cleaner which has been designed with a high-efficiency particulate air (HEPA) filter as the last filtration stage. A HEPA filter is a filter that is capable of capturing particles of 0.3 microns with 99.97 percent efficiency.

The vacuum cleaner must be designed so that all the air drawn into the machine is expelled through the HEPA filter with none of the air leaking past it.

"Minor repair and maintenance activities" means activities, including minor heating, ventilation or air conditioning work, electrical work, and plumbing, that disrupt six square feet or less of painted surface per room for interior activities or twenty square feet or less of painted surface for exterior activities where none of the work practices prohibited or restricted by WAC 365-230-330 (1)(c) are used and where the work does not involve window replacement or demolition of painted surface areas. When removing painted components, or portions of painted components, the entire surface area removed is the amount of painted surface disturbed. Jobs, other than emergency renovations, performed in the same room within the same thirty days must be considered the same job for the purpose of determining whether the job is a minor repair and maintenance activity.

"Pamphlet" means the EPA pamphlet titled "*The Lead-Safe Certified Guide to Renovate Right*" developed under section 406(a) of TSCA for use in complying with section 406(b) of TSCA. This includes reproductions of the pamphlet when copied in full and without revision or deletion of material from the pamphlet.

"Recognized test kit" means a commercially available kit recognized by EPA under §745.88 as being capable of allowing a user to determine the presence of lead at levels equal to or in excess of 1.0 milligram per square centimeter, or more than 0.5 percent lead by weight, in a paint chip, paint powder, or painted surface.

"Renovation" means the modification of any existing structure, or portion thereof, that results in the disturbance of painted surfaces, unless that activity is performed as part of an abatement as defined under WAC 365-230-200. The term renovation includes, but is not limited to: The removal, modification or repair of painted surfaces or painted components (e.g., modification of painted doors, surface restoration, window repair, surface preparation activity (such as sanding, scraping, or other such activities that may generate paint dust)); the removal of building components (e.g., walls, ceilings, plumbing, windows); weatherization projects (e.g., cutting holes in painted surfaces to install blown-in insulation or to gain access to attics, planing thresholds to install weather-stripping), and interim controls that disturb painted surfaces. A renovation performed for the purpose of converting a building, or part of a building, into target housing or a child-occupied facility is a renovation under this section. The term renovation does not include minor repair and maintenance activities.

"Renovator" means an individual who either performs or directs workers who perform renovations. A certified renovator is a renovator who has successfully completed a renovator course accredited by EPA or an EPA-authorized state or tribal program.

"Wet disposable cleaning cloth" means a commercially available, premoistened white disposable cloth designed to be used for cleaning hard surfaces such as uncarpeted floors or counter

tops.

"Wet mopping system" means a device with the following characteristics: A long handle, a mop head designed to be used with disposable absorbent cleaning pads, a reservoir for cleaning solution, and a built-in mechanism for distributing or spraying the cleaning solution onto a floor, or a method of equivalent efficacy.

"Work area" means the area that the certified renovator establishes to contain the dust and debris generated by a renovation.

NEW SECTION

WAC 365-230-320 Information distribution requirements. (1) Renovations in dwelling units. No more than sixty days before beginning renovation activities in any residential dwelling unit of target housing, the firm performing the renovation must:

(a) Provide the owner of the unit with the pamphlet, and comply with one of the following:

(i) Obtain, from the owner, a written acknowledgment that the owner has received the pamphlet.

(ii) Obtain a certificate of mailing at least seven days prior to the renovation.

(b) In addition to the requirements in subsection (1)(a) of this section, if the owner does not occupy the dwelling unit, provide an adult occupant of the unit with the pamphlet, and comply with one of the following:

(i) Obtain, from the adult occupant, a written acknowledgment that the occupant has received the pamphlet; or certify in writing that a pamphlet has been delivered to the dwelling and that the firm performing the renovation has been unsuccessful in obtaining a written acknowledgment from an adult occupant. Such certification must include the address of the unit undergoing renovation, the date and method of delivery of the pamphlet, names of the persons delivering the pamphlet, reason for lack of acknowledgment (e.g., occupant refuses to sign, no adult occupant available), the signature of a representative of the firm performing the renovation, and the date of signature.

(ii) Obtain a certificate of mailing at least seven days prior to the renovation.

(2) Renovations in common areas. No more than sixty days before beginning renovation activities in common areas of multiunit target housing, the firm performing the renovation must:

(a) Provide the owner with the pamphlet, and comply with one of the following:

(i) Obtain, from the owner, a written acknowledgment that the owner has received the pamphlet.

(ii) Obtain a certificate of mailing at least seven days prior to the renovation.

(b) Comply with one of the following:

(i) Notify in writing, or ensure written notification of, each affected unit and make the pamphlet available upon request prior to the start of renovation. Such notification shall be accomplished by distributing written notice to each affected unit. The notice shall describe the general nature and locations of the planned renovation activities; the expected starting and ending dates; and a statement of how the occupant can obtain the pamphlet and a copy of the records required under WAC 365-230-340 at no cost to the occupants; or

(ii) While the renovation is ongoing, post informational signs describing the general nature and locations of the renovation and the anticipated completion date. These signs must be posted in areas where they are likely to be seen by the occupants of all of the affected units. The signs must be accompanied by a posted copy of the pamphlet or information on how interested occupants can review a copy of the pamphlet or obtain a copy from the renovation firm at no cost to occupants. The signs must also include information on how interested occupants can receive a copy of the records required by WAC 365-230-340 (3) and (4) or obtain a copy from the renovation firm at no cost to the occupants.

(c) Prepare, sign, and date a statement describing the steps performed to notify all occupants of the intended renovation activities and to provide the pamphlet.

(d) If the scope, locations, or expected starting and ending dates of the planned renovation activities change after the initial notification, and the firm provided written initial notification to each affected unit, the firm performing the renovation must provide further written notification to the owners and occupants providing revised information on the ongoing or planned activities. This subsequent notification must be provided before the firm performing the renovation initiates work beyond that which was described in the original notice.

(3) Renovations in child-occupied facilities. No more than sixty days before beginning renovation activities in any child-occupied facility, the firm performing the renovation must:

(a)(i) Provide the owner of the building with the pamphlet, and comply with one of the following:

(A) Obtain, from the owner, a written acknowledgment that the owner has received the pamphlet.

(B) Obtain a certificate of mailing at least seven days prior to the renovation.

(ii) If the child-occupied facility is not the owner of the building, provide an adult representative of the child-occupied facility with the pamphlet, and comply with one of the following:

(A) Obtain, from the adult representative, a written acknowledgment that the adult representative has received the pamphlet; or certify in writing that a pamphlet has been delivered to the facility and that the firm performing the renovation has been unsuccessful in obtaining a written acknowledgment from an adult representative. Such certification must include the address of the child-occupied facility undergoing renovation, the date and

method of delivery of the pamphlet, names of the persons delivering the pamphlet, reason for lack of acknowledgment (e.g., representative refuses to sign), the signature of a representative of the firm performing the renovation, and the date of signature.

(B) Obtain a certificate of mailing at least seven days prior to the renovation.

(b) Provide the parents and guardians of children using the child-occupied facility with the pamphlet and information describing the general nature and locations of the renovation and the anticipated completion date, and information on how interested parents or guardians of children frequenting the child-occupied facility can review a copy of the records required under WAC 365-230-340 (3) and (4) or obtain a copy from the renovation firm at no cost to the occupants by complying with one of the following:

(i) Mail or hand-deliver the pamphlet and the renovation information to each parent or guardian of a child using the child-occupied facility.

(ii) While the renovation is ongoing, post informational signs describing the general nature and locations of the renovation and the anticipated completion date. These signs must be posted in areas where they can be seen by the parents or guardians of the children frequenting the child-occupied facility. The signs must be accompanied by a posted copy of the pamphlet or information on how interested parents or guardians of children frequenting the child-occupied facility can review a copy of the pamphlet or obtain a copy from the renovation firm at no cost to the parents or guardians. The signs must also include information on how interested parents or guardians of children frequenting the child-occupied facility can review a copy of the records required under WAC 365-230-340 (3) and (4) or obtain a copy from the renovation firm at no cost to the parents or guardians.

(c) The renovation firm must prepare, sign, and date a statement describing the steps performed to notify all parents and guardians of the intended renovation activities and to provide the pamphlet.

(4) Written acknowledgment. The written acknowledgments required by subsection (1)(a)(i) and (b)(i) of this section, subsection (2)(a)(i) of this section, subsection (3)(a)(i)(A) and (a)(ii)(A) of this section must:

(a) Include a statement recording the owner or occupant's name and acknowledging receipt of the pamphlet prior to the start of renovation, the address of the unit undergoing renovation, the signature of the owner or occupant as applicable, and the date of signature.

(b) Be either a separate sheet or part of any written contractor service agreement for the renovation.

(c) Be written in the same language as the text of the contractor agreement for the renovation or, in the case of nonowner occupied target housing, in the same language as the lease or rental agreement or the pamphlet.

NEW SECTION

WAC 365-230-330 Work practice standards. (1) Standards for renovation activities. Renovations must be performed by certified firms using certified renovators as directed under WAC 365-230-370. The responsibilities of certified firms are set forth under WAC 365-230-360 and the responsibilities of certified renovators are set forth under WAC 365-230-380.

(a) Occupant protection. Firms must post signs clearly defining the work area and warning occupants and other persons not involved in renovation activities to remain outside of the work area. To the extent practicable, these signs must be in the primary language of the occupants. These signs must be posted before beginning the renovation and must remain in place and readable until the renovation and the postrenovation cleaning verification have been completed. If warning signs have been posted in accordance with 24 CFR 35.1345(b)(2) or 29 CFR 1926.62(m), additional signs are not required by this section.

(b) Containing the work area. Before beginning the renovation, the firm must isolate the work area so that no dust or debris leaves the work area while the renovation is being performed. In addition, the firm must maintain the integrity of the containment by ensuring that any plastic or other impermeable materials are not torn or displaced, and taking any other steps necessary to ensure that no dust or debris leaves the work area while the renovation is being performed. The firm must also ensure that containment is installed in such a manner that it does not interfere with occupant and worker egress in an emergency.

(i) Interior renovations. The firm must:

(A) Remove all objects from the work area, including furniture, rugs, and window coverings, or cover them with plastic sheeting or other impermeable material with all seams and edges taped or otherwise sealed.

(B) Close and cover all ducts opening in the work area with taped-down plastic sheeting or other impermeable material.

(C) Close windows and doors in the work area. Doors must be covered with plastic sheeting or other impermeable material. Doors used as an entrance to the work area must be covered with plastic sheeting or other impermeable material in a manner that allows workers to pass through while confining dust and debris to the work area.

(D) Cover the floor surface, including installed carpet, with taped-down plastic sheeting or other impermeable material in the work area six feet beyond the perimeter of surfaces undergoing renovation or a sufficient distance to contain the dust, whichever is greater.

(E) Use precautions to ensure that all personnel, tools, and other items, including the exteriors of containers of waste, are free of dust and debris before leaving the work area.

(ii) Exterior renovations. The firm must:

(A) Close all doors and windows within twenty feet of the renovation. On multistory buildings, close all doors and windows

within twenty feet of the renovation on the same floor as the renovation, and close all doors and windows on all floors below that are the same horizontal distance from the renovation.

(B) Ensure that doors within the work area that will be used while the job is being performed are covered with plastic sheeting or other impermeable material in a manner that allows workers to pass through while confining dust and debris to the work area.

(C) Cover the ground with plastic sheeting or other disposable impermeable material extending ten feet beyond the perimeter of surfaces undergoing renovation or a sufficient distance to collect falling paint debris, whichever is greater, unless the property line prevents ten feet of such ground covering.

(D) In certain situations, the renovation firm must take extra precautions in containing the work area to ensure that dust and debris from the renovation does not contaminate other buildings or other areas of the property or migrate to adjacent properties.

(c) Prohibited and restricted practices. The work practices listed below shall be prohibited or restricted during a renovation as follows:

(i) Open-flame burning or torching of painted surfaces is prohibited.

(ii) The use of machines designed to remove paint through high speed operation such as sanding, grinding, power planing, needle gun, abrasive blasting, or sandblasting, is prohibited unless such machines are used with a HEPA exhaust control.

(iii) Operating a heat gun on painted surfaces is permitted only at temperatures below 1,100°F.

(d) Waste from renovations.

(i) Waste from renovation activities must be contained to prevent releases of dust and debris before the waste is removed from the work area for storage or disposal. If a chute is used to remove waste from the work area, it must be covered.

(ii) At the conclusion of each work day and at the conclusion of the renovation, waste that has been collected from renovation activities must be stored under containment, in an enclosure, or behind a barrier that prevents release of dust and debris out of the work area and prevents access to dust and debris.

(iii) When the firm transports waste from renovation activities, the firm must contain the waste to prevent release of dust and debris.

(e) Cleaning the work area. After the renovation has been completed, the firm must clean the work area until no dust, debris or residue remains.

(i) Interior and exterior renovations. The firm must:

(A) Collect all paint chips and debris and, without dispersing any of it, seal this material in a heavy-duty bag.

(B) Remove the protective sheeting. Mist the sheeting before folding it, fold the dirty side inward, and either tape shut to seal or seal in heavy-duty bags. Sheeting used to isolate contaminated rooms from noncontaminated rooms must remain in place until after the cleaning and removal of other sheeting. Dispose of the sheeting as waste.

(ii) Additional cleaning for interior renovations. The firm must clean all objects and surfaces in the work area and within two feet of the work area in the following manner, cleaning from higher to lower:

(A) Walls. Clean walls starting at the ceiling and working down to the floor by either vacuuming with a HEPA vacuum or wiping with a damp cloth.

(B) Remaining surfaces. Thoroughly vacuum all remaining surfaces and objects in the work area, including furniture and fixtures, with a HEPA vacuum. The HEPA vacuum must be equipped with a beater bar when vacuuming carpets and rugs.

(C) Wipe all remaining surfaces and objects in the work area, except for carpeted or upholstered surfaces, with a damp cloth. Mop uncarpeted floors thoroughly, using a mopping method that keeps the wash water separate from the rinse water, such as the two-bucket mopping method, or using a wet mopping system.

(2) Standards for postrenovation cleaning verification.

(a) Interiors.

(i) A certified renovator must perform a visual inspection to determine whether dust, debris, or residue is still present. If dust, debris, or residue is present, these conditions must be removed by recleaning and another visual inspection must be performed.

(ii) After a successful visual inspection, a certified renovator must:

(A) Verify that each windowsill in the work area has been adequately cleaned, using the following procedure:

(I) Wipe the windowsill with a wet disposable cleaning cloth that is damp to the touch. If the cloth matches or is lighter than the cleaning verification card, the windowsill has been adequately cleaned.

(II) If the cloth does not match and is darker than the cleaning verification card, reclean the windowsill as directed in this section, then either use a new cloth or fold the used cloth in such a way that an unused surface is exposed, and wipe the surface again. If the cloth matches or is lighter than the cleaning verification card, that windowsill has been adequately cleaned.

(III) If the cloth does not match and is darker than the cleaning verification card, wait for one hour or until the surface has dried completely, whichever is longer.

(IV) After waiting for the windowsill to dry, wipe the windowsill with a dry disposable cleaning cloth. After this wipe, the windowsill has been adequately cleaned.

(B) Wipe uncarpeted floors and countertops within the work area with a wet disposable cleaning cloth. Floors must be wiped using an application device with a long handle and a head to which the cloth is attached. The cloth must remain damp at all times while it is being used to wipe the surface for postrenovation cleaning verification. If the surface within the work area is greater than forty square feet, the surface within the work area must be divided into roughly equal sections that are each less than forty square feet. Wipe each such section separately with a new

wet disposable cleaning cloth. If the cloth used to wipe each section of the surface within the work area matches the cleaning verification card, the surface has been adequately cleaned.

(I) If the cloth used to wipe a particular surface section does not match the cleaning verification card, reclean that section of the surface as directed in this section, then use a new wet disposable cleaning cloth to wipe that section again. If the cloth matches the cleaning verification card, that section of the surface has been adequately cleaned.

(II) If the cloth used to wipe a particular surface section does not match the cleaning verification card after the surface has been recleaned, wait for one hour or until the entire surface within the work area has dried completely, whichever is longer.

(III) After waiting for the entire surface within the work area to dry, wipe each section of the surface that has not yet achieved postrenovation cleaning verification with a dry disposable cleaning cloth. After this wipe, that section of the surface has been adequately cleaned.

(iii) When the work area passes the postrenovation cleaning verification, remove the warning signs.

(b) Exteriors. A certified renovator must perform a visual inspection to determine whether dust, debris or residue is still present on surfaces in and below the work area, including windowsills and the ground. If dust, debris or residue is present, these conditions must be eliminated and another visual inspection must be performed. When the area passes the visual inspection, remove the warning signs.

(3) Optional dust clearance testing. Cleaning verification need not be performed if the contract between the renovation firm and the person contracting for the renovation or another federal, state, territorial, tribal or local law requires dust wipe sampling.

(a) The renovation firm to perform dust clearance sampling at the conclusion of a renovation covered by this section.

(b) The dust clearance samples are required to be collected by a certified inspector, risk assessor, or dust sampling technician.

(c) The renovation firm is required to reclean the work area until the dust clearance sample results are below the clearance standards in WAC 365-230-020 or any applicable local standard.

(4) Activities conducted after postrenovation cleaning verification. Activities that do not disturb paint such as applying paint to walls that have already been prepared, are not regulated by this subpart if they are conducted after postrenovation cleaning verification has been performed.

NEW SECTION

WAC 365-230-340 Recordkeeping and reporting requirements.

(1) Firms performing renovations must retain and, if requested, make available to the department all records necessary to demonstrate compliance with this section for a period of three years following completion of the renovation. This three-year retention requirement does not supersede longer obligations required by other provisions for retaining the same documentation, including any applicable state or tribal laws or regulations.

(2) Records that must be retained pursuant to subsection (a) of this section shall include (where applicable):

(a) Records or reports certifying that a determination had been made that lead-based paint was not present on the components affected by the renovation, as described under WAC 365-230-300. These records or reports include:

(i) Reports prepared by a certified inspector or certified risk assessor (certified pursuant to this chapter).

(ii) Records prepared by a certified renovator after using EPA-recognized test kits, including an identification of the manufacturer and model of any test kits used, a description of the components that were tested including their locations, and the result of each test kit used.

(b) Signed and dated acknowledgments of receipt as described under WAC 365-230-320 (1) (a) (i) and (b) (i), (2) (a) (i), (3) (a) (i) (A) and (a) (ii) (A).

(c) Certifications of attempted delivery as described under WAC 365-230-320 (1) (a) (i) and (3) (a) (ii) (A).

(d) Certificates of mailing as described under WAC 365-230-320 (1) (a) (ii) and (b) (ii), (2) (a) (ii), (3) (a) (i) (B) and (a) (ii) (B).

(e) Records of notification activities performed regarding common area renovations, as described under WAC 365-230-320 (2) (c) and (d), and renovations in child-occupied facilities, as described under WAC 365-230-320 (3) (b).

(f) Documentation of compliance with the requirements under WAC 365-230-330, including documentation that a certified renovator was assigned to the project, that the certified renovator provided on-the-job training for workers used on the project, that the certified renovator performed or directed workers who performed all of the tasks described under WAC 365-230-330(1), and that the certified renovator performed the postrenovation cleaning verification described under WAC 365-230-330(2). If the renovation firm was unable to comply with all of the requirements of this rule due to an emergency as defined under WAC 365-230-330, the firm must document the nature of the emergency and the provisions of the rule that were not followed. This documentation must include a copy of the certified renovator's training certificate, and a certification by the certified renovator assigned to the project that:

(i) Training was provided to workers (topics must be identified for each worker).

(ii) Warning signs were posted at the entrances to the work area.

(iii) If test kits were used, that the specified brand of kits was used at the specified locations and that the results were as specified.

(iv) The work area was contained by:

(A) Removing or covering all objects in the work area (interiors).

(B) Closing and covering all HVAC ducts in the work area (interiors).

(C) Closing all windows in the work area (interiors) or closing all windows in and within twenty feet of the work area (exteriors).

(D) Closing and sealing all doors in the work area (interiors) or closing and sealing all doors in and within twenty feet of the work area (exteriors).

(E) Covering doors in the work area that were being used to allow passage but prevent spread of dust.

(F) Covering the floor surface, including installed carpet, with taped-down plastic sheeting or other impermeable material in the work area six feet beyond the perimeter of surfaces undergoing renovation or a sufficient distance to contain the dust, whichever is greater (interiors) or covering the ground with plastic sheeting or other disposable impermeable material anchored to the building extending ten feet beyond the perimeter of surfaces undergoing renovation or a sufficient distance to collect falling paint debris, whichever is greater, unless the property line prevents ten feet of such ground covering, weighted down by heavy objects (exteriors).

(G) Installing (if necessary) vertical containment to prevent migration of dust and debris to adjacent property (exteriors).

(v) Waste was contained on-site and while being transported off-site.

(vi) The work area was properly cleaned after the renovation by:

(A) Picking up all chips and debris, misting protective sheeting, folding it dirty side inward, and taping it for removal.

(B) Cleaning the work area surfaces and objects using a HEPA vacuum and/or wet cloths or mops (interiors).

(vii) The certified renovator performed the postrenovation cleaning verification (the results of which must be briefly described, including the number of wet and dry cloths used).

(3)(a) When the final invoice for the renovation is delivered or within thirty days of the completion of the renovation, whichever is earlier, the renovation firm must provide information pertaining to compliance with this section to the following persons.

(i) The owner of the building; and, if different;

(ii) An adult occupant of the residential dwelling, if the renovation took place within a residential dwelling, or an adult representative of the child-occupied facility, if the renovation took place within a child-occupied facility.

(b) When performing renovations in common areas of multiunit target housing, renovation firms must post the information required

by this section or instructions on how interested occupants can obtain a copy of this information. This information must be posted in areas where it is likely to be seen by the occupants of all of the affected units.

(c) The information required to be provided by this subsection may be provided by completing the sample form titled "Sample Renovation Recordkeeping Checklist" or a similar form containing the test kit information required under subsection (2)(a)(ii) of this section and the training and work practice compliance information required under subsection (2)(f) of this section.

(4) If dust clearance sampling is performed in lieu of cleaning verification as permitted under WAC 365-230-330(3), the renovation firm must provide, when the final invoice for the renovation is delivered or within thirty days of the completion of the renovation, whichever is earlier, a copy of the dust sampling report to:

- (a) The owner of the building; and, if different;
- (b) An adult occupant of the residential dwelling, if the renovation took place within a residential dwelling, or an adult representative of the child-occupied facility, if the renovation took place within a child-occupied facility;

(c) When performing renovations in common areas of multiunit target housing, renovation firms must post these dust sampling reports or information on how interested occupants of the housing being renovated can obtain a copy of the report. This information must be posted in areas where they are likely to be seen by the occupants of all the affected units.

NEW SECTION

WAC 365-230-350 Recognized test kits. (1) Effective June 23, 2008, EPA recognizes the test kits that have been determined by National Institute of Standards and Technology research to meet the negative response criteria described in subsection (3)(a) of this section. This recognition will last until EPA publicizes its recognition of the first test kit that meets both the negative response and positive response criteria in subsection (3) of this section.

(2) No other test kits will be recognized until they are tested through EPA's Environmental Technology Verification Program or other equivalent EPA-approved testing program.

(a) Effective September 1, 2008, to initiate the testing process, a test kit manufacturer must submit a sufficient number of kits, along with the instructions for using the kits, to EPA. The test kit manufacturer should first visit the following web site for information on where to apply: <http://www.epa.gov/etv/howtoapply.html>.

(b) After the kit has been tested through the Environmental

Technology Verification Program or other equivalent approved EPA testing program, EPA will review the report to determine whether the required criteria have been met.

(c) Before September 1, 2010, test kits must meet only the negative response criteria in subsection (3)(a) of this section. The recognition of kits that meet only this criteria will last until EPA publicizes its recognition of the first test kits that meet both of the criteria in subsection (3) of this section.

(d) After September 1, 2010, test kits must meet both of the criteria in subsection (3) of this section.

(e) If the report demonstrates that the kit meets the required criteria, EPA will issue a notice of recognition to the kit manufacturer, provide them with the report, and post the information on EPA's web site.

(f) If the report demonstrates that the kit does not meet the required criteria, EPA will notify the kit manufacturer and provide them with the report.

(3) Response criteria.

(a) Negative response criteria. For paint containing lead at or above the regulated level, 1.0 mg/cm² or 0.5 percent by weight, a demonstrated probability (with 95 percent confidence) of a negative response less than or equal to 5 percent of the time.

(b) Positive response criteria. For paint containing lead below the regulated level, 1.0 mg/cm² or 0.5 percent by weight, a demonstrated probability (with 95 percent confidence) of a positive response less than or equal to 10 percent of the time.

NEW SECTION

WAC 365-230-360 Certification of renovation firms. (1) No firm shall offer to perform for compensation any of the lead-based paint renovation activities described in WAC 365-230-330 without first being certified by the department. All certified firms shall employ only appropriately certified individuals to conduct lead-based paint renovation activities. The firm is responsible for ensuring that its employees follow the work practice requirements for renovation as described in WAC 365-230-330.

(2) A firm seeking certification shall submit to the department a completed application as described in this section.

(3) The firm shall maintain all records pursuant to WAC 365-230-340.

(4) Certification is transferable in the instance of acquisition of a certified firm by another entity. The acquiring firm must notify the department within thirty days of the change of ownership, and of any changes to information submitted on the original application.

(5) The certification period for renovation firms is five years from the date certification is issued. To maintain its

renovation firm certification, a firm must be recertified by the department every five years.

(6) To retain certification, a firm shall submit to the department an application as described above prior to the expiration date listed on the firm's certification.

NEW SECTION

WAC 365-230-370 Application requirements for renovation firms. (1) Applications for a firm shall be submitted on forms prescribed by the department and shall be accompanied by the following:

A letter of compliance, signed by an officer of the firm, or an individual authorized to sign on the firm's behalf, certifying the following:

(a) The firm will employ only certified renovators, or other workers trained by certified renovators to conduct lead-based paint renovation activities as prescribed in these rules.

(b) The firm will follow the standards for conducting lead-based paint renovation activities as prescribed in these rules.

(c) The firm shall maintain all records pursuant to these rules.

(2) A check or money order made out to the department of commerce in the amount as described under WAC 365-230-260.

NEW SECTION

WAC 365-230-375 Approval or disapproval of renovation firm certification. (1) The department may disapprove an application for certification for the following reasons including, but not limited to:

(a) Failure to complete application in accordance with these rules, or department policy or instructions;

(b) Failure to satisfy eligibility requirements for certification;

(c) Failure to provide required documentation or information requested by the department;

(d) History of citations or violations of existing regulations or these rules, regulations including execution of a consent agreement in settlement of an enforcement action;

(e) History of revocation of a certificate;

(f) Making false or misleading statements in the application;

(g) Having been subject to a final administrative order imposing a civil penalty or a criminal conviction for engaging in

a prohibited act under the department.

(2) In the case of disapproval, a letter describing the reasons for disapproval shall be sent to the applicant. Prior to disapproval, the department may, at its discretion, work with the applicant to address inadequacies in the application for certification. The department may also request additional materials under the recordkeeping requirements of WAC 365-230-340. If a firm's application for certification has been disapproved, the program may reapply for certification at any time.

NEW SECTION

WAC 365-230-380 Renovator and dust sampling technician certification and recertification. (1) No individual shall perform lead-based paint renovation or dust sampling technician activities as described in this section unless they are certified by the department. Individuals seeking initial certification by the department to engage in lead-based paint renovation activities must successfully complete a dust sampling technician or renovator course accredited by the department. The course completion certificate serves as proof of training. Certified individuals may perform only lead-based paint renovation activities for which they are certified. To become certified as a renovator or dust sampling technician, an individual must:

(a) Submit a completed application to the department as described under WAC 365-230-150 and must provide documentation that the applicant has either:

(i) Met the certification requirements as described in this subsection for renovator or dust sampling technician.

(ii) Hold a valid certification issued by EPA or by a state or tribal program that has been authorized by EPA according to 40 CFR 745.324.

(A) Applicants for certification based on certification from another state or tribal program must document to the department that they have read and understand the certification and work practice standards as described in these rules.

(B) Certification based on a valid lead-based paint renovator or renovation dust sampling technician certification issued by EPA or by an EPA-authorized state or tribal program shall be issued with an expiration date not to exceed the date of expiration listed on the EPA or EPA-authorized state or tribal certification.

(b) Submit two passport-size photos.

(c) A signed and dated renovator or dust sampling technician application.

(d) A check or money order made out to the department in the amount as described in the certification fees section of these rules.

(e) Application materials can be obtained by mail from

Department of Commerce, Lead-Based Paint Program, P.O. Box 42525, Olympia, WA 98504-2525, by telephone, 360-586-5323, electronically at <http://www.commerce.wa.gov/lead>.

(2) Individuals who have successfully completed an accredited abatement worker or supervisor course, or individuals who successfully completed an EPA, HUD, or EPA/HUD model renovation training course may take an accredited refresher renovator training course in lieu of the initial renovator training course to become a certified renovator.

(3) Individuals who have successfully completed an accredited lead-based paint inspector or risk assessor course may take an accredited refresher dust wipe sampling technician course in lieu of the initial training to become a certified dust sampling technician.

(4) Individuals may first apply to the department for certification to engage in lead-based paint renovation or dust sampling pursuant to this section on or after the effective date of these rules.

(5) Following the submission of an application demonstrating that all the requirements of this section have been met, the department shall certify an applicant as renovator, or dust sampling technician.

(6) Upon receiving the department certification, individuals conducting lead-based paint renovator or dust sampling technician activities shall comply with the work practice standards for performing the appropriate lead-based paint renovation activities as established in the work practice standards, WAC 365-230-330.

(7) It shall be a violation of these rules for an individual to conduct any of the lead-based paint renovator or dust sampling technician activities described in the work practice standards under WAC 365-230-330 who has not been certified by the department.

(8) To maintain renovator certification or dust sampling technician, an individual must complete a renovator refresher course or a dust sampling refresher course accredited by the department within five years of the date the individual completed the initial course as described in subsection (1) of this section, or within five years of the date of his/her last refresher course for the discipline. If the individual does not complete a refresher course within this time, the individual must retake the initial course to become certified again.

NEW SECTION

WAC 365-230-385 Renovator and dust sampling technician responsibilities. (1) Renovator responsibilities. Certified renovators are responsible for ensuring compliance under WAC 365-230-330 at all renovations to which they are assigned. A certified renovator:

(a) Must perform all of the tasks described under 365-230-330(2) and must either perform or direct workers who perform all of the tasks described under WAC 365-230-330(1).

(b) Must provide training to uncertified workers on the work practices that they will be using in performing their assigned tasks.

(c) Must be physically present at the worksite when signs required by WAC 365-230-330 (1)(a) are posted, while the work area containment required by WAC 365-230-330 (1)(b) is being established, and while the work area cleaning required by WAC 365-230-330 (1)(e) is performed.

(d) Must regularly direct work being performed by other individuals to ensure that the work practices required by WAC 365-230-330(1) are being followed, including maintaining the integrity of the containment barriers and ensuring that dust or debris does not spread beyond the work area.

(e) Must be available, either on-site or by telephone, at all times that renovations are being conducted.

(f) When requested by the party contracting for renovation services, must use an acceptable test kit to determine whether components to be affected by the renovation contain lead-based paint.

(g) Must have with them at the worksite copies of their initial course completion certificate and their most recent refresher course completion certificate.

(h) Must prepare the records required by WAC 365-230-340(2).

(2) Dust sampling technician responsibilities. When performing optional dust clearance sampling under WAC 365-230-330, a certified dust sampling technician:

(a) Must collect dust samples in accordance with WAC 365-230-200 (8)(f)(i) through (iv), must send the collected samples to a laboratory recognized under TSCA section 405(b) (National Lead Laboratory Accreditation Program (NLLAP)) as found under WAC 365-230-200 (7)(h), and must compare the results to the clearance levels in dust less than 40 $\mu\text{g}/\text{ft}^2$ on floors, less than 250 $\mu\text{g}/\text{ft}^2$ on windowsills, and less than 400 $\mu\text{g}/\text{ft}^2$ on troughs.

(b) Must have with them at the worksite copies of their initial course completion certificate and their most recent refresher course completion certificate.