



RULE-MAKING ORDER

(RCW 34.05.360)

CR-103 (7/22/01)

Agency: Community, Trade & Economic Development

- Permanent Rule
- Emergency Rule
- Expedited Rule Making

(1) Date of adoption: March 24, 2004

(2) Purpose: Rules are necessary to implement the mandates of RCW 70.103 to establish a state lead-based paint program. Specifically, the rule will: establish 1) criteria and procedures for accreditation of lead-based paint training courses and for certification of lead-based paint contractors; 2) work practice standards for the conduct of regulated lead-based paint activities; and 3) enforcement protocols.

(3) Citation of existing rules affected by this order:

- Repealed:
- Amended:
- Suspended:

(4) Statutory authority for adoption: RCW 70.103.0030(2)

Other Authority: RCW 70.103.020; RCW 70.103.030; RCW 70.103.040; RCW 70.103.050; RCW 70.103.060; RCW 70.103.070; RCW 70.103.080; RCW 70.103.090

PERMANENT RULE ONLY (Including Expedited Rule Making)

Adopted under notice filed as WSR 04-05-062 on 02-17-04 (date).

Describe any changes other than editing from proposed to adopted version: 0020: 250ppm soil lead standard adopted for all portions of yard; course completion certificates valid for six months; 0040: Experience requirements for training manager clarified; eliminate application processing timeline; 0060: Eliminate application processing timeline (see Pg. 3)

EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

- (a) That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- (b) That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

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

- Yes No If Yes, explain:

(6) Effective date of rule:

Permanent Rules

- 31 days after filing
- Other (specify) _____ *

Emergency Rules

- Immediately
- Later (specify) _____

*If less than 31 days after filing, specific finding in 5.3 under RCW 34.05.380(3) is required

Name (Type or Print)

Stephen H. Buxbaum

Signature

Title

Assistant Director, CTED

Date

April 29, 2004

CODE REVISER USE ONLY

SEARCHED _____
 SERIALIZED _____
 INDEXED _____
 FILED _____
 APR 29 2004
 2:07
 04.10.037

(COMPLETE REVERSE SIDE)

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	<u>32</u>	Amended	_____	Repealed	_____

The number of sections adopted at the request of a nongovernmental entity:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in the agency's own initiative:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	_____	Repealed	_____

Continued from Page 1:

Describe any changes other than editing from proposed to adopted version: 0090: Identification of reports that must be submitted; 130: Applicants from out of state are required to complete a refresher course in the appropriate discipline; written reciprocity agreement required for acceptance of out-of-state training. 134: Clarification of eligibility requirements for Project Designer; 140: Expiration date of valid prior license recognized; change effective date for certification based on prior licensing to 120 days after date of self-certification of state lead-based paint program; 170: Eliminate application processing timeline; requirements regarding contractors who use certified contractors eliminated; insurance and bonding requirements changed; 200: Identify reports that must be submitted to the department; 230: Clarify inspection protocol; 270: Eliminate specific lead-related references to WAC's of other state agencies.

Chapter 365-230 WAC

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

NEW SECTION

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, 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 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 in target housing and child occupied facilities.

(d) These regulations establish work practice standards for the performance of lead-based paint inspection, risk assessment, and abatement activities for individuals and firms and will require that only certified individuals and firms perform lead-based paint activities.

(3) Scope.

(a) These rules apply to all individuals and firms that are engaged in lead-based paint activities as defined in these regulations, (WAC 365-230-200) 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 be performed only by certified individuals and firms.

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

(d) These rules prescribe work practice standards for the abatement of lead-based paint hazards and for the performance of lead-based paint inspection and risk assessment, 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 lead-based paint activity courses in any of the following disciplines: Inspector, risk assessor, supervisor, project designer, and abatement worker. A training program accredited in a discipline may also seek accreditation to offer refresher courses for the discipline.

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

NEW SECTION

WAC 365-230-015 Adoption by reference. All standards, listings and publications referred to in these rules are by those references made a part of these rules as though fully set forth.

NEW SECTION

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: 360-725-2949
- (3) Fax number: 360-586-5880
- (4) Website: www.cted.wa.gov

NEW SECTION

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 encapsulation of lead-based paint, 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.

(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.

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

(7) "Administrator" means the director of the department of community, trade and economic development, or the director's designee.

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

(9) "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).

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

(11) "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; 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.

(12) "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.

(13) "Chewable surface" means an interior or exterior surface painted with lead-based paint that a young child can mouth or chew. A chewable surface is the same as an "accessible surface" as defined in 42 U.S.C. 4851b(2). Hard metal substrates and other materials that cannot be dented by the bite of a young child are not considered chewable.

(14) "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.

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

(16) "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.

(17) "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.

(18) "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.

(19) "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.

(20) "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.

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

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

(23) "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.

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

(25) "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.

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

(27) "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.

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

(29) "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.

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

(31) "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.

(32) "Documented methodologies" are written methods or protocols used to sample for the presence of lead in paint, dust, and soil as recommended in U.S. Department of Housing and Urban Development *"Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing,"* revised, October, 1997; *"Agency Guidance on Residential Lead-Based Paint, Lead-Contaminated Dust, and Lead-Contaminated Soil,"* September, 1995; and *"EPA Residential*

Sampling for Lead: *Protocols for Dust and Soil Sampling*," March 1995. These materials can be downloaded from the following website: www.epa.gov/lead or www.hud.gov/lead/offices.

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

(34) "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.

(35) "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.

(36) "Encapsulant" means a 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.

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

(38) "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.

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

(40) "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.

(41) "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.

(42) "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.

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

(44) "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 as well as any other skill taught in a training course.

(45) "Hazardous waste" means any waste as defined in chapter 173-303 WAC.

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

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

(48) "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.

(49) "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 perform clearance testing. An inspector may cite the applicable standard for the medium being sampled, but may not evaluate the results or assess risk.

(50) "Interactive/participatory teaching methods" mean instruction which consists of active participation of the students, such as brainstorming, hands-on training, demonstration and practice, small group problem solving, learning games, discussions, risk mapping, field visits, walk-throughs, problem posing, group work assignments, homework review sessions, question-and-answer periods, skits, or role-playing sessions. Lecture is not considered an interactive/participatory teaching method.

(51) "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.

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

(53) "Job tasks" mean the specific activities performed in the context of work.

(54) "Lead abatement professional" means an individual certified to conduct lead-based paint activities under WAC 365-230-200 as a worker, supervisor, project designer, inspector, or risk assessor.

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

(56) "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.

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

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

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

(60) "Lead hazard standard" means the amount of lead the department considers to be a hazard in target housing or child-occupied facilities. The standards are: Greater than 40 micrograms of lead in dust per square foot on floors, or greater than 250 micrograms of lead in dust per square foot on interior

window sills, or 250 parts per million of lead in bare soil.

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

(62) "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.

(63) "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.

(64) "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.

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

(66) "Paint in poor condition" means more than ten square feet of deteriorated paint on exterior components with large surface areas; or more than two square feet of deteriorated paint on interior components with large surface areas (e.g., walls, ceilings, floors, doors); or more than ten percent of the total surface area of the component is deteriorated on interior or exterior components with small surface areas (window sills, baseboards, soffits, trim).

(67) "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.

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

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

(70) "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.

(71) "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.

(72) "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.

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

(74) "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.

(75) "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 lead abatement projects in target housing and child-occupied facilities, including occupant notification and protection, cleanup and clearance, and abatement reports.

(76) "Recognized laboratory" means an environmental laboratory recognized by EPA pursuant in accordance with the National Lead Laboratory Accreditation Program (NLLAP) as being capable of performing an analysis for lead compounds in paint, soil, and dust.

(77) "Refresher training course" means a minimum seven-hour training course (or four hours for project designer) accredited by the department to update an individual's knowledge and skills in the discipline in which training is offered.

(78) "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.

(79) "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.

(80) "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.

(81) "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.

(82) "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.

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

(84) "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) based on soil samples.

(85) "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

(86) "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.

(87) "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.

(88) "These rules" means Washington Administrative Code (WAC) 365-230-010 through 365-230-270.

(89) "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.

(90) "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.

(91) "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.

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

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

(94) "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 $[60+(3*100)+(4*110)]/(1+3+4)$.

(95) "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."

(96) "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

(97) "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.

NEW SECTION

WAC 365-230-030 Accreditation required. (1) No person shall provide, offer, or claim to provide an accredited lead-based paint activities course unless the person has received accreditation from the department.

(2) Training courses may be accredited for the initial inspector, risk assessor, 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 training courses for lead-based paint discipline courses.

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

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

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

(c) Comply with accreditation application and procedural requirements.

NEW SECTION

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 training courses:

(1) Submission of a completed application for course accreditation or renewal. 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) List of course(s) for which accreditation is being applied.

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

(d) 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, or other materials to be used for the course.

(e) Copy of the test blueprint describing the portion of test questions devoted to each major course topic.

(f) Description of the facilities and equipment to be used for lecture and hands-on training, respectively.

(g) Description of the activities and procedures that will be used for conducting the assessment of hands-on skills for each

course.

(h) 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:

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

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

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

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

NEW SECTION

WAC 365-230-040 Requirements for the accreditation of training programs. For a training program to obtain accreditation from department to offer lead-based paint activities 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; 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.

(7) If a training program uses EPA-developed model training materials, or training materials approved by a state or Indian tribe that has been authorized by EPA under 40 CFR 745.324 to develop its initial training course materials, the training manager shall include a statement certifying that, as well.

(8) If the initial training course materials are not based on

EPA-developed model training materials or training materials approved by an authorized state or Indian tribe, the training program's application for accreditation shall include:

(a) A copy of the student and instructor manuals to be used for each course.

(b) A copy of the course agenda for each course.

(9) All initial training courses shall include in their application for accreditation the following:

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

(b) A copy of the course test blueprint for each course.

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

(d) A copy of the quality control plan as described in WAC 365-230-040.

(10) If a training program meets the requirements listed in this section, then the department shall approve the application for accreditation. 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 accreditation. The department may also request additional materials retained by the training provider described under WAC 365-230-090. If an initial training program's application is disapproved, the program may reapply for accreditation at any time.

(11) 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.

(12) 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.

(13) 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.

(14) The training program shall offer courses that teach the work practice standards for conducting lead-based paint activities contained in WAC 365-230-200, and 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 they are responsible for conducting.

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

(16) 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.

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

NEW SECTION

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.*

NEW SECTION

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. To obtain department accreditation to offer refresher training, a training program must meet the following minimum requirements:

(1) Each refresher course shall review the curriculum topics of the full-length courses listed under 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 course, shall last a minimum of eight training hours. The project designer refresher course 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.

(4) A training program may apply for accreditation of a refresher course concurrently with its application for accreditation of the corresponding training course as described in WAC 365-230-035. If so, the department shall use the approval procedure described in WAC 365-230-035. In addition, the minimum requirements contained in WAC 365-230-040 (except for the training hour requirements of refresher training courses). For these purposes, the hourly training requirements of WAC 365-230-060 shall also apply.

(5) A training program seeking accreditation to offer refresher training courses only shall submit a written application to the department containing the following information:

(a) The refresher training program's name, address, and telephone number.

(b) A list of courses for which it is applying for accreditation.

(c) A statement signed by the training program manager certifying that the refresher training program meets the minimum requirements established in the WAC 365-230-040 except for the training hour requirements of refresher training courses. If a training program uses EPA-developed model training materials, or training materials approved by a state or Indian tribe that has been authorized by EPA under 40 CFR 745.324 to develop its refresher training course materials, the training manager shall include a statement certifying that, as well.

(d) If the refresher training course materials are not based on EPA-developed model training materials or training materials approved by an authorized state or Indian tribe, the training program's application for accreditation shall include:

(i) A copy of the student and instructor manuals to be used for each course.

(ii) A copy of the course agenda for each course.

(e) All refresher training programs shall include in their application for accreditation the following:

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

(ii) A copy of the course test blueprint for each course.

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

(iv) A copy of the quality control plan as described in WAC 365-230-040.

(f) The requirements of WAC 365-230-040 (1) through (5), and (7) through (12) apply to refresher training providers.

(g) If a refresher training program meets the requirements listed in this paragraph, then the department shall approve the application for accreditation. In the case of approval, a certificate of accreditation shall be sent to the applicant. 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 accreditation. The department may also request additional materials retained by the refresher training program described under WAC 365-230-090. If a refresher training program's application is disapproved, the program may reapply for accreditation at any time.

NEW SECTION

WAC 365-230-070 Reaccreditation of training programs. (1) Unless reaccredited, a training program's accreditation for both initial and refresher training courses shall expire four years after the date of issuance of the course accreditation.

(2) A training provider seeking reaccreditation shall submit an application to the department no later than one hundred eighty days before its accreditation expires. If a training program does not submit its application by that date, the department cannot guarantee that the program will be reaccredited before the end of the accreditation period.

(3) The training program's application for reaccreditation shall contain:

(a) The training program's name, address, and telephone number.

(b) A list of courses for which it is applying for reaccreditation.

(c) A description of any changes to the training facility, equipment or course materials since its last application was approved that adversely affects the students' ability to learn or that affects more than thirty minutes of a training hour.

(d) A statement signed by the program manager stating:

(i) That the training program complies at all times with all the Requirements for the accreditation of training programs (WAC 365-230-040) and Requirements for the accreditation of refresher training programs (WAC 365-230-035), as applicable; and

(ii) The training program recordkeeping (WAC 365-230-090) and Notification requirements (WAC 365-230-100) shall be followed.

NEW SECTION

WAC 365-230-080 Approval/disapproval of application for accreditation or renewal of accreditation. The department may disapprove an application for accreditation or renewal of an initial or refresher training course for any of the following reasons:

(1) Failure to complete application in accordance with these

rules, or department policy or instructions.

(2) Failure to meet Training curriculum requirements (WAC 365-230-050) as set forth in these rules.

(3) Failure to meet Requirements for accreditation of training programs (WAC 365-230-040) as set forth in these rules.

(4) Failure to meet the Requirements for the accreditation of refresher training programs (WAC 365-230-060) as set forth in these rules.

(5) 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 accreditation. The department may also request additional materials retained by the training provider described under the Training program recordkeeping requirements (WAC 365-230-090). If a training provider's application for accreditation of an initial or refresher training course is disapproved, the provider may reapply for accreditation at any time.

NEW SECTION

WAC 365-230-090 Training program recordkeeping requirements.

(1) Accredited training programs shall maintain, and make available to the department if requested, the following records:

(a) All documents specified in the Requirements of the accreditation of training programs (WAC 365-230-040) as set forth in these rules that demonstrate the qualifications for training manager and principal instructors.

(b) Current curriculum, course materials and documents reflecting any changes made to these materials.

(c) The course test blueprint.

(d) Information regarding how the hands-on assessment is conducted including, but not limited to, who conducts the assessment, how skills are graded, what facilities are used, and the pass/fail rate.

(e) The quality control plan as described in the Requirements of the accreditation of training programs (WAC 365-230-040) as set forth in these rules.

(f) Results of student's hands-on skills assessments and course tests, and a copy of each student's course completion certificate.

(g) Any other material submitted as part of the program's application for accreditation.

(2) The training provider shall retain these records at the address specified on the training provider's accreditation application (or as modified as the result of notification of change of address) shall be retained a minimum of three years and six months.

(3) A training provider shall notify the department in writing within thirty days of changing the address specified on its training program accreditation, or transferring the records from that address.

(4) Accreditation is transferable in the case of acquisition of the accredited training provider by another entity. The new entity must notify the department within thirty days of the change of ownership and any other changes to information included in the original application.

(5) A training provider shall submit to the department the two notifications described in WAC 365-230-100.

NEW SECTION

WAC 365-230-100 Notification of lead-based paint training activity. (1) The training manager shall provide notification of lead-based paint activities 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 business days prior to offering any lead-based paint activities course.

(b) The training manager shall provide the department updated notice when lead-based paint activities courses will begin on a date other than the one specified in the original notification, as follows:

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

(ii) For lead-based paint activities 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 courses at least ten 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 of the following methods: Written notice, or by e-mail. 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 course schedules can be accomplished by using either the sample form titled "Lead-Based Paint Activities Training Course Schedule" 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 360-725-2949, or on the internet at <http://www.cted.wa.gov>

(g) Lead-based paint activities 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 courses without first notifying the agency of such activities in accordance with the requirements of this paragraph.

(2) The training manager shall provide notification following completion of lead-based paint activities courses.

(a) The training manager shall provide the department with notice after the completion of any lead-based paint activities course that shall be received by the department no later than twenty 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/refresher).

(iii) Date(s) of training.

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

(A) Name.

(B) Address.

(C) Social Security number.

(D) Course completion certificate number.

(E) Student test score.

(v) Training manager's name and signature.

(c) Notification shall be accomplished using any of the following methods: Written notice, or by e-mail. 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 courses can be accomplished by

using either the sample form titled "Lead-Based Paint Activities Training Course Follow-up" 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 360-725-2949, or on the internet at <http://www.cted.gov>

NEW SECTION

WAC 365-230-110 Reciprocity. The department will accept for purposes of certification, valid course completion certificates issued by an accredited training program duly accredited by either the Environmental Protection Agency (EPA) or an EPA state or tribal lead-based paint program authorized by EPA according to 40 CFR 745.324.

(1) The EPA state or tribal lead-based paint program shall accept, by written agreement, for purposes of certification the valid course completion certificates issued by a training program duly accredited according to these rules.

(2) The department may withdraw reciprocity from any accredited training program following a finding by the department, in its sole discretion, that the training program does not meet the standards of these rules.

NEW SECTION

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.

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

NEW SECTION

WAC 365-230-130 Certification of individuals. (1)

Individuals seeking certification by the department to engage in lead-based paint activities must either:

(a) Submit to the department an application demonstrating that they meet the requirements established in these rules for the inspector, risk assessor, supervisor, project designer or worker for the particular discipline for which certification is sought; or

(b) Submit to the department an application with a copy of a valid lead-based paint activities certification (or equivalent) from a state or tribal program that has been authorized by EPA pursuant to 40 CFR 745.324.

(i) Applicants for certification based on certification from another state or tribal program must complete a refresher course in the discipline accredited by the department.

(ii) Certifications from another state or tribe will be recognized if there is a written reciprocity agreement between the department and that state or tribe.

(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) has not been certified by the department within one hundred twenty days of the effective date of these rules.

NEW SECTION

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) The following documents shall be recognized by the department as evidence of meeting the experience or education requirements described in this section of these rules:

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

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

(c) Course completion certificates from lead-specific or other related training courses, issued by accredited training programs, as evidence of meeting the training requirements.

(3) In order 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/or experience

requirements described in this section.

(4) After successfully completing the appropriate training courses and application requirements and meeting any other qualifications as described in inspector, risk assessor and supervisor section of these rules, an individual shall be certified by the department.

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

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

(7) 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.

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

NEW SECTION

WAC 365-230-134 Abatement worker and project designers. (1) To become certified by the department as an abatement worker or project designer, pursuant to the certification of individuals section of these rules, 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 following additional experience and/or education requirements:

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

(ii) Project designers.

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

(B) Successful completion of an accredited training course for project designers; and

(C) Bachelor's degree in engineering, architecture, or a related profession, and one year of experience in building construction and design or a related field; or

(D) Three years of experience as an AHERA-certified project designer; or

(E) Four years experience as an AHERA-certified supervisor or as a certified lead-based paint abatement supervisor; and

(F) Pass the supervisor or project designer examination administered by the department, the latter being required when available.

(2) The following documents shall be recognized by the

department as evidence of meeting the requirements listed in this paragraph:

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

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

(c) Course completion certificates from lead-specific or other related training courses, issued by accredited training programs, as evidence of meeting the training requirements.

(3) After successfully completing the appropriate training courses and application requirements and meeting any other qualifications as described in abatement worker and project designer section of these rules, an individual shall be certified by the department.

(4) To maintain certification, an individual must be recertified as described in the recertification section of these rules.

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

(6) 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.

(7) Certification shall be nontransferable.

NEW SECTION

WAC 365-230-140 Accreditation and certification based on prior licensing. (1) All current and valid accreditations and certifications issued by the EPA for practice in the state of Washington, and their respective dates of expiration, shall be recognized by the department on the effective date of the self-certification of the state lead-based paint program and for a period not to exceed one hundred twenty days thereafter.

(2) Any accredited or certified person or entity may apply for accreditation or certification without fee on forms available from the department by submitting documentation of current and valid accreditation or certification issued by EPA, as described in subsection (1) of this section.

(3) Persons or entities with accreditations or certifications that expire within one hundred twenty days of the effective date of these rules, and who wish to apply on the basis of prior licensing, as provided for in this section of these rules, must have completed the application process by the expiration date.

(4) Applicants not holding a valid and current accreditation

or certification issued by EPA for practice in the state of Washington must follow the application procedures described in WAC 365-230-150.

(5) Applicants for certification based on prior licensing must submit two, recent passport-size photographs with their application.

NEW SECTION

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:

(a) Documentation of applicant's training, experience, and education including:

(i) Lead-based paint training course completion certificate issued by a department-accredited training provider.

(ii) Documentation of experience must include name and address of employer, name and telephone number of supervisor; or indicate if self-employed. Documentation must also include employment dates, description of specific duties performed, estimated percentage of time associated with conducting inspections and assessing health, safety or environmental hazards. This documentation must be signed by supervisor or employer verifying that the information is true and correct. A self-employed individual must submit a notarized affidavit attesting to the work experience claimed for the purposes of application.

(iii) Evidence of completion of educational requirements under WAC 365-230-130, such as a transcript or diploma, if applicable.

(b) Two current, passport-size photos.

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

(2) A check or money order made out to the department of community, trade, and economic development 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, Lead-Based Paint Program, P.O. Box 42525, Olympia, WA 98504-2525, or electronically at <http://www.cted.wa.gov>

(4) The following documents shall be recognized by the department as evidence of meeting the application requirements listed in this section:

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

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

(c) Course completion certificates from lead-specific or other related training courses, issued by accredited training programs,

as evidence of meeting the training requirements.

(5) For the purposes of application, photocopies of original documents are acceptable.

NEW SECTION

WAC 365-230-160 Recertification. (1) To maintain certification in a particular 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, Lead-Based Paint Program, P.O. Box 42525, Olympia, WA 98504-2525, or electronically at <http://www.cted.wa.gov>

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

NEW SECTION

WAC 365-230-170 Certification of firms. (1) All firms which perform or offer to perform any of the lead-based paint activities described in WAC 365-230-200 shall be certified by the department no later than one hundred twenty days after the date of self-certification of the state lead-based paint program.

(2) A firm seeking certification shall submit to the department an application provided by the department and a letter

attesting that the firm shall only employ appropriately certified employees to conduct lead-based paint activities, and that the firm and its employees shall follow the work practice standards set forth in WAC 365-230-200 for conducting lead-based paint activities.

(3) The application for a state-licensed contractor seeking certification shall include documentation that the firm meets the current minimum requirements of the department of labor and industries regarding a surety bond and insurance.

(4) The application of a firm that is not a state-licensed contractor shall include documentation that the firm has in force a business, e.g., liability, errors and omissions, insurance policy in the minimum amount of five hundred thousand dollars.

(5) A certified firm may not conduct lead-based paint activities, as described in WAC 365-230-200, if, at any time, it does not have in force the minimum bonding or insurance coverage described in this section.

(6) The firm shall maintain all records pursuant to WAC 365-230-200.

(7) 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 of any changes to information submitted on the original application.

NEW SECTION

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 in the amount as described in WAC 365-230-260.

NEW SECTION

WAC 365-230-190 Approval or disapproval of 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 satisfy training requirements;

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

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

(f) History of revocation of a certificate;

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

(h) Permitting the duplication or use of the individual's own certificate by another;

(i) Having been subject to a final administrative order imposing a civil penalty or a criminal conviction for engaging in a prohibited act under 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 365-230-200(8). If an individual or firm's application for certification has been disapproved, the program may reapply for certification at any time.

NEW SECTION

WAC 365-230-200 Work practice standards. (1) When performing any lead-based paint activity described by a certified and licensed individual as an inspection, lead hazard screen, risk assessment or abatement, a certified and licensed person must perform that activity in compliance with these rules, documented methodologies, procedures and work practice standards.

(2) Inspection. An inspection shall be conducted only by a person certified by the department as an inspector or risk assessor.

(a) Locations shall be selected according to documented methodologies and tested for the presence of lead as follows:

(i) In target housing and child-occupied facilities, each component with a distinct painting history shall be tested, except those components determined to have been replaced after 1978 or 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 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 and/or risk assessor conducting testing;

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

(viii) Each testing method and device and/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.

(3) 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, to be in poor condition 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 (4) 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.

(4) Risk assessment. A risk assessment of target housing or child-occupied facility shall be conducted only by a person certified by the department. 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 subsection (4) of this section 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.

(5) Abatement. An abatement shall be conducted only by a person certified by the department. Abatement shall be conducted as follows:

(a) A certified and licensed 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) A certified and licensed project designer is required for each abatement project that:

(i) Consists of ten or more target housing units built prior to 1960; or

(ii) Consists of twenty or more target housing units built during or after 1960; or

(iii) Consists of twenty-five thousand square feet or more of target housing.

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

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

(e) A written occupant protection plan shall be developed prior to all abatement projects, be prepared by a certified and licensed 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.

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

(g) 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.

(h) 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 than 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 as defined in these rules.

(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 (5)(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:

(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.

(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 (5)(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.

(1) 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.

(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 cleanup 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.

(6) Sampling. Any paint chip, dust, or soil samples collected

pursuant to this section shall be collected by a certified and licensed inspector or risk assessor. Such samples shall be analyzed by a laboratory accredited under the National Lead Laboratory Accreditation Program (NLLAP).

(7) 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.

(8) 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:

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

Telephone number: 360-725-2949

Fax number: 360-586-5880

Website: www.cted.wa.gov

NEW SECTION

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 or equal to or in excess of 0.5% 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 parts per million.

NEW SECTION

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 ten 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 ten 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 at least two business days 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 ten 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 at least two business days prior to the project start date.

(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, department certification number, and signature of the certified supervisor or project designer.

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

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

(7) Notification shall be accomplished using any of the following methods: Written notice, or by e-mail. 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 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 via phone 360-725-2941 or fax 360-588-5966, or on the internet at <http://www.cted.gov>

(8) 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, in the event of changes to the original 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.

NEW SECTION

WAC 365-230-230 Inspections. (1) The director or the director's designee is authorized to inspect, without cost, and at reasonable times and, when feasible, with at least twenty-four hours prior notification:

(a) Premises or facilities where those engaged in training for lead-based paint activities conduct business; and

(b) The business records of, and take samples at, the businesses accredited or certified under this chapter to conduct lead-based paint training or activities.

Any accredited training program or any firm or individual certified under this chapter that denies access to the department for the purposes of this subsection is subject to deaccreditation or decertification.

(2) The director or the director's designee is authorized to inspect premises or facilities where violations may occur concerning lead-based paint activities, as defined under WAC 365-230-020, at reasonable times and, when feasible, with at least forty-eight hours prior notification of the inspection.

(3) Prior to receipt of federal lead-based paint abatement funding, all premises or facility owners shall be notified by any entity that receives and disburses the federal funds that an inspection may be conducted. If a premises or facility owner does not wish to have an inspection conducted, that owner is not eligible to receive lead-based paint abatement funding.

NEW SECTION

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 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.

NEW SECTION

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

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

Second violation, one thousand dollars and/or twenty days

suspension.

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

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

Fifth violation, 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 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.

NEW SECTION

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

(1) Firms, inspectors, risk assessors, 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.

NEW SECTION

WAC 365-230-270 Other state regulations concerning lead. The following Washington state regulations may apply to contractors working with lead. Consult the appropriate agency for more information regarding specific requirements:

(1) Department of ecology or any successor agency.

(2) Department of labor and industries or any successor

agency.