

§ 745.326

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(i) Risk assessments are conducted only by individuals certified by the appropriate State or Tribal authority to conduct risk assessments.

(ii) Risk assessments are conducted in a way that identifies and reports the presence of lead-based paint hazards.

(iii) Risk assessments consist of, at least:

(A) An assessment, including a visual inspection, of the physical characteristics of the residential dwelling or child-occupied facility;

(B) Environmental sampling for lead in paint, dust, and soil;

(C) Environmental sampling requirements for lead in paint, dust, and soil that allow for comparison to the standards for lead-based paint hazards established or revised by the State or Indian Tribe pursuant to paragraph (e) of this section; and

(D) A determination of the presence of lead-based paint hazards made by comparing the results of visual inspection and environmental sampling to the standards for lead-based paint hazards established or revised by the State or Indian Tribe pursuant to paragraph (e) of this section.

(iv) The program elements required in paragraph (d)(2)(iii)(C) and (d)(2)(iii)(D) of this section shall be adopted in accordance with the schedule for the demonstration required in paragraph (e) of this section.

(v) The risk assessor develops a report that clearly presents the results of the assessment and recommendations for the control or elimination of all identified hazards.

(vi) The certified risk assessor or the firm retains the appropriate records.

(3) The work practice standards for abatement must require that:

(i) Abatements are conducted only by individuals certified by the appropriate State or Tribal authority to conduct or supervise abatements.

(ii) Abatements permanently eliminate lead-based paint hazards and are conducted in a way that does not increase the hazards of lead-based paint to the occupants of the dwelling or child-occupied facility.

(iii) Abatements include post-abatement lead in dust clearance sampling and conformance with clearance levels

established or adopted by the State or Indian Tribe.

(iv) The abatement contractor develops a report that describes areas of the residential dwelling or child-occupied facility abated and the techniques employed.

(v) The certified abatement contractor or the firm retains appropriate records.

(e) The State or Indian Tribe must demonstrate that it has standards for identifying lead-based paint hazards and clearance standards for dust, that are at least as protective as the standards in §745.227 as amended on February 5, 2001. A State or Indian Tribe with such a section 402 program approved before February 5, 2003 shall make this demonstration no later than the first report submitted pursuant to §745.324(h) on or after February 5, 2003. A State or Indian Tribe with such a program submitted but not approved before February 5, 2003 may make this demonstration by amending its application or in its first report submitted pursuant to §745.324(h). A State or Indian Tribe submitting its program on or after February 5, 2003 shall make this demonstration in its application.

[61 FR 45825, Aug. 29, 1996, as amended at 66 FR 1240, Jan. 5, 2001]

**§ 745.326 Pre-renovation notification: State and Tribal program requirements.**

(a) *Program elements.* To receive authorization from EPA, a State or Tribal program must contain the following program elements for renovation disclosure:

(1) Procedures and requirements for the distribution of lead hazard information to owners and occupants of target housing before renovations for compensation; and

(2) An approved lead hazard information pamphlet meeting the requirements of section 406 of TSCA, as determined by EPA. EPA will provide States or Tribes with guidance on what is necessary for a State or Tribal pamphlet approval application.

(b) *Program to distribute lead information.* To be considered at least as protective as the Federal requirements for pre-renovation distribution of information, the State or Indian Tribe must

have procedures and requirements that establish:

(1) Clear standards for identifying home improvement activities that trigger the pamphlet distribution requirements; and

(2) Procedures for distributing the lead hazard information to owners and occupants of the housing prior to renovation activities.

(c) *Distribution of acceptable lead hazard information.* To be considered at least as protective as the Federal requirements for the distribution of a lead hazard information pamphlet, the State or Indian Tribe must either:

(1) Distribute the lead hazard information pamphlet developed by EPA under section 406(a) of TSCA, titled *Protect Your Family from Lead in Your Home*; or

(2) Distribute an alternate pamphlet or package of lead hazard information that has been submitted by the State or Tribe, reviewed by EPA, and approved by EPA for use in that State or Tribe. Such information must meet the content requirements prescribed by section 406(a) of TSCA, and be in a format that is readable to the diverse audience of housing owners and occupants in that State or Tribe.

**§ 745.327 State or Indian Tribal lead-based paint compliance and enforcement programs.**

(a) *Approval of compliance and enforcement programs.* A State or Indian Tribe seeking authorization of a lead-based paint program can apply for and receive either interim or final approval of the compliance and enforcement program portion of its lead-based paint program. Indian Tribes are not required to exercise criminal enforcement jurisdiction as a condition for program authorization.

(1) *Interim approval.* Interim approval of the compliance and enforcement program portion of the State or Tribal lead-based paint program may be granted by EPA only once, and subject to a specific expiration date.

(i) To be considered adequate for purposes of obtaining interim approval for the compliance and enforcement program portion of a State or Tribal lead-based paint program, a State or Indian

Tribe must, in its application described at § 745.324(a):

(A) Demonstrate it has the legal authority and ability to immediately implement the elements in paragraph (b) of this section. This demonstration shall include a statement that the State or Indian Tribe, during the interim approval period, shall carry out a level of compliance monitoring and enforcement necessary to ensure that the State or Indian Tribe addresses any significant risks posed by noncompliance with lead-based paint activity requirements.

(B) Present a plan with time frames identified for implementing in the field each element in paragraph (c) of this section. All elements of paragraph (c) of this section must be fully implemented no later than 3 years from the date of EPA's interim approval of the compliance and enforcement program portion of a State or Tribal lead-based paint program. A statement of resources must be included in the State or Tribal plan which identifies what resources the State or Indian Tribe intends to devote to the administration of its lead-based paint compliance and enforcement program.

(C) Agree to submit to EPA the Summary on Progress and Performance of lead-based paint compliance and enforcement activities as described at paragraph (d) of this section.

(ii) Any interim approval granted by EPA for the compliance and enforcement program portion of a State or Tribal lead-based paint program will expire no later than 3 years from the date of EPA's interim approval. One hundred and eighty days prior to this expiration date, a State or Indian Tribe shall apply to EPA for final approval of the compliance and enforcement program portion of a State or Tribal lead-based paint program. Final approval shall be given to any State or Indian Tribe which has in place all of the elements of paragraphs (b), (c), and (d) of this section. If a State or Indian Tribe does not receive final approval for the compliance and enforcement program portion of a State or Tribal lead-based paint program by the date 3 years after the date of EPA's interim approval, the Administrator shall, by such date, initiate the process to withdraw the State