

§ 745.228

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(g) *Composite dust sampling.* Composite dust sampling may only be conducted in the situations specified in paragraphs (c) through (e) of this section. If such sampling is conducted, the following conditions shall apply:

(1) Composite dust samples shall consist of at least two subsamples;

(2) Every component that is being tested shall be included in the sampling; and

(3) Composite dust samples shall not consist of subsamples from more than one type of component.

(h) *Determinations.* (1) Lead-based paint is present:

(i) 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

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

(2) A paint-lead hazard is present:

(i) On any 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 hazard levels identified in § 745.227(b);

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

(iii) 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 its door frame); and

(iv) 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:

(i) 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 are equal to or greater than 40 µg/ft<sup>2</sup> for floors and 250 µg/ft<sup>2</sup> for interior window sills, respectively;

(ii) On floors or interior window sills in an unsampled residential dwelling in a multi-family 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

(iii) On floors or interior window sills in an unsampled common area in a multi-family 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:

(i) In a play area when the soil-lead concentration from a composite play area sample of bare soil is equal to or greater than 400 parts per million; or

(ii) In the rest of the yard when the arithmetic mean lead concentration from a composite sample (or arithmetic mean of composite samples) of bare soil from the rest of the yard (i.e., non-play areas) for each residential building on a property is equal to or greater than 1,200 parts per million.

(i) *Recordkeeping.* All reports or plans required in this section shall be maintained by the certified firm or individual who prepared the report for no fewer than 3 years. The certified firm or individual also shall provide copies of these reports to the building owner who contracted for its services.

[61 FR 45813, Aug. 29, 1996, as amended at 64 FR 42852, Aug. 6, 1999; 66 FR 1239, Jan. 5, 2001; 69 FR 18496, Apr. 8, 2004]

**§ 745.228 Accreditation of training programs: public and commercial buildings, bridges and superstructures. [Reserved]**

**§ 745.229 Certification of individuals and firms engaged in lead-based paint activities: public and commercial buildings, bridges and superstructures. [Reserved]**

**§ 745.230 Work practice standards for conducting lead-based paint activities: public and commercial buildings, bridges and superstructures. [Reserved]**

**§ 745.233 Lead-based paint activities requirements.**

Lead-based paint activities, as defined in this part, shall only be conducted according to the procedures and

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work practice standards contained in § 745.227 of this subpart. No individual or firm may offer to perform or perform any lead-based paint activity as defined in this part, unless certified to perform that activity according to the procedures in § 745.226.

**§ 745.235 Enforcement.**

(a) Failure or refusal to comply with any requirement of §§ 745.225, 745.226, 745.227, or 745.233 is a prohibited act under sections 15 and 409 of TSCA (15 U.S.C. 2614, 2689).

(b) Failure or refusal to establish, maintain, provide, copy, or permit access to records or reports as required by §§ 745.225, 745.226, or 745.227 is a prohibited act under sections 15 and 409 of TSCA (15 U.S.C. 2614, 2689).

(c) Failure or refusal to permit entry or inspection as required by § 745.237 and section 11 of TSCA (15 U.S.C. 2610) is a prohibited act under sections 15 and 409 of TSCA (15 U.S.C. 2614, 2689).

(d) In addition to the above, any individual or firm that performs any of the following acts shall be deemed to have committed a prohibited act under sections 15 and 409 of TSCA (15 U.S.C. 2614, 2689). These include the following:

(i) Obtaining certification through fraudulent representation;

(ii) Failing to obtain certification from EPA and performing work requiring certification at a job site; or

(iii) Fraudulently obtaining certification and engaging in any lead-based paint activities requiring certification.

(e) Violators are subject to civil and criminal sanctions pursuant to section 16 of TSCA (15 U.S.C. 2615) for each violation.

**§ 745.237 Inspections.**

EPA may conduct reasonable inspections pursuant to the provisions of section 11 of TSCA (15 U.S.C. 2610) to ensure compliance with this subpart.

**§ 745.238 Fees for accreditation and certification of lead-based paint activities.**

(a) *Purpose.* To establish and impose fees for certified individuals and firms engaged in lead-based paint activities and persons operating accredited training programs under section 402(a) of the Toxic Substances Control Act (TSCA).

(b) *Persons who must pay fees.* Fees in accordance with paragraph (c) of this section must be paid by:

(1) *Training programs.* (i) All non-exempt training programs applying to EPA for the accreditation and re-accreditation of training programs in one or more of the following disciplines: inspector, risk assessor, supervisor, project designer, abatement worker.

(ii) *Exemptions.* No fee shall be imposed on any training program operated by a State, federally recognized Indian Tribe, local government, or non-profit organization. This exemption does not apply to the certification of firms or individuals.

(2) *Firms and individuals.* All firms and individuals seeking certification and re-certification from EPA to engage in lead-based paint activities in one or more of the following disciplines: inspector, risk assessor, supervisor, project designer, abatement worker.

(c) *Fee amounts—*(1) *Certification and accreditation fees.* Initial and renewal certification and accreditation fees are specified in the following table:

**CERTIFICATION AND ACCREDITATION FEE LEVELS**

Training Program	Accreditation <sup>1</sup>	Re-accreditation <sup>1</sup> [every 4 years, see 40 CFR 745.225(f)(1) for details]
Initial Course		
Inspector	\$2,500	\$1,600
Risk assessor	\$1,760	\$1,150
Supervisor	\$3,250	\$2,050
Worker	\$1,760	\$1,150
Project designer	\$1,010	\$710
Refresher Course		
Inspector	\$1,010	\$710
Risk assessor	\$1,010	\$710
Supervisor	\$1,010	\$710