

Environmental Protection Agency

§ 745.238

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 ¹	Re-accreditation ¹ [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

CERTIFICATION AND ACCREDITATION FEE LEVELS—Continued

Training Program	Accreditation ¹	Re-accreditation ¹ [every 4 years, see 40 CFR 745.225(f)(1) for details]
Worker Project designer	\$1,010 \$640	\$710 \$490
Lead-based Paint Activities-Individual	Certification ¹	Re-certification ¹ [every 3 or 5 years, see 40 CFR 745.226(e)(1) for details]
Inspector	\$400	\$350
Risk assessor	\$520	\$420
Supervisor	\$470	\$390
Worker	\$280	\$240
Project designer	\$470	\$390
Lead-based Paint Activities-Firm	Certification ¹	Certification Renewal ¹ [every 3 years, see 40 CFR 745.226(f)(7) for details]
Firm	\$540	\$430

¹ Fees will be adjusted periodically based on adjustments accounting for changes in participation and operating costs.

(2) *Certification examination fee.* Individuals required to take a certification exam in accordance with § 745.226 will be assessed a fee of \$70 for each exam attempt.

(3) *Multi-jurisdiction registration fee.* An individual, firm, or training program certified or accredited by EPA may wish to provide training or perform lead-based paint activities in additional EPA-administered jurisdictions. A fee of \$35 per discipline will be assessed for each additional EPA-administered jurisdiction in which an individual, firm, or training program applies for certification/re-certification or accreditation/re-accreditation. For purposes of this multi-jurisdiction registration fee, an EPA-administered jurisdiction is either an individual state without an authorized program or all Indian Tribes without authorized programs that are within a given EPA Region.

(4) *Lost identification card or certificate.* A \$15 fee shall be charged for replacement of an identification card or certificate. (See replacement procedure in paragraph (e) of this section.)

(d) *Application/payment procedure—(1) Certification and re-certification in one or more EPA-administered jurisdiction—(i) Individuals.* Submit a completed application (titled “Application for Individuals to Conduct Lead-based Paint Activities”), the materials described at

§ 745.226, and the application fee(s) described in paragraph (c) of this section.

(ii) *Firms.* Submit a completed application (titled “Application for Firms to Conduct Lead-based Paint Activities”), the materials described at § 745.226, and the application fee(s) described in paragraph (c) of this section.

(2) *Accreditation and re-accreditation in one or more EPA-administered jurisdiction.* Submit a completed application (titled “Accreditation Application for Training Programs”), the materials described at § 745.225, and the application fee described in paragraph (c) of this section.

(3) *Application forms.* Application forms and instructions can be obtained from the National Lead Information Center at: 1-800-424-LEAD.

(e) *Identification card replacement and certificate replacement.* (1) Parties seeking identification card or certificate replacement shall complete the applicable portions of the appropriate application in accordance with the instructions provided. The appropriate applications are:

(i) *Individuals.* “Application for Individuals to Conduct Lead-based Paint Activities.”

(ii) *Firms.* “Application for Firms to Conduct Lead-based Paint Activities.”

(iii) *Training programs.* “Accreditation Application for Training Programs.”

Environmental Protection Agency

§ 745.320

(2) Submit application and payment in the amount specified in paragraph (c)(4) of this section in accordance with the instructions provided with the application package.

(f) *Adjustment of fees.* (1) EPA will collect fees reflecting the costs associated with the administration and enforcement of subpart L of this part with the exception of costs associated with the accreditation of training programs operated by a State, federally recognized Indian Tribe, local government, and nonprofit organization. In order to do this, EPA will periodically adjust the fees to reflect changed economic conditions.

(2) The fees will be evaluated based on the cost to administer and enforce the program, and the number of applicants. New fee schedules will be published in the FEDERAL REGISTER.

(g) *Failure to remit a fee.* (1) EPA will not provide certification, re-certification, accreditation, or re-accreditation for any individual, firm, or training program which does not remit fees described in paragraph (c) of this section in accordance with the procedures specified in paragraph (d) of this section.

(2) EPA will not replace identification cards or certificates for any individual, firm, or training program which does not remit fees described in paragraph (c) of this section in accordance with the procedures specified in paragraph (e) of this section.

[64 FR 31098, June 9, 1999]

§ 745.239 Effective dates.

This subpart L shall apply in any State or Indian Country that does not have an authorized program under subpart Q, effective August 31, 1998. In such States or Indian Country:

(a) Training programs shall not provide, offer or claim to provide training or refresher training for certification without accreditation from EPA pursuant to § 745.225 on or after March 1, 1999.

(b) No individual or firm shall perform, offer, or claim to perform lead-based paint activities, as defined in this subpart, without certification from EPA to conduct such activities pursuant to § 745.226 on or after March 1, 2000.

(c) All lead-based paint activities shall be performed pursuant to the work practice standards contained in § 745.227 on or after March 1, 2000.

[61 FR 45813, Aug. 29, 1996, as amended at 64 FR 42852, Aug. 6, 1999]

Subparts M-P [Reserved]

Subpart Q—State and Indian Tribal Programs

SOURCE: 61 FR 45825, Aug. 29, 1996, unless otherwise noted.

§ 745.320 Scope and purpose.

(a) This subpart establishes the requirements that State or Tribal programs must meet for authorization by the Administrator to administer and enforce the standards, regulations, or other requirements established under TSCA section 402 and/or section 406 and establishes the procedures EPA will follow in approving, revising, and withdrawing approval of State or Tribal programs.

(b) For State or Tribal lead-based paint training and certification programs, a State or Indian Tribe may seek authorization to administer and enforce §§ 745.225, 745.226, and 745.227. The provisions of §§ 745.220, 745.223, 745.233, 745.235, 745.237, and 745.239 shall be applicable for the purposes of such program authorization.

(c) For State or Tribal pre-renovation notification programs, a State or Indian Tribe may seek authorization to administer and enforce regulations developed pursuant to TSCA section 406.

(d) A State or Indian Tribe applying for program authorization may seek either interim approval or final approval of the compliance and enforcement portion of the State or Tribal lead-based paint program pursuant to the procedures at § 745.327(a).

(e) State or Tribal submissions for program authorization shall comply with the procedures set out in this subpart.

(f) Any State or Tribal program approved by the Administrator under this subpart shall at all times comply with the requirements of this subpart.

(g) In many cases States will lack authority to regulate activities in Indian