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(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 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 nonprofit 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:

Training Program	Accreditation	Re-accreditation (every 4 years, see 40 CFR 745.225(f)(1) for details)
Initial Course		
Inspector	$870	$620
Risk assessor	$870	$620
Supervisor	$870	$620
Worker	$870	$620
Project Designer	$870	$620
Refresher Course		
Inspector	$690	$580
Risk assessor	$690	$580
Supervisor	$690	$580
Worker	$690	$580
Project Designer	$690	$580
Lead-based Paint Activities—Individual	Certification	Re-certification (every 3 years, see 40 CFR 745.226(e)(1) for details)
Inspector	$410	$410
Risk assessor	$410	$410
Supervisor	$410	$410
Worker	$310	$310
Project designer	$410	$410
Tribal certification (each discipline)	$10	$10
Lead-based Paint Activities—Firm	Certification	Re-certification (every 3 years, see 40 CFR 745.226(f)(7) for details)
Firm	$550	$550
Combined Renovation and Lead-based Paint Activities Firm Application	$550	$550
Combined Renovation and Lead-based Paint Activities Tribal Firm Application	$20	$20
Tribal Firm	$20	$20

(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 ''), 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.''

(iii) *Training programs.* ''Accreditation Application for Training Programs.''

(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, as amended at 74 FR 11870, Mar. 20, 2009]

§ 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