§ 745.325 Lead-based paint activities: State and Tribal program requirements.

(a) Program elements. To receive authorization from EPA, a State or Tribal program must contain at least the following program elements for lead-based paint activities:

(1) Procedures and requirements for the accreditation of lead-based paint activities training programs.

(2) Procedures and requirements for the certification of individuals engaged in lead-based paint activities.

(3) Work practice standards for the conduct of lead-based paint activities.

(4) Requirements that all lead-based paint activities be conducted by appropriately certified contractors.

(5) Development of the appropriate infrastructure or government capacity to effectively carry out a State or Tribal program.

(b) Program report. (1) To receive authorization from EPA, a State or Tribal program must submit a report to EPA. The report shall include the following information:

(i) Withdrawal of authorization. If the Administrator finds that a State or Indian Tribe is not administering and enforcing an authorized program in compliance with the standards, regulations, and other requirements of sections 401 through 412 of TSCA and this subpart, the Administrator shall notify the primary agency for the State or Indian Tribe in writing and indicate EPA’s intent to withdraw authorization of the program.

(ii) The Notice of Intent to Withdraw shall:

(A) Identify the program aspects that EPA believes are inadequate and provide a factual basis for such findings.

(B) Include copies of relevant documents.

(iii) Provide an opportunity for the State or Indian Tribe to respond either in writing or at a meeting with appropriate EPA officials.

(iv) EPA may request that an informal conference be held between representatives of the State or Indian Tribe and EPA officials.

(v) Prior to issuance of a withdrawal, a State or Indian Tribe may request that EPA hold a public hearing. At this hearing, EPA, the State or Indian Tribe, and the public may present facts bearing on whether the State’s or Indian Tribe’s authorization should be withdrawn.

(vi) If EPA finds that deficiencies warranting withdrawal did not exist or were corrected by the State or Indian Tribe, EPA may rescind its Notice of Intent to Withdraw authorization.

(vii) Where EPA finds that deficiencies in the program exist that warrant withdrawal, an agreement to correct the deficiencies shall be jointly prepared by the State or Indian Tribe and EPA. The agreement shall describe the deficiencies found in the program, specify the steps the State or Indian Tribe has taken or will take to remedy the deficiencies, and establish a schedule, no longer than 180 days, for each remedial action to be initiated.

(viii) If the State or Indian Tribe does not respond within 60 days of issuance of the Notice of Intent to Withdraw or an agreement is not reached within 180 days after EPA determines that a State or Indian Tribe is not in compliance with the Federal program, the Agency shall issue an order withdrawing the State’s or Indian Tribe’s authorization.

(ix) By the date of such order, the Administrator will establish and enforce the provisions of subpart E or subpart L of this part, or both, as the Federal program for that State or Indian Country.

[61 FR 45825, Aug. 29, 1996, as amended at 73 FR 21767, Apr. 22, 2008]
(b) Accreditation of training programs. The State or Indian Tribe must have either:

(1) Procedures and requirements for the accreditation of training programs that establish:
   (i) Requirements for the accreditation of training programs, including but not limited to:
      (A) Training curriculum requirements.
      (B) Training hour requirements.
      (C) Hands-on training requirements.
      (D) Trainee competency and proficiency requirements.
      (E) Requirements for training program quality control.
   (ii) Procedures for the re-accreditation of training programs.
   (iii) Procedures for the oversight of training programs.
   (iv) Procedures for the suspension, revocation, or modification of training program accreditations; or

(2) Procedures or regulations, for the purposes of certification, for the acceptance of training offered by an accredited training provider in a State or Tribe authorized by EPA.

(c) Certification of individuals. The State or Indian Tribe must have requirements for the certification of individuals that:

(1) Ensure that certified individuals:
   (i) Are trained by an accredited training program; and
   (ii) Possess appropriate education or experience qualifications for certification.

(2) Establish procedures for re-certification.

(3) Require the conduct of lead-based paint activities in accordance with work practice standards established by the State or Indian Tribe.

(4) Establish procedures for the suspension, revocation, or modification of certifications.

(5) Establish requirements and procedures for the administration of a third-party certification exam.

(d) Work practice standards for the conduct of lead-based paint activities. The State or Indian Tribe must have requirements or standards that ensure lead-based paint activities are conducted reliably, effectively, and safely. At a minimum the State’s or Indian Tribe’s work practice standards for conducting inspections, risk assessments, and abatements must contain the requirements specified in paragraphs (d)(1), (d)(2), and (d)(3) of this section.

(1) The work practice standards for the inspection for the presence of lead-based paint must require that:
   (i) Inspections are conducted only by individuals certified by the appropriate State or Tribal authority to conduct inspections.
   (ii) Inspections are conducted in a way that identifies the presence of lead-based paint on painted surfaces within the interior or on the exterior of a residential dwelling or child-occupied facility.

(iii) Inspections are conducted in a way that uses documented methodologies that incorporate adequate quality control procedures.

(iv) A report is developed that clearly documents the results of the inspection.

(v) Records are retained by the certified inspector or the firm.

(2) The work practice standards for risk assessment must require that:
   (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.
§ 745.326 Renovation: State and Tribal program requirements.

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

(1) Procedures and requirements for the accreditation of renovation and dust sampling technician training programs. A State and Tribal program is not required to include procedures and requirements for the dust sampling technician training discipline if the State or Tribal program requires dust sampling to be performed by a certified lead-based paint inspector or risk assessor.

(2) Procedures and requirements for accredited initial and refresher training for renovators and dust sampling technicians and on-the-job training for other individuals who perform renovations.

(3) Procedures and requirements for the certification of individuals and/or firms.

(4) Requirements that all renovations be conducted by appropriately certified individuals and/or firms.

(b) Pre-renovation education. To be considered at least as protective as the Federal program, the State or Tribal program must:

(1) Establish clear standards for identifying renovation activities that trigger the information distribution requirements.