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OREGON ADMINISTRATIVE RULES
OREGON HEALTH AUTHORITY, PUBLIC HEALTH DIVISION
CHAPTER 333

DIVISION 69

CERTIFICATION OF INDIVIDUALS AND FIRMS ENGAGED IN LEAD-BASED PAINT ACTIVITIES AND ACCREDITATION OF TRAINING PROGRAMS FOR PROFESSIONALS ENGAGED IN LEAD-BASED PAINT ACTIVITIES

333-069-0005

Authority, Purpose, Scope

~~(1) Authority. These rules are promulgated in accordance with and under the authority of ORS 431.920.~~

~~(2) Purpose:~~

~~(a) The purpose of these rules is to address Oregon's need for a qualified and properly trained workforce to perform inspection, risk assessment and removal of hazards associated with lead-based paint, to safeguard the environment and protect human health, and the health of building occupants, especially for high-risk groups (children under six years of age), from lead-based paint hazards.~~

~~(b) These rules prescribe the requirements for certification of individuals and firms engaged in lead-based paint activities in target housing and child-occupied facilities.~~

~~(c) These rules will establish work practice standards for the performance of lead-based paint inspection, risk assessment, and abatement activities for individuals and firms and will require that all lead-based paint activities be performed only by certified individuals and firms.~~

~~(3) Scope:~~

~~(a) These rules apply to all individuals and firms who are engaged in lead-based paint activities for compensation or where a child residing in the building has been identified as having an elevated blood lead level.~~

~~(b) These rules establish the requirement that lead-based paint activities be performed only by certified individuals and firms.~~

~~(c) These rules prescribe the requirements for, and the manner of, certifying competency of applicants for certification of lead-based paint inspector, risk assessor, supervisor, project designer, and worker, and of firms employing such individuals.~~

~~(d) These rules prescribe work practice standards for the removal or mitigation of lead-based paint hazards and for the performance of lead-based paint inspection and risk assessment, and those actions or circumstances that constitute failure to achieve or maintain competency, or that otherwise are contrary to the public interest, for which the Authority may assess civil penalties, deny, suspend, or revoke certification.~~

~~(e) These rules establish fees to the extent necessary to defray costs of those activities prescribed herein.~~

~~Stat. Auth.: ORS 431.920~~

~~Stats. Implemented: ORS 431.920~~

333-069-0010

Adoption by Reference

All standards, listings and publications referred to in these rules are by those references made a part of these rules as though fully set forth.

Stat. Auth.: ORS 431.920

Stats. Implemented: ORS 431.920

333-069-0015

Definitions

As used in these rules unless otherwise required by context:

- (1) "Abatement" means any measure or set of measures designed to permanently eliminate lead-based paint hazards including, but not limited to:
- (a) The removal of paint and dust, the permanent enclosure or encapsulation of lead-based paint, the replacement of painted surfaces or fixtures, or the removal or covering of soil, when lead-based paint hazards are present in such paint, dust or soil; and
 - (b) All preparation, cleanup, disposal, and post-abatement clearance examination activities associated with such measures,
 - (c) Specifically, abatement includes, but is not limited to:
 - (A) Projects for which there is a written contract or other documentation, which provides that an individual or firm will be conducting activities in or to a residential dwelling or child-occupied facility that results in permanent elimination of lead-based paint hazards or designed to permanently eliminate lead-based paint hazards and described in subsections (1)(a) and (1)(b) above.
 - (B) Projects resulting in the permanent elimination of lead-based paint hazards, conducted by certified and licensed firms or individuals, unless such projects are covered under subsection (1)(d) of this definition.
 - (C) Projects resulting in the permanent elimination of lead-based paint hazards, conducted by certified firms or individuals who, through their company name or promotional literature, represent, advertise, or hold themselves out to be in the business of performing lead-based paint activities, unless such projects are covered under subsection (1)(d) of this section.
 - (D) Projects resulting in the permanent elimination of lead-based paint hazards that are conducted in response to state or local abatement orders.
 - (d) Abatement does not include renovation, remodeling, landscaping or other activities, when such activities are not designed to permanently eliminate lead-based paint hazards, but, instead, are designed to repair, restore, or remodel a given structure or dwelling, even though these activities may incidentally result in a reduction or elimination of lead-based paint hazards. Furthermore, abatement does not include interim controls, operations and maintenance activities, or other measures and activities designed to temporarily, but not permanently, reduce lead-based paint hazards.
- (2) "Accredited training program" means a training program accredited or provisionally accredited by the Authority, the Environmental Protection Agency (EPA), or an EPA-authorized state or tribal program, to provide training for individuals engaged in lead-based paint activities.

(3) "Arithmetic mean" means the algebraic sum of data values divided by the number of data values (e.g., the sum of the concentration of lead in several soil samples divided by the number of samples).

(4) "Authority" means the Oregon Health Authority.

(5) "Certified" means successful completion of a training program accredited by the Authority, passage of a certification examination administered by the Authority and satisfaction of any other requirements for the appropriate discipline, and submittal and approval of the appropriate application by the Authority for inspection, risk assessment or abatement activities in target housing and child-occupied facilities.

(6) "Certified firm" means a company, partnership, corporation, sole proprietorship, association, or other entity that performs lead-based paint activities to which the Authority has issued a certificate under these rules.

(7) "Chewable surface" means an interior or exterior surface painted with lead-based paint that a young child can mouth or chew. A chewable surface is the same as an accessible surface. Hard metal substrates and other materials that cannot be dented by the bite of a young child are not considered chewable.

(8) "Child-occupied facility" means a building, or a portion of a building, constructed prior to 1978, visited regularly by the same child, under six years of age, on at least two different days within any week (Sunday through Saturday period), provided that each day's visit lasts at least three hours and the combined weekly visit lasts at least six hours, and the combined annual visits last at least 60 hours. Child-occupied facilities may include, but are not limited to, day-care centers, preschools and kindergarten classrooms.

(9) "Clearance examination" means visual examination and clearance testing performed following abatement of lead-based paint or lead-based paint hazards using documented methodologies as defined in this rule. Such examination shall be performed by a person certified to perform risk assessments or lead-based paint inspections.

(10) "Clearance examination standards" means values that indicate the maximum amount of lead permitted in dust on a surface or in soil following completion of an abatement activity. Standards for lead in dust are 40 micrograms per square foot ($\mu\text{g}/\text{ft}^2$) on floors, 250 $\mu\text{g}/\text{ft}^2$ on interior window sills, and 400 $\mu\text{g}/\text{ft}^2$ on window troughs. The values for lead in soil are 400 parts per million (ppm) in play areas and 1,200 ppm in the remainder of the yard.

(11) "Common area" means a portion of a building that is generally accessible to all occupants that may include, but that is not limited to, hallways, stairways, laundry and recreational rooms, playgrounds, community centers, garages, and boundary fences.

(12) "Common area group" means a group of common areas that are similar in design, construction, and function. Common area groups include, but are not limited to hallways, stairwells, and laundry rooms.

(13) "Component" means an architectural element of a dwelling unit or common area identified by type and location, such as a bedroom wall, an exterior window sill, a baseboard in a living room, a kitchen floor, an interior window sill in a bathroom, a porch floor, stair treads in a common stairwell, or an exterior wall.

(14) "Concentration" means the relative content of a specific substance contained within a larger mass, such as the amount of lead (in micrograms per gram or parts per million by weight) in a sample of dust or soil.

- (15) "Contact hour" means 60 minutes of lead-based paint related training, which may include a break of not more than 10 minutes.
- (16) "Containment" means a process or arrangement of materials to protect workers and the environment by controlling exposure to the lead-contaminated dust and debris created during an abatement.
- (17) "Course completion date" means the final date of classroom instruction and/or student examination of an accredited lead-based paint training course.
- (18) "Course completion certificate" means documentation issued by an accredited training program to an individual as proof of successful completion of an Authority-accredited lead-based paint training course.
- (19) "Critical barrier" means a containment structure that allows for the passage of persons or materials.
- (20) "Demonstration testing" means the observation and scoring of a student's job-task and equipment use skills taught during a course or continuing education instruction.
- (21) "Deteriorated paint" means any interior or exterior paint or other coating that is peeling, chipping, chalking or cracking, or any paint or coating located on an interior or exterior surface or fixture that is otherwise damaged or separated from the substrate.
- (22) "Discipline" means a specific type or category of lead-based paint activity.
- (23) "Distinct painting history" means the application history, as indicated by the visual appearance or a record of application, over time, of paint or other surface coatings to a component or room.
- (24) "Documented methodologies" are written methods or protocols used to sample for the presence of lead in paint, dust, and soil as recommended in U.S. Department of Housing and Urban Development (HUD) "Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing", and "EPA's Residential Sampling for Lead: Protocols for Dust and Soil Sampling".
- (25) "Dripline" means the area within three feet surrounding the perimeter of a building.
- (26) "Dust lead hazard" means surface dust in a residential dwelling or child-occupied facility that contains a mass per area concentration of lead equal to or exceeding 40 $\mu\text{g}/\text{ft}^2$ on floors, 250 $\mu\text{g}/\text{ft}^2$ on interior window sills, or 400 $\mu\text{g}/\text{ft}^2$ based on wipe samples.
- (27) "Emergency" means a situation in which failure to act promptly would likely result in immediate harm to persons or property.
- (28) "Emergency lead-based paint abatement activities" means activities required in response to an elevated blood lead level determination, or federal, state, tribal or local emergency abatement order, or operations necessitated by non-routine failures of equipment, that were not planned but result from a sudden, unexpected event that, if not immediately attended to, presents a safety or public health hazard, or threatens equipment and/or property with significant damage.
- (29) "Firm" means a sole proprietorship, corporation, association, partnership, or joint stock company.
- (30) "Friction surface" means an interior or exterior surface that is subject to abrasion or friction, including, but not limited to, certain window, floor, and stair surfaces.
- (31) "Hands-on training" means training during which students practice skills that they will be expected to perform at the worksite.
- (32) "Impact surface" means an interior or exterior surface that is subject to damage by repeated sudden force such as certain parts of door frames.

(33) "Inspection" means a surface-by-surface investigation to determine the presence of lead-based paint and the provision of a report, in writing, explaining the results of the investigation.

(34) "Inspector" means an individual who is certified by the Authority and licensed by the Construction Contractors Board (CCB), except where exempt by these rules, to conduct in target housing and child-occupied facilities a surface-by-surface investigation to determine the presence of lead-based paint and the provision of a report, in writing; and conduct clearance procedures in accordance with OAR 333-069-0070. An inspector may also collect dust and soil samples and perform clearance examinations. An inspector may cite the applicable standard for the medium being sampled, but may not evaluate the results or assess risk.

(35) "Interior window sill" means the portion of the horizontal window ledge that protrudes into the interior of the room.

(36) "Job tasks" mean the specific activities performed in the context of work.

(37) "Lead-based paint" means paint or other surface coatings that contain lead equal to or in excess of 1.0 milligram per square centimeter or 0.5 percent by weight.

(38) "Lead-based paint activities" means, in the case of target housing and child-occupied facilities, inspection, risk-assessment, and abatement.

(39) "Lead-based paint hazard" means any condition that causes exposure to lead from lead-contaminated dust, lead-contaminated soil, lead-contaminated paint that is deteriorated or present in accessible surfaces, friction surfaces or impact surfaces that would result in adverse human health effects.

(40) "Lead hazard standard" means the amount of lead the Authority considers to be a hazard in target housing or child-occupied facilities. The standards for lead in dust are 40 micrograms per square foot ($\mu\text{g}/\text{ft}^2$) on floors, 250 $\mu\text{g}/\text{ft}^2$ on interior window sills, and 400 $\mu\text{g}/\text{ft}^2$ on window troughs. The standards for lead in soil are 400 parts per million (ppm) in play areas and 1,200 ppm in the remainder of the yard.

(41) "Licensed" means a person or firm who has been certified by the Authority in one or more disciplines and is licensed by the CCB.

(42) "Loading" means the quantity of specific substance present per unit of surface area, such as the amount of lead in micrograms contained in the dust collected from a certain surface area divided by the surface area in square feet or square meters.

(43) "Multi-family housing" means a housing property consisting of more than four dwelling units.

(44) "Notice of noncompliance" is a description, in writing, of activities conducted in violation of these rules observed or documented by the Authority, and of requirements for corrective action.

(45) "Paint in poor condition" means more than 10 square feet of deteriorated paint on exterior components with large surface areas; or more than two square feet of deteriorated paint on interior components with large surface areas (e.g., walls, ceilings, floors, doors); or more than 10 percent of the total surface area of the component is deteriorated on interior or exterior components with small surface areas (window sills, baseboards, soffits, trim).

(46) "Paint lead hazard" means any of the following:

(a) Any lead-based paint on a 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-lead hazard levels identified in these rules.

(b) 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).

(c) Any chewable lead-based painted surface on which there is evidence of teeth marks.

(d) 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.

(47) "Permit" means a written authorization obtained from the Authority without which a painter may not remove or stabilize paint on target housing or pre-1978 child-occupied facilities.

(48) "Permanent" means having an expected design life of 20 years.

(49) "Permanently covered soil" means soil which has been separated from human contact by the placement of a barrier consisting of solid, relatively impermeable materials, such as pavement or concrete. Grass, mulch, and other landscaping materials are not considered permanent covering.

(50) "Person" means an individual.

(51) "Play area" means an area of frequent soil contact by children under six years of age as indicated by, but not limited to, such factors including the following: the presence of play equipment (e.g., sandboxes, swing sets, and sliding boards), toys, or other children's possessions, observations of play patterns, or information provided by parents, residents, care givers, or property owners.

(52) "Preliminary clearance" means clearance of interior living areas according to which an inspector or risk assessor determines that residual lead levels (as determined by laboratory analysis) do not exceed clearance examination standards.

(53) "Project designer" means an individual who is certified by the Authority and licensed by the CCB to interpret lead inspection or risk assessment reports and to develop plans, specifications, and project procedures for lead abatement projects in target housing and child-occupied facilities, including occupant notification and protection, clean up and clearance, and abatement reports.

(54) "Public agency" means an entity that functions as part of a governmental body or organization at the local, state, or federal level.

(55) "Refresher training course" means a minimum seven hour training program accredited by the Authority to update an individual's knowledge and skills so that he/she can effectively and safely continue to practice in the field.

(56) "Residential building" means a building containing one or more residential dwellings.

(57) "Residential dwelling" means:

(a) A detached single family dwelling unit, including attached structures such as porches and stoops; or

(b) A single family dwelling unit in a structure that contains more than one separate residential dwelling unit, which is used or occupied, or intended to be occupied, in whole or in part, as the home or residence of one or more persons.

(58) "Risk assessment" means an on-site investigation to determine the existence, nature, severity, and location of lead-based paint hazards, and the provision of a report by the

individual or the firm conducting the risk assessment, explaining the results of the investigation and options for reducing lead-based paint hazards.

(59) "Risk assessor" means an individual who is certified by the Authority and licensed by the CCB, unless where exempt by the rules, to conduct in target housing and child-occupied facilities on-site investigation to determine the existence, nature, severity, and location of lead-based paint hazards, and to provide a report explaining the results of the investigation and options for reducing lead-based paint hazards; and who may conduct a lead hazard screen, in accordance with OAR 333-069-0070.

(60) "Room" means a separate part of the inside of a building, such as a bedroom, living room, dining room, kitchen, bathroom, laundry room, or utility room. To be considered a separate room, the room must be separated from adjoining rooms by built-in walls or archways that extend at least six inches from an intersecting wall. Half walls or bookcases count as room separators if built in. Movable or collapsible partitions or partitions consisting solely of shelves or cabinets are not considered built-in walls. A screened-in porch that is used as a living area is a room.

(61) "Sample quality control" means a plan or design which ensures the authenticity, integrity, and accuracy of samples, including dust, soil, and paint chip or film samples. Sample quality control also includes provisions for representative sampling and control samples.

(62) "Scope of work" means a written description of all of the abatement activities to be conducted at a specific abatement project site.

(63) "Soil lead hazard" means bare soil on residential real property or on the property of a child-occupied facility that contains total lead equal to or exceeding 400 ppm in a play area or average of 1,200 ppm of bare soil in the remainder of the yard based on soil samples.

(64) "Soil sample" means a sample collected in a representative location using American Society for Testing Materials (ASTM) E1727, "Standard Practice for Field Collection of Soil Samples for Lead Determination by Atomic Spectrometry Techniques," or equivalent method.

(65) "Supervisor" means an individual who is certified by the Authority and licensed by the CCB to either conduct or oversee and direct the work-site conduct of lead-based paint abatement and clearance activities in target housing and child-occupied facilities, and to prepare occupant protection plans and abatement reports in accordance with OAR 333-069-0070.

(66) "Target housing" means any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any one or more children under six years of age resides or is expected to reside in such housing for the elderly or persons with disabilities) or any zero-bedroom dwelling.

(67) "These rules" means OAR 333-069-0005 through 333-069-0090.

(68) "Weighted arithmetic mean" means the arithmetic mean of sample results weighted by the number of subsamples in each sample. Its purpose is to give influence to a sample relative to the surface area it represents. A single surface sample is comprised of a single subsample. A composite sample may contain from two to four subsamples of the same area as each other and of each single surface sample in the composite. The weighted arithmetic mean is obtained by summing, for all samples, the product of the sample's result multiplied by the number of subsamples in the sample, and dividing the sum by the

total number of subsamples contained in all samples. For example the weighted arithmetic mean of a single surface sample containing 60 µg/ft², a composite sample (three subsamples) containing 100 µg/ft², and a composite sample (4 subsamples) containing 110 µg/ft² is 100 µg/ft². This result is based on the equation $[60+(3*100)+(4*110)]/(1+3+4)$.

(69) "Window trough" means for a typical double hung window, the portion of the exterior window sill between the interior window sill (or stool) and the frame of the storm window. If there is no storm window, the window trough is the area that receives both the upper and lower window sashes when they are both lowered. The window trough is sometimes referred to as the window "well".

(70) "Wipe sample" means a sample collected by wiping a representative surface of known area, as determined by ASTM E 1728, "Standard Practice for Field Collection of Settled Dust Samples Using Wipe Sampling Methods for Lead Determination by Atomic Spectrometry Techniques, or equivalent method, with an acceptable wipe material as defined in ASTM E 1792, "Standard Specification for Wipe Sampling Materials for Lead in Surface Dust."

(71) "Worker" means an individual who is certified by the Authority and licensed by the CCB to conduct lead-based paint abatement activities in target housing and child-occupied facilities in accordance with OAR 333-069-0070.

Stat. Auth.: ORS 431.920

Stats. Implemented: ORS 431.920

333-069-0020

Certification Required

(1) No person, firm, or public agency shall offer to perform or perform lead-based paint inspection, risk assessment, or abatement activities in target housing or child-occupied facilities without first receiving certification from the Authority and a license from the CCB, except if such a person, firm, or public agency is exempt from CCB licensing requirements.

(2) All certificates to perform lead-based paint activities shall expire on June 30, and are renewable upon meeting all of the requirements as determined by the Authority.

(3) Certified persons or firms conducting lead-based paint activities shall comply with the work practice standards for performing lead-based paint activities as prescribed in these rules. Painters shall follow the work practices described on the Permit application.

(4) It shall be considered a violation of these rules and the CCB regulations for any person to conduct any of the lead-based paint activities described in these rules unless the individual has received certification from the Authority and licensure from the CCB, except if such a person, is exempt from CCB licensing requirements.

(5) Applicants for inspector, risk assessor, project designer and supervisor shall pass with a score of 70 or more on a certification examination administered by the Authority for each discipline for which certification is desired.

(6) Individuals may take the certification examination no more than three times within six months of the course completion date of the accredited lead-based paint training course.

(7) If an individual applicant does not complete all certification requirements (including passing the certification examination for required disciplines) within six months of the course completion date of the accredited lead-based paint training course, the individual

shall successfully complete the appropriate accredited standard or refresher training course before reapplying for certification.

~~(8) A certificate for an individual will be issued by the Authority in the form of an identification card and a numbered certificate. This card will identify each discipline for which a person is certified and must be available on demand for inspection at all times while conducting inspection, risk assessment, or abatement activities.~~

~~(9) A numbered certificate for a certified firm will be issued by the Authority.~~

~~(10) A public agency whose employees perform 'in house' lead based paint services need not be a certified firm, but shall furnish the Authority with a letter of compliance certifying the following:~~

~~(a) The agency will use only certified individuals of the appropriate discipline to conduct lead based paint activities as described in these rules;~~

~~(b) The agency will follow the standards for conducting lead based paint activities as prescribed in these rules; and~~

~~(c) The agency will maintain records of all such activities per these rules.~~

~~(d) The letter of compliance will be signed by an individual authorized to sign on the agency's behalf.~~

~~(e) Any public agency determined by the Authority to be in violation of this exemption shall be subject to the certification requirements of a non-exempt firm.~~

~~(11) A firm or public agency that contracts with a certified firm or public agency to provide lead based paint activities on its behalf need not be certified.~~

~~(a) The contracting firm or public agency shall submit to the Authority a letter of compliance stating the following:~~

~~(A) The firm or agency will use only certified firms and certified individuals of the appropriate discipline to conduct lead based paint activities as described in these rules;~~

~~(B) The firm or agency will ensure that the standards for conducting lead based paint activities as prescribed in these rules will be followed; and~~

~~(C) The firm or agency will maintain records of all such activities per these rules.~~

~~(D) The letter of compliance will be signed by an individual authorized to sign on the firm or the agency's behalf.~~

~~(b) The contracting firm shall submit to the Authority, upon request, a copy of the contract agreement between the contracting firm and the certified firm or firms.~~

~~(12) Employees or agents of regulatory agencies are exempt from these rules if:~~

~~(a) Those employees or agents are acting in a regulatory capacity;~~

~~(b) They are carrying out activities within the scope of the agency's regulatory authority; and~~

~~(c) They have been trained in a manner consistent with the public and environmental health objectives of these rules.~~

~~Stat. Auth.: ORS 431.920~~

~~Stats. Implemented: ORS 431.920~~

333-069-0030

Eligibility

~~(1) Inspector. To qualify, an individual shall complete all elements on the application form and meet the following eligibility requirements:~~

- ~~(a) Successfully complete and receive a course completion certificate from an Authority accredited training program as an inspector;~~
- ~~(b) Pass the certification examination administered by the Authority for an inspector.~~
- ~~(2) Risk assessor. To qualify, an individual shall complete all elements on the application form and meet the following minimum eligibility requirements:~~
 - ~~(a) Successfully complete and receive a course completion certificate from an Authority accredited training program as a risk assessor and inspector;~~
 - ~~(b) Pass the certification exam administered by the Authority for a risk assessor;~~
 - ~~(c) Have completed one of the following education and applicable experience criteria:
 - ~~(A) Certification as an industrial hygienist, an engineer, a registered architect, certified safety professional, registered sanitarian, or registered environmental health specialist; or~~
 - ~~(B) A bachelor's degree and one year of experience in a related field (e.g. lead, asbestos, environmental remediation work, or construction); or an associates degree and two years experience in a related field (e.g., lead, asbestos, environmental remediation work, or construction); or~~
 - ~~(C) A high school diploma (or equivalent), plus at least three years of experience in a related field (e.g. lead, asbestos, environmental remediation work, or construction).~~~~
- ~~(3) Supervisor. To qualify, an individual shall complete all elements on the application form and meet the following minimum eligibility requirements:~~
 - ~~(a) Successfully complete and receive a course completion certificate from an Authority accredited training program as a lead abatement supervisor;~~
 - ~~(b) Pass the certification exam administered by the Authority for a supervisor;~~
 - ~~(c) Have completed one of the following experience requirements:
 - ~~(A) One year of experience as a certified lead based paint abatement worker; or~~
 - ~~(B) At least two years of experience in a related field (e.g. lead, asbestos, or environmental remediation work) or in the building trades.~~~~
- ~~(4) Abatement worker. To qualify, an individual shall complete all elements on the application form and successfully complete and receive a course completion certificate from an Authority accredited training program as a lead abatement worker.~~
- ~~(5) Project designer. To qualify, an individual shall comply with all application requirements and meet the following minimum eligibility requirements:~~
 - ~~(a) Successfully complete and receive a course completion certificate from an Authority accredited training program as a lead abatement supervisor and project designer;~~
 - ~~(b) Have completed one of the following education and applicable experience criteria:
 - ~~(A) Bachelor's degree in engineering, architecture, or a related profession, and one year of experience in building construction and design or a related field; or~~
 - ~~(B) Four years of experience in building construction and design or a related field; and~~
 - ~~(C) Pass the certification examination administered by the Authority for a project designer.~~~~
- ~~(6) Applicants for certification may complete a refresher course in the same discipline in satisfaction of the training requirement if no more than one year has passed since the original course was completed and the original course was accredited by the Authority, EPA, or an EPA authorized state or tribal program.~~
- ~~(7) The Authority may certify an individual who has been certified as an inspector, risk assessor, supervisor, project designer, or abatement worker by the EPA or an EPA authorized state or tribal program upon receiving evidence that the individual has:~~

- ~~(a) Completed and received a course completion certificate from an accredited training course specific to the position for which the individual has applied and the course is accredited by the EPA or by a state or tribal program authorized by the EPA under 40 CFR 745.234;~~
- ~~(b) Met or exceeded all other eligibility requirements specified in OAR 333-069-0030 specific to the position applied for;~~
- ~~(c) Met all application requirements in OAR 333-069-0040; and~~
- ~~(d) Completed any additional requirements established by the Authority.~~
- ~~(8) Applicants for certification based on certification from another state or tribal program must document to the Authority that they have read and understand the certification and work practice standards as described in these rules.~~
- ~~(9) Certification based on a valid lead-based paint certification issued by the EPA or an EPA authorized state or tribal program shall be issued with an expiration date not to exceed the date of expiration listed on the certification.~~

Stat. Auth.: ORS 431.920

Stats. Implemented: ORS 431.920

333-069-0040

Application Requirements

- ~~(1) No person, firm or public agency shall conduct lead-based paint activities in or on target housing or child-occupied facilities without first applying to the Authority for and receiving certification to conduct such activities.~~
- ~~(2) Applications for certification or permit shall be accompanied with a check or money order made out to the 'Oregon Health Authority' in the amount as described in OAR 333-069-0090.~~
- ~~(3) Applications for a person shall be submitted on forms prescribed by the Authority and shall be accompanied, as appropriate, by:
 - ~~(a) Documentation of applicant's training, experience, and education including:
 - ~~(A) Lead-based paint training course completion certificate issued by an Authority-accredited training program.~~
 - ~~(B) Documentation of experience must include name and address of employer, name and telephone number of supervisor; or indicate if self-employed. Documentation must also include employment dates, description of specific duties performed, estimated percentage of time associated with conducting inspections and assessing health, safety or environmental hazards. This documentation must be signed by supervisor or employer verifying, under penalty of perjury, that the information is true and correct. A self-employed individual must submit a notarized affidavit attesting to the work experience claimed for the purposes of application.~~
 - ~~(C) Evidence of completion of educational requirements under OAR 333-069-0030, such as a transcript or diploma, if applicable.~~~~
 - ~~(b) Two current, passport size photos.~~
 - ~~(c) Applicant's name, printed or typed, date, and signature, verifying, under penalty of perjury, that all information submitted is true and correct.~~~~
- ~~(4) Applications for a certification or permit shall be submitted on forms prescribed by the Authority. Application materials can be obtained from the Authority's website.~~

~~(5) Applications for certification of a firm shall be accompanied by a letter of compliance certifying the following:~~

~~(a) The firm will employ only certified employees of the appropriate discipline to conduct lead-based paint activities as prescribed in these rules.~~

~~(b) The firm will follow the standards for conducting lead-based paint activities as prescribed in these rules.~~

~~(c) The firm shall maintain all records pursuant to these rules.~~

~~(d) The letter of compliance shall be signed by an officer of the firm, or an individual authorized to sign on the firm's behalf.~~

~~(6) Certified individuals, firms and permit holders shall notify the Authority within 30 calendar days of any change to the current application.~~

~~(7) For the purposes of application, photocopies of original documents are acceptable.~~

~~Stat. Auth.: ORS 431.920~~

~~Stats. Implemented: ORS 431.920~~

333-069-0050

Renewal and Recertification

~~(1) To maintain a permit or certification in a particular discipline, application for recertification shall be made annually to the Authority. Applicants shall submit completed application forms available from the Authority, postmarked 60 days or more before the date the current certification expires, and shall pay the appropriate fee per OAR 333-069-0090.~~

~~(2) Recertification is required for individuals by June 30, no more than three years after the issue date of an original certification or recertification, whichever is most recent. To obtain recertification, an individual shall fulfill the following:~~

~~(a) Submit to the Authority an application for recertification that shall include two current passport-size photos and the appropriate fee per OAR 333-069-0090; and~~

~~(b) Submit to the Authority a copy of the course completion certificate from an accredited lead-based paint standard or refresher training course in the appropriate discipline.~~

~~(3) An individual whose Authority certification has been expired for more than six months must complete a standard or refresher course in that discipline and pass a qualifying examination administered by the Authority. An individual whose Authority certification has been expired for more than one year shall successfully complete a standard course in that discipline and pass a qualifying examination administered by the Authority.~~

~~Stat. Auth.: ORS 431.920~~

~~Stats. Implemented: ORS 431.920~~

333-069-0060

Certification Procedures

~~(1) The Authority shall inform the applicant, in writing, when his/her application is granted, denied or incomplete and of the additional information and/or documentation that is required to complete the application.~~

~~(a) If granted, a certificate shall be mailed to the applicant and the effective date shall be the issuance date of certification or recertification.~~

~~(b) A unique certification number will be assigned to each certificate holder.~~

~~(c) If an application is denied, the Authority shall state, in writing, the reasons for denial.~~
~~(d) An application may be withdrawn at any time by written request to the Authority.~~
~~(2) The Authority may take into consideration various factors in determining whether to grant or deny a permit or certification including, but not limited to:~~
~~(a) Failure to satisfy eligibility requirements for certification;~~
~~(b) Failure to satisfy training requirements;~~
~~(c) Failure to provide required documentation or information requested by the Authority;~~
~~(d) History of citations or violations of existing regulations or standards;~~
~~(e) History of revocation of a certificate;~~
~~(f) Making false or misleading statements in the application.~~
~~(3) Certification and permits shall be non-transferable.~~
~~(4) All certifications and permits shall expire on June 30.~~
Stat. Auth.: ORS 431.920
Stats. Implemented: ORS 431.920

333-069-0070

Work Practice Standards

~~(1) When performing any lead-based paint activity described by a certified and licensed individual as an inspection, lead hazard screen, risk assessment or abatement, a certified and licensed person must perform that activity in compliance with these rules, documented methodologies, procedures and work practice standards.~~
~~(2) Inspection. An inspection shall be conducted only by a person certified by the Authority and licensed by the CCB as an inspector or risk assessor. Persons exempt from CCB licensing requirements shall be certified by the Authority. Employees of public agencies who conduct 'in-house' lead-based paint activities are exempt from licensing by the CCB.~~
~~(a) Locations shall be selected according to documented methodologies and tested for the presence of lead as follows:~~
~~(A) In target housing and child-occupied facilities, each component with a distinct painting history shall be tested, except those components determined to have been replaced after 1978 or to not contain lead-based paint; and~~
~~(B) In a multi-family dwelling or child-occupied facility, each component with a distinct painting history in every common area shall be tested, except those components determined to have been replaced after 1978 or to not contain lead-based paint.~~
~~(b) Paint shall be tested for the presence of lead using documented methodologies which incorporate sampling quality control procedures and all paint chip, dust, and soil samples shall be analyzed for detectable levels of lead by a laboratory accredited under the National Lead Laboratory Accreditation Program.~~
~~(c) Inspection reports shall be prepared and include at least:~~
~~(A) Inspection date;~~
~~(B) Building address;~~
~~(C) Date of construction;~~
~~(D) Apartment identification (numbers, letters, names if applicable);~~
~~(E) Name, address and telephone number of owner or owners of each unit;~~
~~(F) Name, signature, and certification number of each inspector and/or risk assessor conducting testing;~~

~~(G) Name, address and telephone number of the certified firm employing each inspector and/or risk assessor;~~

~~(H) Each testing method and device and/or sampling procedure employed for paint analysis, including sample quality control data, and if used, the serial number of any X-ray fluorescence (XRF) device; and~~

~~(I) Specific locations of each painted component tested and the results of the inspection expressed in appropriate units for the sampling method used.~~

~~(3) Lead hazard screen. A lead hazard screen shall be conducted only by a person certified by the Authority and licensed by the CCB as a risk assessor, except if such a person, is exempt from CCB licensing requirements, and shall be conducted as follows:~~

~~(a) Background information shall be collected about the physical characteristics of the target housing or child-occupied facility and occupant use patterns that may cause lead-based paint exposure to one or more children under six years of age.~~

~~(b) A visual inspection shall be conducted to determine the presence of any deteriorated paint and locate at least two dust sampling locations.~~

~~(c) If deteriorated paint is present, each deteriorated paint surface determined, using documented methodologies, to be in poor condition and to have a distinct painting history shall be tested for the presence of lead.~~

~~(d) In residential dwellings, two composite dust samples shall be collected, one from the floors and the other from the windows, in rooms, hallways or stairwells where one or more children under six years of age are likely to come in contact with dust.~~

~~(e) In multi-family dwellings and child-occupied facilities, floor and window composite dust sampling shall be conducted as specified in OAR 333-069-0070(3)(d). In addition, composite dust samples shall be collected in common areas where one or more children under six years of age are likely to come in contact with dust.~~

~~(f) All dust samples shall be collected using documented methodologies that incorporate sample quality control procedures and analyzed by a laboratory accredited under the National Lead Laboratory Accreditation Program to determine detectable lead.~~

~~(g) A lead hazard screen report shall be prepared by the risk assessor and include:~~

~~(A) Information in a risk assessment report as specified in section (4) of this rule, including paragraphs (4)(i)(A) through (4)(i)(N) and excluding paragraphs (4)(i)(O) through (4)(i)(R) of this rule. Additionally, any background information collected pursuant to the lead hazard screen shall be included.~~

~~(B) Any recommendations for follow-up risk assessment and other further actions.~~

~~(4) Risk assessment. A risk assessment of target housing or child-occupied facility shall be conducted only by a person certified by the Authority and licensed by the CCB as a risk assessor. Persons exempt from CCB licensing requirements shall be certified by the Authority. Employees of public agencies who conduct 'in-house' lead-based paint activities are exempt from licensing by the CCB. A risk assessment shall be conducted as follows:~~

~~(a) A visual inspection shall be conducted to locate the existence of deteriorated paint, assess the extent and cause of deterioration, and other potential lead-based hazards.~~

~~(b) Background information shall be collected regarding the physical characteristics and occupant use patterns that may cause lead-based paint exposure to one or more children under six years of age.~~

~~(c) The following surfaces which are determined, using documented methodologies, to have a distinct painting history, shall be tested for the presence of lead:~~

- ~~(A) Each friction surface or impact surface with visibly deteriorated paint.~~
- ~~(B) All other surfaces with visibly deteriorated paint.~~

~~(d) In residential dwellings, dust samples (either composite or single surface samples) from the interior window sill(s) and floor shall be collected and analyzed for lead concentration in all living areas where one or more children under six years of age are most likely to come in contact with dust.~~

~~(e) For multi-family dwellings and child-occupied facilities, the samples required in subsection (4)(d) of this rule shall be taken. In addition, interior window sill and floor dust samples (either composite or single surface samples) shall be collected and analyzed for lead concentration in the following locations:~~

- ~~(A) Common areas adjacent to sampled target house or child-occupied facility; and~~
- ~~(B) Other common areas in the building where the risk assessor determines that one or more children under six years of age are likely to come in contact with dust.~~

~~(f) For child-occupied facilities, interior window sill and floor dust samples (either composite or single surface samples) shall be collected and analyzed in each room, hallway or stairwell utilized by one or more children under six years of age, and in other common areas in the child-occupied facility where the risk assessor determines one or more children under six years of age are likely to come in contact with dust.~~

~~(g) Soil samples shall be collected and analyzed for lead concentrations from the following locations:~~

- ~~(A) Exterior play areas where bare soil is present; and~~
- ~~(B) The remainder of the yard (i.e., non-play areas) where bare soil is present.~~

~~(h) Any paint, dust or soil sampling or testing shall be conducted using documented methodologies that incorporate sample quality control procedures and analyzed by a laboratory accredited under the National Lead Laboratory Accreditation Program to determine detectable lead.~~

~~(i) The certified risk assessor shall prepare a risk assessment report which shall include at a minimum the following information:~~

- ~~(A) Assessment date;~~
- ~~(B) Address of each building;~~
- ~~(C) Date of construction of buildings;~~
- ~~(D) Apartment identification (numbers, letters, names if applicable);~~
- ~~(E) Name, address and telephone number of each owner of each building;~~
- ~~(F) Name, signature, and certification number of each risk assessor conducting the assessment;~~
- ~~(G) Name, address and telephone number of the certified firm employing each risk assessor;~~
- ~~(H) Name, address and telephone number of each laboratory conducting analysis of collected samples;~~
- ~~(I) Results of the visual inspection;~~
- ~~(J) Testing method and sampling procedure employed for paint analysis;~~
- ~~(K) Specific locations of each painted component tested for the presence of lead;~~
- ~~(L) All data collected from on-site testing, including quality control data, and if used, the serial number of any X-ray fluorescence (XRF) device;~~

~~(M) All results of laboratory analysis on collected paint, soil, and dust samples;~~
~~(N) Any other sampling results;~~
~~(O) Any background information collected pursuant to subsection (4)(b) of this rule;~~
~~(P) To the extent used as part of the lead-based paint hazard determination, the results of any previous inspections or analyses for the presence of lead-based paint, or other assessments of lead-based paint related hazards;~~
~~(Q) A description of the location, type, and severity of identified lead-based paint hazards and any other potential lead hazards; and~~
~~(R) A description of interim controls and/or abatement options for each identified lead-based paint hazard and a recommended prioritization for addressing each hazard. If the use of an encapsulant or enclosure is recommended, the report shall recommend a maintenance and monitoring schedule for the encapsulant or enclosure.~~
~~(5) Abatement. An abatement shall be conducted only by a person certified by the Authority and licensed by the CCB. Persons exempt from CCB licensing requirements shall be certified by the Authority. Employees of public agencies who conduct 'in-house' lead-based paint activities are exempt from licensing by the CCB. Abatement shall be conducted as follows:~~
~~(a) A certified and licensed supervisor or project designer is required for each abatement project and shall be onsite during all work site preparation and during post-abatement cleanup of work areas. At all other times, the certified supervisor or project designer shall be onsite or available by telephone, pager, or answering service, and be able to be present at the work site in no more than two hours.~~
~~(b) A certified and licensed project designer is required for each abatement project that:~~
~~(A) Consists of 10 or more target housing units built prior to 1960;~~
~~(B) Consists of 20 or more target housing units built during or after 1960; or~~
~~(C) Consists of 25,000 square feet or more of target housing.~~
~~(c) The certified and licensed supervisor or project designer, as well as, the certified and licensed firm employing that supervisor shall ensure that all abatement activities are conducted according to the requirements of these rules and all federal, state and local requirements.~~
~~(d) A certified and licensed project designer may replace and assume the responsibilities of a certified and licensed supervisor required for an abatement project. If a certified and licensed project designer provides supervision on an abatement project, the project designer shall be responsible for preparing the occupant protection plan and the abatement report.~~
~~(e) Any firm or individual conducting lead-based paint abatement activities in target housing or child-occupied facilities must notify the Authority at least seven business days before the start date of the project by completing and submitting a notice of abatement form available from the Authority.~~
~~(A) The notice of abatement shall specify the time of day that abatement activities will start and the date on which abatement activities will be completed.~~
~~(B) Amendments to or cancellations of the original notice of abatement, including completion date changes must be submitted 24 hours prior to the original start date.~~
~~(C) In the event of an emergency, an original or amended notice of abatement describing the emergency must be submitted. Notification for lead-based paint abatement activities required in response to an elevated blood lead level (EBLL) determination, or federal,~~

state, tribal, or local emergency abatement order should be received by the Authority as early as possible before, but must be received no later than the start date of the lead-based paint abatement activities. Should the start date and/or location provided to the Authority change, an updated notification must be received by the Authority on or before the start date provided in the notice of abatement to the Authority. Documentation showing evidence of an EBLL determination or a copy of the federal, state, tribal, or local emergency abatement order must be included in the written notification to take advantage of this abbreviated notification period.

(D) A request for waiver of the seven business day advance notice requirement must be submitted in writing and granted in writing by the Authority before work under the waiver can start.

(E) The Authority may reject a notice of abatement form that has not been completed in full and signed by the applicant.

(f) A written occupant protection plan shall be developed prior to all abatement projects, be prepared by a certified and licensed supervisor or project designer, be unique to each target housing or child-occupied facility, describe the measures and management procedures that will be taken during the abatement to protect the building occupants from exposure to any lead-based paint hazards. The written occupant protection plan shall be present at the project site and must be made available on demand for inspection.

(g) A scope of work for the abatement project shall be present at the project site and must be made available on demand for inspection.

(h) These work practices shall be restricted during abatement:

(A) Open flame burning or torching of lead-based paint is prohibited;

(B) Uncontained hydro blasting or high pressure washing of lead-based paint is prohibited;

(C) Machine sanding or grinding or abrasive blasting or sandblasting of lead-based paint is prohibited unless used with High Efficiency Particulate Air (HEPA) exhaust control which removes particles of 0.3 microns or larger from the air at 99.97 percent or greater efficiency;

(D) Dry scraping of lead-based paint is permitted only in conjunction with heat guns or around electrical outlets or when treating defective paint spots totaling no more than two square feet in any room, hallway or stairwell or totaling no more than 20 square feet on exterior surfaces; and

(E) Operating a heat gun on lead-based paint is permitted only at temperatures below 1100 degrees Fahrenheit.

(i) When soil abatement is conducted:

(A) If the soil is removed:

(i) The soil shall be replaced by soil with a lead concentration as close to local background as practicable, but no greater than 400 ppm.

(ii) The soil that is removed shall not be used as top soil at another residential property or child-occupied facility.

(B) If the soil is not removed, the soil shall be permanently covered as defined in these rules.

(j) The following clearance procedures shall be performed only by a certified and licensed inspector or risk assessor and according to the following procedures:

~~(A) A visual inspection shall be performed to determine if deteriorated painted surfaces and/or visible amounts of dust, debris or residue are still present. If deteriorated painted surfaces or visible amounts of dust, debris or residue are present, these conditions must be eliminated prior to the continuation of the clearance procedures.~~

~~(B) If exterior work on a project cannot be completed due to inclement weather or other factors, the project supervisor may apply in writing to the Authority for authorization of a preliminary clearance.~~

~~(i) The application must include the following:~~

~~(I) The project address;~~

~~(II) The name and certification number of the abatement project supervisor or project designer;~~

~~(III) A description of the conditions that justify issuance of a waiver;~~

~~(IV) A description of the abatement work that remains to be done on the project;~~

~~(V) A schedule for completion of the abatement work that remains to be done; and~~

~~(VI) A plan for monitoring and controlling potential lead-based paint contamination until work can be completed.~~

~~(ii) At the conclusion of all work on a project for which preliminary clearance examination has been authorized, the project supervisor shall present the Authority with documentation that clearance testing has been performed on exterior and interior areas according to these rules and that all results are below clearance examination standards.~~

~~(C) Following the visual inspection and any post-abatement clean-up required by paragraph (5)(j)(A) of this rule, clearance testing for lead in dust and/or soil shall be conducted. Clearance testing may be conducted by employing single-surface sampling techniques.~~

~~(D) Clearance testing shall be performed using documented methodologies that incorporate sample quality control procedures and shall be taken a minimum of one hour after completion of final cleanup activities.~~

~~(E) Post-abatement clearance examination activities shall be conducted based upon the extent or manner of work activities conducted in or on the target housing or child-occupied facility as follows:~~

~~(i) After conducting an abatement with containment between containment and non-containment areas, one dust sample shall be taken from one interior window sill and from one window trough (if present) and one dust sample shall be taken from the floors of no less than four rooms, hallways or stairwells within the containment area. In addition, one dust sample shall be taken from the floor outside the containment area. If a room containment consists of more than one critical barrier, one dust sample shall be taken outside each critical barrier. If there are fewer than four rooms, hallways or stairwells within the containment area, then all rooms, hallways or stairwells shall be sampled.~~

~~(ii) After conducting an abatement with no containment, two dust samples shall be taken from no fewer than four rooms, hallways or stairwells in the residential dwelling or child-occupied facility. One dust sample shall be taken from one interior window sill and from one window trough (if present) and one dust sample shall be taken from the floor of each room, hallway or stairwell selected. If there are fewer than four rooms, hallways or stairwells within the target housing or child-occupied facility then all rooms, hallways or stairwells shall be sampled.~~

~~(iii) Following exterior paint abatement, a visual inspection shall be conducted. All horizontal surfaces in the outdoor living area closest to the abated surfaces shall be found to be cleaned of visible dust and debris. The surfaces shall be re-cleaned when visible dust and debris is present. The visual inspection shall be conducted to determine the presence of paint chips on the dripline or next to the foundation below any exterior abated surface. Paint chips, if present, shall be removed from the site and disposed of according to federal, state and local requirements.~~

~~(F) The rooms, hallways or stairwells selected for sampling shall be selected according to documented methodologies.~~

~~(G) The certified and licensed inspector or risk assessor shall compare residual lead levels (as determined by laboratory analysis) from each single surface dust sample with clearance examination standards as defined in these rules for lead in dust on floors and interior window sills, and window troughs, divided by half the number of subsamples in the composite sample. If the residual lead level in a single surface dust sample equals or exceeds the applicable clearance examination standard or if the residual lead level in a composite dust sample equals or exceeds the applicable clearance examination standard divided by half the number of subsamples in the composite sample, the components represented by the failed sample shall be re-cleaned and retested until clearance examination standards are met.~~

~~(k) In a multi-family dwelling with similarly constructed and maintained residential dwellings, random sampling for the purposes of clearance examination may be conducted provided:~~

~~(A) The certified individuals who work on or clean the residential dwellings do not know which residential dwelling will be selected for the random sample.~~

~~(B) The randomly selected residential dwellings shall be sampled and evaluated according to subsection (5)(j) of this rule.~~

~~(C) A sufficient number of residential dwellings are selected for dust sampling to provide a 95 percent level of confidence that no more than five percent or 50 of the residential dwellings (whichever is smaller) in the randomly sampled population exceeds the appropriate clearance examination standards.~~

~~(l) An abatement report shall be prepared by a certified and licensed supervisor or project designer and shall include as a minimum the following information:~~

~~(A) Start and completion dates of abatement;~~

~~(B) The name, address and telephone number of each certified firm conducting the abatement and the name of each supervisor or project designer assigned to the abatement project;~~

~~(C) The occupant protection plan;~~

~~(D) The name, address and signature of each certified and licensed inspector or risk assessor conducting the clearance examination and the date(s) that the clearance examination was performed;~~

~~(E) The results of the clearance examination and all soil analyses and the name of each laboratory conducting analysis of collected samples; and~~

~~(F) A detailed written description of the abatement, including abatement methods, location of rooms and/or components where abatement occurred, reason for selecting particular abatement methods for each component, and any suggested monitoring of encapsulants or enclosures.~~

~~(m) A clearance examination report shall be prepared by a certified inspector or risk assessor. The clearance examination report shall include the following information:~~

~~(A) The property address where the clearance examination occurred;~~

~~(B) The abatement cleanup completion date and time;~~

~~(C) The date and time of the clearance examination;~~

~~(D) Name and certification number of each inspector or risk assessor conducting the clearance;~~

~~(E) The signature of the inspector or risk assessor conducting the clearance;~~

~~(F) Name, address, telephone number, and certification number of the certified firm employing the inspector or risk assessor;~~

~~(G) Results of the visual inspection;~~

~~(H) Identification of containment or non-containment applications;~~

~~(I) Identification of location(s) where the clearance examination sample(s) were collected;~~

~~(J) Name, address, and telephone number of the laboratory analyzing the collected samples;~~

~~(K) All results of laboratory analysis on collected samples, including quality control results; and~~

~~(L) Documented methodology used for sampling.~~

~~(6) Sampling. Any paint chip, dust, or soil samples collected pursuant to these work practice standards shall be collected by a certified and licensed inspector or risk assessor. Persons exempt from CCB licensing requirements shall be certified by the Authority. Employees of public agencies who conduct 'in-house' lead-based paint activities are exempt from licensing by the CCB. Such samples shall be analyzed by a laboratory accredited under the National Lead Laboratory Accreditation Program.~~

~~(7) Composite sample. Composite dust sampling may only be conducted when conducting a lead hazard screen, risk assessment, or post abatement activities. If conducted, the composite dust samples shall consist of at least two subsamples, every component that is being tested shall be included in the sampling, and shall not consist of subsamples from more than one type of component.~~

~~(8) Reports or plans. All lead-based paint activity reports or plans shall be maintained by the certified firm or individual who prepared the report for no fewer than three years and six months. Also, the certified firm or individual shall provide copies of these reports to the building owner or client who contracted for the services, unless otherwise specified by contract, within 30 days of the lead-based paint activity, or within 15 days if a child under six years of age with a confirmed EBLL ≥ 10 $\mu\text{g}/\text{dL}$ is an occupant of the building.~~

~~(9) Certified individuals and firms shall, upon request, make available to the Authority records and documents regarding regulated lead-based paint activities so that the Authority may inspect said records and documents for the purposes of monitoring compliance with these rules. The Authority shall respect the proprietary nature of business records.~~

~~(10) Signage. Every work site where lead-based paint abatement is being conducted shall bear signage warning of lead-based paint hazards.~~

~~(a) The text on warning signage shall warn of "Lead-Based Paint Hazards" and be readable from 30 feet.~~

~~(b) If the Authority determines that a paint lead hazard, dust lead hazard, or soil lead hazard exists at target housing or pre-1978 child-occupied facilities, the Authority shall post signage to that effect on the building exterior in one or more visible locations.~~

~~(c) Signage posted by the Authority warning of lead hazards must remain in place until the lead hazard or hazards determined by the Authority have been remediated per clearance examination standards.~~

~~(11) Determinations.~~

~~(a) Lead-based paint is present:~~

~~(A) 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 percent by weight; and~~

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

~~(b) A paint lead hazard is present:~~

~~(A) On any friction surface that is subject to abrasion and where the lead dust levels on the nearest horizontal surface (e.g., the window sill or floor) are equal to or greater than the dust hazard levels identified in OAR 333-069-0015(9);~~

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

~~(C) 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 a door frame); and~~

~~(D) 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.~~

~~(e) A dust lead hazard is present in a residential dwelling or child-occupied facility:~~

~~(A) In a residential dwelling on floors and interior window sills when the weighted arithmetic mean lead loading for all surfaces on floors, interior window sills and window troughs is equal to or greater than 40 µg/ft² for floors, 250 µg/ft² for interior window sills, and 400 µg/ft² for window troughs;~~

~~(B) 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~~

~~(C) 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.~~

~~(d) A soil lead hazard is present in a residential dwelling or child-occupied facility:~~

~~(A) In a play area when the soil lead concentration from a play area sample of bare soil is equal to or greater than 400 ppm; or~~

~~(B) When the arithmetic mean lead concentration from a composite sample (or arithmetic mean of composite samples) of bare soil from the remainder of the yard for each residential building on a property is equal to or greater than 1,200 ppm.~~

~~Stat. Auth.: ORS 431.920~~

~~Stats. Implemented: ORS 431.920~~

333-069-0080

Denial, Suspension or Revocation of Certification

(1) The Authority may deny issuance of, suspend, or revoke certification for an individual or a firm for circumstances including but not limited to the following:

- ~~(a) Performing work requiring certification at a job site without having a current valid certificate identification card available at the job site for inspection;~~
 - ~~(b) Permitting the duplication or use of the individual's own certificate by another;~~
 - ~~(c) Performing work for which appropriate certification has not been received from the Authority;~~
 - ~~(d) Having been subject to a final administrative order imposing a civil penalty or a criminal conviction for engaging in a prohibited act under Authority or CCB rules;~~
 - ~~(e) Failing to comply with relevant local, state, or federal statutes or regulations including execution of a consent agreement in settlement of an enforcement action;~~
 - ~~(f) Failing to comply with work practices and standards set forth in these rules and other generally accepted work practices;~~
 - ~~(g) Obtaining certification through fraudulent representation of documentation satisfying eligibility requirements;~~
 - ~~(h) Failing to renew certification or to recertify in a timely manner;~~
 - ~~(i) Gaining admission to and completing education through fraudulent representation of initial or previous education documentation;~~
 - ~~(j) Obtaining certification through fraudulent representation of certification requirements such as education, training, professional registration, or experience;~~
 - ~~(k) Performing work requiring certification at a job site with individuals who are not certified;~~
 - ~~(l) Failing to maintain required records; and~~
 - ~~(m) Failing to comply with these rules including execution of a consent agreement in settlement of an enforcement action.~~
 - ~~(2) The Authority may deny issuance of, suspend, or revoke certification for an individual for circumstances including but not limited to the following:~~
 - ~~(a) Obtaining training documentation through fraudulent means, and/or;~~
 - ~~(b) Gaining admission to and completing education through fraudulent representation of initial or previous education documentation.~~
 - ~~(3) The Authority may deny issuance of, suspend, or revoke certification for a firm for circumstances including but not limited to the following:~~
 - ~~(a) Performing work requiring certification at a job site with individuals who are not certified;~~
 - ~~(b) Failing to maintain required records.~~
 - ~~(4) Hearings on the denial, suspension or revocation of a certificate shall be conducted as a contested case in accordance with ORS 183.310 through 183.540.~~
- ~~Stat. Auth.: ORS 431.920~~
~~Stats. Implemented: ORS 431.920~~

333-069-0090

Fees

~~The following fees are established:~~

- ~~(1) Firms shall pay a non-refundable certification or recertification application fee of \$85 for a one-year certification.~~
- ~~(2) Inspectors, risk assessors, supervisors, and project designers shall pay a non-refundable certification or recertification fee of \$85 for a one-year certification.~~

~~(3) Workers shall pay a non-refundable certification or recertification fee of \$50 for a one-year certification.~~

~~(4) The fee for applications for certification received by the Authority between April 1 and June 30 shall be as follows: Worker, \$25; all other disciplines, \$45.~~

~~(5) The application fee for a permit for painting shall be \$5.~~

~~Stat. Auth.: ORS 431.920~~

~~Stats. Implemented: ORS 431.920~~

333-069-0100

Federal Regulations Adopted by Reference

(1) The Oregon Health Authority (Authority) is authorized to administer the lead-based paint activities program under ORS 431A.355 and 40 Code of Federal Regulations (CFR) 745.324. The Authority's rules must be no less stringent than the U.S. Environmental Protection Agency's (EPA's) rules in 40 CFR 745 Subparts D and L.

(2) The Authority adopts by reference 40 CFR 745, Subpart D---Lead-Based Paint Hazards, and Subpart L---Lead-Based Paint Activities except as described in section (3) of this rule and except for:

(a) 40 CFR Part 745.225(g) and (h);

(b) 40 CFR 745.235;

(c) 40 CFR 745.237; and

(d) 40 CFR 745.239.

(3) Notwithstanding 40 CFR 745 Subpart D and L:

(a) All fees are as established in OAR 333-069-0120;

(b) All certification, recertification, accreditation and reaccreditation periods are as established in OAR 333-069-0120;

(c) Notices required to be sent to EPA under 40 CFR 745.225(c)(13)(vi) and (14)(iii) must be sent to the Authority at 800 NE Oregon Street, Suite 640, Portland, OR 97232 or to lead.program@state.or.us; and

(d) Where "Administrator" or "EPA" appears in 40 CFR Part 745, "OHA" or "Authority" is substituted, unless the context suggests otherwise.

Stat. Auth.: ORS 431A.355

Stats. Implemented: ORS 431A.355, 431A.358

333-069-0110333-069-0085

Violations; Schedule of Penalties

(1) The Authority may assess civil penalties, ~~not to exceed the actions or amount shown in the following guidelines or deny, suspend or revoke any accreditation or certification applied for or issued under these rules for any of the following violations:~~

(a) ~~A~~ Level one violations ~~includes, but is not limited to, the following violations:~~

(Aa) Offering to perform or performing lead-based paint activities without Authority certification and Oregon Construction Contractors Board (CCB) licensing, unless specifically exempted by these rules.

(Bb) Clearance examination inconsistencies including, but not limited to, the following:

(iA) Failure to conduct clearance examination;

(iiB) Allowing rehabilitation before clearance has been achieved; or

(iiiC) Allowing rehabilitation when lead hazard levels exceed the standard;

- (Ce) The collection of samples as described in these rules by a non-certified individual or firm;
- (Dd) Obtaining certification via fraud or duplication of certification documents;
- (Ee) Conducting lead-based paint activities with a revoked, suspended or expired certification;
- (Ff) Employing uncertified individuals to conduct lead-based paint activities;
- (Gg) Failure to comply with a consent agreement or an administrative order;
- (Hh) Falsification of results of lead-hazard sampling;
- (Ii) Removing paint from target housing or child-occupied facilities without proper certification from the Authority a permit; or
- (Jj) Use of prohibited abatement methods.
- ~~(b2) A-H Level two violations includes, but is not limited to, the following violations:~~
- (Aa) Failure to comply with prescribed work practice standards;
- (Bb) Improper collection or handling of samples or sampling information collected for an inspection, risk assessment, clearance, or lead-hazard screen;
- (Ce) Failure to use a National Lead Laboratory Accreditation Program laboratory for analysis of samples referred to in ~~paragraph subsection (1)(b)(B)(2)(b)~~ of this rule;
- (Dd) Incomplete, missing or late reports;
- (Ee) Failure to provide notice of abatement, or notice given in a manner that obstructs proper oversight;
- (Ff) Failure to provide client with report of lead-based paint activity in a timely manner, as specified for in these rules;
- ~~(Gg) Failure or refusal to establish, to maintain, or to provide, copy, or permit access to records or reports as required for Authority inspection lead-based paint activities reports and documents; or~~
- (Hh) Performance by a certified individual of lead-based paint activity outside of the scope of that individual's certification.;
- ~~(c3) A-H Level three violations includes, but is not limited to, the following violations:~~
- (Aa) Conducting lead-based paint activities without a valid certification badge;
- ~~(b) Conducting in-house lead-based paint activities by a public agency without having submitted a letter of compliance to the Authority;~~
- ~~(c) Conducting lead-based paint activities that have been contracted for by a non-certified firm or agency, without the firm or agency having submitted a letter of compliance to the Authority;~~
- (Bd) Conducting lead-based paint abatement without an occupant protection plan.;
- ~~(2) If the Authority finds a violation of these rules that is not categorized in accordance with section (1) of this rule, the Authority, in its discretion, will determine what level the violation is depending on its severity and the extent to which the violation poses a risk to the public's health.~~
- ~~(34) Penalties The penalties for levels one, two and three as described in this rule will be assessed according to the following schedule:~~
- (a) Level one violations:
- (A) First offense: notice of noncompliance and a civil penalty of up to \$1,000.
- (B) Second offense: notice of noncompliance, a civil penalty of up to \$3,000 and suspension of certification for up to 90 days.

(C) Third offense: notice of noncompliance, a civil penalty of up to \$5000 and either suspension of certification for up to 180 days or revocation of certification.

(b) Level two violations:

(A) First offense: notice of noncompliance and a civil penalty of up to \$500.

(B) Second offense: notice of noncompliance and a civil penalty of up to \$2,000.

(C) Third offense: notice of noncompliance, a civil penalty of up to \$5,000 and suspension of certification for up to 30 days.

(c) Level three violations:

(A) First offense: ~~notice of noncompliance~~ warning letter.

(B) Second offense: notice of noncompliance ~~and/or a letter of warning~~.

(C) Third offense: notice of noncompliance ~~and/or a letter of warning~~ and a civil penalty of up to \$100.

~~(5) Violations that are not specifically addressed in sections (1) through (4) of this rule, such as in the case of serial violations of different levels, shall be assessed appropriate penalties by the Authority in accordance with the hazard to public health produced by the activity and the compliance history of the violator.~~

~~(6) Removal of signage. It shall be a violation to remove a sign posted by the Authority to warn the public of lead hazards, and such action shall be punishable by a fine of \$100 per day.~~

~~(4) The civil penalties in section (3) of this rule are per day per violation, not to exceed \$5,000 for each violation.~~

~~(5) The Authority may revoke, suspend, or refuse to issue or reissue the certification ~~or permit~~ of any individual or firm who fails to pay ~~on demand~~ a civil penalty that has become due and payable.~~

~~(8) Procedures, including a hearing, pursuant to the assessment of a civil penalty shall be conducted according to ORS 183.745.~~

~~(6) Notices of non-compliance, civil penalties, suspensions or revocations will be issued in accordance with ORS chapter 183.~~

Stat. Auth.: ORS ~~431A.355~~431.920, 701.992

Stats. Implemented: ORS ~~431A.355~~431.920, 701.992

333-069-0120

Certification and Accreditation Periods; Fees

(1) Certifications and recertifications are issued for three years.

(2) Accreditations and reaccreditations are issued for one year.

(3) The following certification and recertification fees are established and are non-refundable:

(a) Firms: \$255.

(b) Inspectors, risk assessors, supervisors, and project designers: \$255.

(c) Workers: \$150.

(4) The following initial accreditation fees are established and are non-refundable:

(a) Standard lead-based paint inspector or supervisor training course: \$750.

(b) Standard lead-based paint risk assessor or worker training course: \$500.

(c) Refresher lead-based paint activities training course covering more than two disciplines: \$600.

(d) Inspector or supervisor refresher training course: \$500.

- (e) Risk assessor or a worker refresher training course: \$350.
- (f) Training manager for each standard training or refresher course: \$175
- (g) Each additional instructor or guest instructor for each standard training or refresher training course: \$90.
- (5) The following reaccreditation fees are established and are non-refundable:
 - (a) Standard lead-based paint activities training course for each discipline: \$300.
 - (b) Refresher training course covering up to two disciplines: \$100
 - (c) Refresher training course covering more than two disciplines: \$200.
 - (d) Training Manager for each standard training or refresher course: \$100:
 - (e) Each additional instructor or guest instructor for each standard training or refresher training course: \$50.
- (6) The application fee for a permit for painting shall be \$5. This is an annual fee.
Stat. Auth.: ORS 431A.355
Stats. Implemented: ORS 431A.355