

# Washington Lead-Based Paint Program



Biennial Report Submitted Pursuant to RCW 70.103.050

**LEAD-BASED PAINT PROGRAM**

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REPORT TO THE LEGISLATURE

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# Acknowledgments

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LEAD-BASED PAINT PROGRAM

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# Executive Summary

## Overview

According to the Centers for Disease Control and Prevention, lead-based paint and lead-contaminated dust are the most widespread and hazardous sources of lead exposure for young children in the United States.<sup>1</sup> For children, even low levels of lead exposure can cause kidney damage; learning disabilities, including attention deficit disorder; brain and nervous system damage; speech, language, and behavioral problems; poor muscle coordination; reduced muscle and bone growth; and hearing damage. Federal and state lead-based paint rules apply to work performed on homes built before 1978, although housing built before 1960 contains the majority of lead-based paint hazards.

The Lead-Based Paint Program aims to ensure that contractors and homeowners perform work safely in homes containing lead-based paint. [RCW 70.103.05](#) requires that Commerce:

*"[S]hall prepare and submit a biennial report to the legislature regarding the program's status, its costs, and the number of persons certified."*

Commerce's enforcement program helps ensure children are safe from lead exposure. The priority of the program is education and training - informing contractors that the methods they use may expose children to the dangers of lead. The Lead-Based Paint Program consists of two programs: the Lead Paint Abatement Program (abatement) and the Renovation, Repair, and Painting Program (RRP program).

## Program Highlights

### Program Status

#### **Developing Relationships with Stakeholders in Eastern Washington**

Commerce's Spokane-based compliance and enforcement officer developed new relationships on the eastern side of the state. Commerce held a series of compliance-based outreach meetings throughout the east side of the state. Contractors, landlords and other members of the public received information on complying with the RRP rule. The new relationships enabled Commerce to help a family safely remediate their home after do-it-yourself home repairs caused lead poisoning in their child (Why the Lead-Based Paint Program Matters on page 8).

#### **Collaborating with Permit Offices to Increase Awareness of Certification Requirements**

The Spokane-based compliance and enforcement officer successfully encouraged the city of Spokane permit office to incorporate language referencing the RRP program on its permit documentation. The wording alerts contractors to the need for RRP certification when working on pre-1978 buildings.

Commerce's Olympia-based compliance and enforcement officer started a permitting office project to connect with city and county building permit officers to encourage them to incorporate language referencing the RRP program on their permit documentation. To date, five of the 39 counties agreed to include this language.

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<sup>1</sup> Centers for Disease Control, "Lead in Paint," <https://www.cdc.gov/nceh/lead/prevention/sources/paint.htm>

## Strengthening Partnership with the EPA

The Spokane-based compliance and enforcement officer strengthened the partnership with the Environmental Protection Agency (EPA) through an opportunity to train alongside EPA staff. Kim Farnham, the EPA Lead-Based Paint Compliance Officer, wrote:

"Since Washington state hired [The Compliance and Enforcement Officer] 2 years ago, the EPA has not received any complaints from contractors in the Spokane area. This is an indication that her presence has made a huge difference in the attitude of contractors from that area. EPA very much appreciates the initiative taken to level the playing field for those contractors that follow the RRP rule, and I'm sure they appreciate it as well."

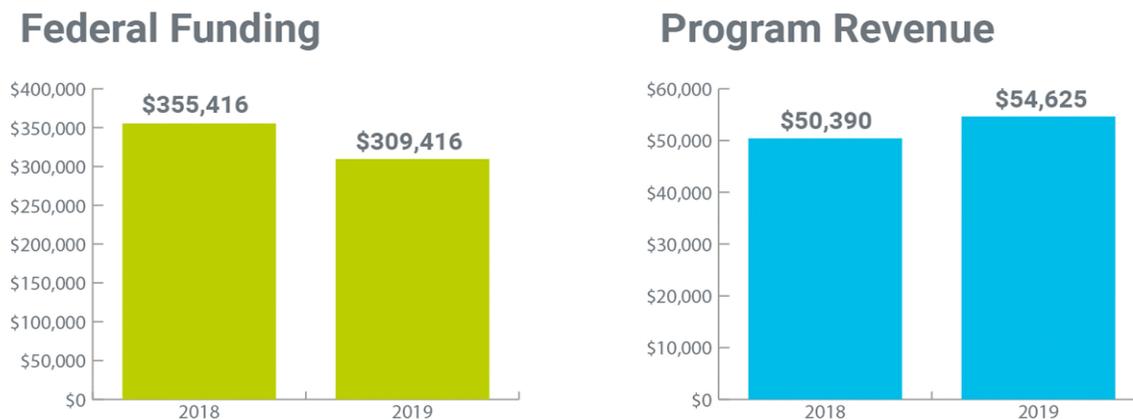
## Program Costs and Funding

Program funding comes federal funding, program revenue, and the Washington State Legislature.

State operating funds provide for the program to hire an additional enforcement officer for the east side of the state. Commerce hired a Spokane-based compliance and enforcement officer in August 2018. However, the program still relies heavily on EPA funding, which has declined recently, to pay for staff.

Program certification fees are the lowest in the nation and are a relatively small share of program revenue. Without the state general fund appropriations, the program would not be able to operate effectively statewide.

**Figure 1: Federal Funding and Program Revenue, 2018 and 2019**



## Persons and Firms Certified

- Firm certifications increased from 410 in 2018, to 425 in 2019.
- Persons certified increased from 1,209 in 2018, to 1,281 individuals in 2019.

# Program Status, Costs and Certifications Issued

## Overview of Lead-Based Paint Programs in Washington

Two programs aim to reduce lead hazards to the public: one for firms performing lead abatement work, and one for firms and individuals performing work that could disturb lead in buildings built before 1978.

### Lead Paint Abatement Program

The 2003 Legislature established the Lead Paint Abatement Program in the Department of Commerce (RCW 70.103). The program aims to protect the public from exposure to lead hazards and ensures the availability of a trained and qualified workforce to identify and address lead-based paint hazards.

The abatement program accredits lead-based paint training providers, certified lead-abatement firms, and individual workers who perform lead-based paint remediation work. The program processes certification and accreditation applications, tracks licensees, reviews training for provider and program effectiveness, provides technical assistance, investigates potential violators, enforces rules, conducts outreach, maintains website information, and represents Commerce regarding all lead issues.

### Renovation, Repair and Painting Program

In 2010, the Legislature created the Renovation, Repair and Painting (RRP) Program, which the lead-based paint program now runs alongside the abatement program. The RRP program performs the same functions as the abatement program but focuses on contractors performing work, such as home remodeling or painting that may disturb lead-based paint. The RRP program rule applies to anyone who performs work for compensation on a pre-1978 residence or child-occupied facility. Rules apply to work that would disturb more than 20 square feet of exterior paint and six square feet of interior paint.

## Program Funding

Washington's Lead-Based Paint Programs receive funding from the federal government, state appropriations and program revenue.

**Table 1: Program Funding - 2016 to 2019**

Fund Source	2016	2017	2018	2019
Federal Funds	\$365,184	\$395,121	\$355,416	\$309,416
Program Income	\$67,682	\$48,285	\$50,390	\$54,625
State Appropriations	\$0	\$0	\$113,000	\$113,000
<b>Totals</b>	<b>\$432,866</b>	<b>\$443,406</b>	<b>\$518,806</b>	<b>\$477,041</b>

### EPA Funding

Since 2004, a State and Tribal Assistance Grant (STAG) from the federal Environmental Protection Agency (EPA) funded the Lead-Based Paint Program. In past years, the funding allocation from EPA has declined.

STAG funding covers the costs for three full-time employees: a program manager, a certification specialist, and an enforcement officer. STAG funding also pays for education and travel costs for three of the Lead-Based Paint Program's four employees. Nationwide, the STAG funding has decreased because of changing priorities from the federal administration.

## State Funding

In 2018, the Legislature provided funding for the program to hire an additional enforcement staff. In the 2019 operating budget, the Legislature continued this funding for the 2019-2021 biennium by providing \$226,000. This funding covers the costs for one full-time employee, an additional enforcement officer. State funding also pays for education, travel and, more importantly, outreach efforts statewide. Due to this funding, the program was able to hire a second full-time enforcement officer set to start April 1, 2020, bringing the total to two state-funded enforcement officers and one EPA-funded enforcement officer.

## Program Revenue

The program charges individuals, firms, and training providers for certifications. The individual and firm certifications are the lowest in the nation. See Appendix A for more information about how certification fees vary by state.

### Individual and Firm Certification

Program revenue supplements federal funding. Program income accrues by the collection of application fees for certification of firms, registration of individuals, accreditation of training providers, and fines collected from violations to the rule. The certification fees in Washington are the lowest in the nation at a rate of \$25 per lead abatement and RRP application.

### Training Provider Certification

The program charges \$200 per discipline for renovation training providers. The program also charges \$200 per discipline from abatement training providers.

## Program Status

### Citations

Due to its regulatory nature, the program can issue violation citations to individual contractors under RCW 70.103.050. The program issued 55 violation citations between Oct. 1, 2017, and Sept. 30, 2019. Fines are generally \$2,000 per site. The amount of actual money collected was much lower because many first-time offenders take the training and become certified, which significantly reduces the fine.

The RRP enforcement program began in 2011. Prior citations issued on the eastern side of the state totaled 11 compared to 69 on the western side of the state. Once the program had its Spokane-based compliance and enforcement officer in place, the program issued 11 citations in one year in eastern Washington.

The number of citations issued on the east side of the state does not reflect the full extent of enforcement actions. The compliance and enforcement officer frequently withheld citations to give contractors the chance to take a class to receive a certification. The program can verify the contractor's compliance by either auditing the class or by receipt of the RRP application. Although the program has a regulatory aspect, the top priority is education and outreach.

**Table 3: Citations by Region, Before and After Hiring Spokane Staff Member**

Region	2011 to August 2018	August 2018 to August 2019
East	11	11
West	69	23
<b>Totals</b>	<b>80</b>	<b>34</b>

## Certifications

The program tracks businesses that work in the lead-related industries and the individuals associated with that business through certifications. Businesses obtain firm certifications, while individuals obtain a worker, supervisor, inspector, risk assessor or renovator certification.

Although there are many factors driving certification, one is active enforcement. For example, certifications increased after the enforcement officer located in Spokane was hired.

### Firm Certifications

In the previous biennium, Commerce invested funds into building a database for tracking the firms that perform lead activities, individuals, and the associated certifications. This new database allowed the program to issue electronically generated certifications and to collect payment from training providers electronically. The goal is for contractors to upload their applications electronically into the system, thus reducing the staff hours required to process applications.

However, contractors found it more challenging to use the Secure Access Washington system, which is required to upload to the database than mailing documents. As a result, the program is not requiring contractors to submit certifications electronically until the program develops a better solution.

**Table 4: Firm Certifications, 2018 and 2019**

Region	2018	2019
East	76	106
West	334	319
<b>Totals</b>	<b>410</b>	<b>425</b>

### Bulk Uploading of Certifications by Training Providers

Training providers log into the database and enter individual renovators into the system via our student roster form, which allows a training provider to upload an entire class roster into the database at one time. Electronic uploading significantly lessened the manual data entry workload on staff.

## Database Cleanup for Public Firm Searching

The program invested time in cleaning up its database to allow for an outwardly facing database where people can search the database for certified firms. In the current process, one has to call for verification of credentials. The database will save the program staff a great deal of time and effort.

## Individual Certifications

Individual certifications are issued to lead professionals. Each firm that is certified must employ at least one lead professional. A renovator is the most common lead certification. Lead professionals are associated in the database with the firms that employ them so that program staff can tell at a glance who works for each firm.

**Table 5: Individual Certifications, 2018 and 2019**

Region	2018	2019
East	245	276
West	964	1,005
<b>Totals</b>	<b>1,209</b>	<b>1,281</b>

## Other Enforcement Actions

Compliance officers also perform outreach activities, such as being out in the field, visiting sites and recommending to contractors the best way to contain lead in specific site conditions. Additionally, the compliance officer educates impacted individuals about certifications and how to obtain them.

### Notification Letters

The program also uses "notification letters" to contractors, outlining the requirements of the RRP rule and recommend the reader comply with the regulation. The program uses notification letters when a job site lacks evidence to issue a citation, but it is clear contractors performed work that may have created lead hazards.

**Table 6: Notification Letters Issued**

Region	2018	2019
East	0	39
West	13	27
<b>Totals</b>	<b>13</b>	<b>66</b>

The program issued more notification letters on the east side of the state because it withheld citations as a way to track if contractors would come into compliance with a warning letter. The west side of the state was the control group, where the Lead-Based Paint Program continued issuing citations instead of notification letters. The approach works, and the program will move forward with issuing more notifications statewide.

# Why the Lead-Based Paint Program Matters

## One Family's Experience with Lead Poisoning

During a routine visit to a family pediatrician in January 2019, a 19-month-old child had a blood lead level (BLL) test. The results came back at 5 milligrams per deciliter, which is at the CDC's level of concern. Retesting of the child in July revealed their BLL had risen to 11. The child's poisoning resulted from the installation of larger windows for safety reasons in a home built in 1911, which created paint chips and dust in the process. The family was not aware of lead dust hazards. The child played in the soil surrounding the home, which caused the child's lead poisoning.

The home contained lead-based paint on the peeling and cracking windows. There were lead dust hazards in the house. Testing revealed high levels of lead in the soil along the drip line, and in the dirt near the homeowner-installed larger windows.

The case manager for Molina/Apple Health called the Spokane Compliance and Enforcement Officer, looking for help to clean up the home. The Lead-Based Paint Program (program) referred the family to the Department of Health's Lead Hazard Control Grant. Because that grant was still in its startup phase, it was not available to help this family. Also, Housing and Urban Development (HUD) projects have strict income eligibility requirements, and the family income exceeded that level by approximately \$100.

The program advised the family on how to control dust and how to feed the children healthy foods high in iron and calcium to displace the lead in the body. The family had to make a decision on whether to clean up the hazard themselves, which they could not afford.

Commerce's program connected the family with the Spokane Neighborhood Action Program (SNAP), the local community action program. SNAP paid for a lead risk assessment. SNAP does have a HUD-funded HOME program. However, all SNAP could do under that program was offer the family a low-interest loan and offer to replace the remaining windows for \$10,000, which the family could not afford. Instead, they were going to buy new windows for \$9,000 using a credit card.

The family again contacted the program for assistance. The program manager referred the family to a new lead remediation program by the Energy Division at Commerce, which the 2017 Legislature funded with \$1 million. The income requirements were more flexible than HUD program requirements.

By collaborating across Commerce, the program was able to help this family. The weatherization program was in the process of de-obligating the funds and returning some portion of it to the Legislature. Instead, the weatherization program was able to transfer funding to SNAP. SNAP was able to remediate the soil, repaint the entire home, and replace the rest of the windows, which should make the house safe from lead.

The ordeal this family went through is not unique. For context, in 2018, 22,773 children under the age of 6 months received testing for elevated BLLs in Washington. Of those tested, 448 had a BLL greater than 5 milligrams per deciliter, or roughly 2%.

## Appendix A: Comparison of RRP Fees by State

Other states' RRP programs average \$150 per year for firm certification and \$71 per year for individual certification. Table 2 shows states with RRP authority and the costs for certification in those states.

**Table 2: RRP Fees by State**

Authorized State	RRP Firms	RRP Individuals
Alabama	\$300	\$100
Delaware	\$50	\$50
Georgia	\$100	\$150
Iowa	NA	\$60
Kansas	\$100	NA
Massachusetts	\$375	NA
Mississippi	\$350	\$75 up to two
North Carolina	\$300	NA
Oklahoma	\$60	NA
Oregon	\$100 CCB+OHA	NA
Rhode Island	\$8	\$8
Utah	\$200	\$150
<b>Washington</b>	<b>\$5</b>	<b>\$5</b>
Wisconsin	\$90	\$37.50
US EPA (all other states)	\$60	NA
<b>Average Fee</b>	<b>\$150</b>	<b>\$71</b>