Washington Lead-Based Paint Programs

Biennial report submitted pursuant to RCW 70A.420.050
Acknowledgments

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Executive summary

Lead-based paint and lead-contaminated dust are the most widespread and hazardous sources of lead exposure for young children in the United States.\textsuperscript{1} Even low levels of lead exposure in children can cause kidney damage, learning disabilities, brain and nervous system damage, poor muscle coordination, reduced muscle and bone growth, hearing impairment, and speech, language and behavioral problems. 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.

Commerce's Lead-Based Paint Programs aim to ensure contractors and homeowners work safely in homes containing lead-based paint. The program's priority is education and training about work methods that may expose children to lead hazards. The Lead-Based Paint Programs consist of the Lead Paint Activities Program and the Renovation, Repair and Painting Program.

This report satisfies \texttt{RCW 70A.420.050}, which requires the Department to "establish procedures and requirements for the accreditation of lead-based paint activities training program..." Regarding the report, "[Commerce] shall prepare and submit a biennial report to the legislature regarding the program's status, its costs, and the number of persons certified."

Program highlights

**Program status**

- **Collaborating with city and county permit offices to increase awareness of certification requirements:** Eight jurisdictions agreed to include language about lead paint requirements on their documents. In addition, at least five other jurisdictions agreed to use a sticker with the language on their documents.
- **Staffing:** The program currently employs 4 FTEs, including a program manager, one compliance and enforcement specialist for each side of the state, and a certification and accreditation specialist.

**Costs and funding**

Program funding comes from federal and state sources and program revenue. In the last biennium:

- **$961,829 in federal funding** paid for three of the four program staff and covered education and travel costs. Although federal funding increased during the pandemic, the program could not spend all of the funds due to pandemic-related restrictions and returned $160,325.14.
- **$226,000 in state funding** paid for one enforcement officer and travel, education, and outreach.
- **$131,000 in program revenue** was earned from certification and accreditation payments. Program certification fees are the lowest in the nation (see Appendix A) and are a small share of program revenue.

**Persons and firms certified**

Due to the COVID-19 pandemic, the program suspended certification classes early in the pandemic, extended recertification due dates, and suspended enforcement. The program resumed fieldwork and classes in 2021.

- Firm certifications decreased from 2,306 in 2020 to 1,879 in 2021.
- Persons certified decreased from 6,709 in 2020 to 6,070 individuals in 2021.

\textsuperscript{1} Centers for Disease Control, "Lead in Paint," \url{https://www.cdc.gov/nceh/lead/prevention/sources/paint.htm}
Program status

Overview of Washington's Lead-Based Paint Programs

Two programs work to reduce lead hazards to the public:

1. The **Lead Paint Activities Program** for firms performing lead activities work, including abatement
2. The **Renovation, Repair and Painting Program** for firms and individuals performing work that could disturb lead in buildings built before 1978

**Lead Paint Activities Program**

The program protects 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 Lead Paint Activities 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.

The 2003 Legislature established it as the Lead Paint Abatement Program. It is now the Lead Paint Activities Program because the term "abatement" might be confusing.

**Renovation, Repair and Painting Program**

The Renovation, Repair and Painting (RRP) Program focuses on contractors performing work, such as home remodeling or painting, that may disturb lead-based paint. It has many of the same features as the Lead Paint Activities Program. The RRP Program rule applies to anyone who works for compensation on a pre-1978 residence or child-occupied facility. Rules apply to work that disturbs more than 20 square feet of exterior paint and 6 square feet of interior paint. The Legislature created the program in 2010.

**Staffing**

**Program manager: 1 FTE**

The program manager provides overall administration and oversight of program components to ensure the completion of goals and objectives. In addition, the program manager supervises program staff and manages the program budget. The program manager also coordinates and implements administrative activities, including program statutes and rules, funding proposals, data requests, and quarterly reports.

**Compliance and enforcement specialists: 2 FTEs**

**Position one**

The compliance and enforcement specialist position was state-funded until June 30, 2021. The position is now funded with program income. This position has been unfilled since March 2022 due to insufficient program funding. The compliance and enforcement specialist is responsible for compliance assistance and enforcement actions. They develop and implement enforcement strategies ensuring compliance with lead-based paint regulations that require the certification of individuals and firms. This position also designs and evaluates program policies, procedures, forms, statutes, and administrative rules to ensure program
effectiveness. This position is responsible for entering and tracking enforcement actions in the Lead-Based Paint Programs.

**Position two**
The compliance and enforcement specialist is responsible for compliance assistance and enforcement actions and develops and implements enforcement strategies to ensure compliance with lead-based paint regulations requiring certification of individuals and firms. This position also designs and evaluates program policies, procedures, forms, statutes and administrative rules to ensure program effectiveness. This position is responsible for entering and tracking enforcement actions in Lead-Based Paint Programs. The U.S. Environmental Protection Agency (EPA) grant funds this position.

**Certification and accreditation specialist: 1 FTE**
The certification and accreditation specialist is responsible for maintaining the data systems that track certification activities within the Lead-Based Paint Programs and processes lead-based paint activities and renovation certification applications. This position enters certification and accreditation data into the database. In addition, this position coordinates state certification testing and grades the tests, enters pre- and post-training data and ensures that the accredited training providers submit required training documentation.

**Enforcement actions**

**Citations**
Although the program has a regulatory aspect, the program prioritizes education and outreach. Before the COVID-19 pandemic, compliance and enforcement officers frequently gave contractors the opportunity to take a class to receive a certification instead of a citation. Contractors can come into compliance by auditing the class or receiving the RRP application. The program suspended this during the COVID pandemic due to travel restrictions. The program revised its travel protocol, and staff re-entered the field with full operations in 2021.

**Fines**
The program issues letters that require firms to pay fines for violations rather than writing citations. The program refers cases to the EPA for collection purposes when firms do not pay fines. The main difference between a letter and a citation is that the letter allows the contractor to come into compliance before issuing a fine, whereas the citation includes an immediate fine. Fines range from $500 to $2,500.

**Other enforcement actions**
Compliance officers perform outreach, visit sites and make recommendations to contractors on the best way to contain lead in specific site conditions. Additionally, the compliance officer educates impacted individuals about certifications, including how to obtain them.

The program issues notification letters to contractors outlining the requirements of the RRP rule, recommending they comply with the regulation and providing a path to compliance. The program also uses notification letters when there is insufficient evidence to issue a citation, but it is clear that contractors may have created lead hazards.
Initiative

Raise awareness of certification requirements

Eight jurisdictions changed their permitting documents to include information about the RPR program. Those jurisdictions are Auburn, Centralia, Duvall, Enumclaw, Kennewick, Spokane, Seattle and University Place. At least five other jurisdictions added a sticker with relevant language and information to their documents. This accomplishment resulted from the Olympia-based compliance and enforcement officer, who encouraged city and county building permit officers to incorporate language referencing the program on permit documentation.
Program funding and costs

Washington’s Lead-Based Paint Programs receive funding from the EPA, state appropriations and program revenue.

Table 1: Program funding by source - 2018 to 2021

<table>
<thead>
<tr>
<th>Fund source</th>
<th>2018</th>
<th>2019</th>
<th>2020</th>
<th>2021</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal funds</td>
<td>$395,121</td>
<td>$355,416</td>
<td>$466,744</td>
<td>$495,085</td>
</tr>
<tr>
<td>Program income</td>
<td>$50,390</td>
<td>$54,625</td>
<td>$60,075</td>
<td>$56,500</td>
</tr>
<tr>
<td>State appropriations</td>
<td>$0.00</td>
<td>$226,000</td>
<td>$272,000</td>
<td>$272,000</td>
</tr>
<tr>
<td><strong>Totals</strong></td>
<td><strong>$445,511</strong></td>
<td><strong>$636,041</strong></td>
<td><strong>$798,819</strong></td>
<td><strong>$823,585</strong></td>
</tr>
</tbody>
</table>

Note: federal funds are presented by federal fiscal year, which runs from October 1 to September 30. State appropriations and program income figures are presented by state fiscal year, which runs from July 1 to June 30.

Table 2: Federal funding with underspending detail - 2020 to 2021

<table>
<thead>
<tr>
<th>Federal fiscal year</th>
<th>Funds allocated</th>
<th>Funds spent</th>
<th>Funds returned to EPA</th>
</tr>
</thead>
<tbody>
<tr>
<td>2020</td>
<td>$466,744</td>
<td>$451,854</td>
<td>$14,890</td>
</tr>
<tr>
<td>2021</td>
<td>$495,085</td>
<td>$348,652</td>
<td>$146,433</td>
</tr>
<tr>
<td><strong>Total for biennium</strong></td>
<td><strong>$961,829</strong></td>
<td><strong>$800,506</strong></td>
<td><strong>$161,323</strong></td>
</tr>
</tbody>
</table>

Overall costs

In previous biennia, the program spent all funding allocations. However, this biennium was different due to the COVID-19 pandemic, which suspended travel for more than a year. Thus, the program returned federal and state dollars for unspent travel costs. The program would have returned more money, but the EPA extended the 2019 yearly grant into 2020. However, the EPA did not allow the extension of 2020 funds, causing the program to return unspent funds.

EPA funding and costs

A State and Tribal Assistance Grant (STAG) from the EPA has funded the Lead-Based Paint Programs since 2004. In past years, the funding allocation from EPA varied from year to year. STAG funding covers the costs for three full-time employees and education and travel costs for three of the Lead-Based Paint Programs’ four employees.
State funding and costs
In the 2019-2021 biennium, the Legislature provided $226,000. State funding pays for education, travel, outreach efforts, and the second program enforcement officer. However, due to staff turnover, including the retirement of the federally funded enforcement officer, some of the legislatively appropriated funds were returned to the general state fund in April 2020.

Program revenue and costs
The program charges individuals, firms and training providers for certifications. The individual and firm certification costs are the lowest in the nation. See Appendix A for more information about certification fees.

Individual and firm certification
Program revenue supplements federal funding. Program income accrues by collecting application fees for firm certification, individual registration, training provider accreditation and violation fines.

Washington's certification fees 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 for abatement training providers.
Certifications

The program tracks businesses that work in lead-related industries and individuals associated with that business through certifications. Businesses obtain firm certifications, while individuals obtain a worker, supervisor, inspector, risk assessor or renovator certification. Lead Paint Activities certifications last for three years. Renovation, Repair and Painting certifications last for five years.

Active enforcement is one of several factors driving certification. For example, certifications increased after the enforcement officer in Eastern Washington was hired.

Due to the COVID-19 pandemic, certification activity decreased in 2020 and 2021. The program did not hold classes early in the pandemic. The program extended due dates for recertification and did not do enforcement actions because staff could not get out in the field. Fieldwork and classes resumed in 2021.

Firm certifications

Commerce’s online database tracks firms and individuals performing lead activities, including associated certifications. It allows the program to issue electronically generated certifications and collect payment from training providers electronically. The goal is that contractors upload applications electronically into the system, thus reducing the staff hours required to process applications.

However, contractors found the Secure Access Washington (SAW) system challenging to use. The system is required to upload items to the database. As a result, contractors are not currently required to submit certifications electronically. The program is seeking a better solution.

Individual certifications

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

Certification data

Tables 3 and 4 include new certifications and recertifications.

Table 3: Renovation, Repair and Painting Program certifications

<table>
<thead>
<tr>
<th>State fiscal year</th>
<th>Firms</th>
<th>Individuals</th>
</tr>
</thead>
<tbody>
<tr>
<td>July 1, 2019 - June 30, 2020</td>
<td></td>
<td>2,306</td>
</tr>
<tr>
<td></td>
<td></td>
<td>6,709</td>
</tr>
<tr>
<td>July 1, 2020 - June 30, 2021</td>
<td></td>
<td>1,879</td>
</tr>
<tr>
<td></td>
<td></td>
<td>6,070</td>
</tr>
</tbody>
</table>
### Table 4: Lead Paint Activities Program certifications

<table>
<thead>
<tr>
<th>State fiscal year</th>
<th>Firms</th>
<th>Individuals</th>
</tr>
</thead>
<tbody>
<tr>
<td>July 1, 2019 - June 30, 2020</td>
<td>102</td>
<td>289</td>
</tr>
<tr>
<td>July 1, 2020 - June 30, 2021</td>
<td>113</td>
<td>284</td>
</tr>
</tbody>
</table>
Appendix A: Comparison of RRP fees by state

Other states’ Renovation, Repair and Painting (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 5: RRP fees by state

<table>
<thead>
<tr>
<th>State</th>
<th>Firms</th>
<th>Individuals</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alabama</td>
<td>$300</td>
<td>$100</td>
</tr>
<tr>
<td>Delaware</td>
<td>$50</td>
<td>$50</td>
</tr>
<tr>
<td>Georgia</td>
<td>$100</td>
<td>$150</td>
</tr>
<tr>
<td>Iowa</td>
<td>NA</td>
<td>$60</td>
</tr>
<tr>
<td>Kansas</td>
<td>$100</td>
<td>N/A</td>
</tr>
<tr>
<td>Massachusetts</td>
<td>$375</td>
<td>N/A</td>
</tr>
<tr>
<td>Mississippi</td>
<td>$350</td>
<td>$75 (for up to two individuals)</td>
</tr>
<tr>
<td>North Carolina</td>
<td>$300</td>
<td>N/A</td>
</tr>
<tr>
<td>Oklahoma</td>
<td>$60</td>
<td>N/A</td>
</tr>
<tr>
<td>Oregon</td>
<td>$100 Central Contractors Board + Oregon Health Authority</td>
<td>N/A</td>
</tr>
<tr>
<td>Rhode Island</td>
<td>$8</td>
<td>$8</td>
</tr>
<tr>
<td>Utah</td>
<td>$200</td>
<td>$150</td>
</tr>
<tr>
<td><strong>Washington</strong></td>
<td><strong>$5</strong></td>
<td><strong>$5</strong></td>
</tr>
<tr>
<td>Wisconsin</td>
<td>$90</td>
<td>$37.50</td>
</tr>
<tr>
<td>U.S. EPA (all other states)</td>
<td>$60</td>
<td>N/A</td>
</tr>
</tbody>
</table>

**Average fee**

<table>
<thead>
<tr>
<th>Firms</th>
<th>Individuals</th>
</tr>
</thead>
<tbody>
<tr>
<td>$150</td>
<td>$71</td>
</tr>
</tbody>
</table>