

CHAPTER 110. LEAD-BASED PAINT MANAGEMENT

SUBCHAPTER 1. GENERAL PROVISIONS

252:110-1-1. Purpose

The rules in this Chapter implement the Oklahoma Lead-based Paint Management Act, 27A O.S. Supp. 1994, Section 2-12-101 *et seq.*, as amended.

252:110-1-2. Basis and authority

The rules in this Chapter were promulgated and adopted pursuant to the Oklahoma Environmental Quality Code, 27A O.S. Supp. 1993, Section 2-1-101 *et seq.*, as amended.

252:110-1-3. Scope and applicability

This Chapter applies to all individuals and firms who are engaged in lead-based paint services in target housing and child-occupied facilities, except persons who perform these services within residential dwellings that they own, unless the residential dwelling is occupied by a person or persons other than the owner or the owner's immediate family while these services are being performed, or a child residing in the building has been identified as having an elevated blood lead level. This Chapter contains procedures and requirements for the accreditation of lead-based paint services training programs, procedures and requirements for the certification of individual and firms engaged in lead-based paint services, and work practice standards for performing such services.

252:110-1-4. Terms

Terms used in this Chapter shall have the meanings given them in Subchapter 3 of this Chapter unless the context clearly indicates otherwise. Any technical term not defined in the Oklahoma Environmental Quality Code, the Oklahoma Lead-based Paint Management Act or by this Chapter shall be defined by its generally accepted scientific meaning or its standard dictionary meaning.

252:110-1-5. Consideration of other laws

Compliance with the requirements of the Oklahoma Environmental Quality Code, the Oklahoma Lead-based Paint Management Act and this Chapter shall not preclude compliance with any other applicable local, state and federal regulations, rules, laws, or other requirements.

252:110-1-6. Severability

The provisions of this Chapter are severable, and if any part or provision hereof shall be held void, the decision of the court so holding shall not affect or impair any of the remaining parts or provisions of this Chapter.

252:110-1-7. Reference to 40 CFR

When reference is made to Title 40 of the Code of Federal Regulations (40 CFR), it shall mean (unless otherwise specified) the Lead-based Paint Activities Regulations, 40 CFR Part 745, originally published in the *Federal Register*, Volume 61, Number 169 on August 29, 1996, and as amended and published in the *Federal Register*, Volume 66, Number 4 on January 5, 2001 and Volume 69, Number 68, on April 8, 2004.

(1) **Inclusion of CFR citations and definitions.** When a provision of the Code of Federal Regulations is incorporated by reference, all citations contained therein are also incorporated by reference, unless specifically excluded.

(2) **Inconsistencies or duplications.** In the event that there are inconsistencies or duplications in the requirements of those provisions incorporated by reference in OAC 252:110-5-1 and the regulations in this Chapter, the provisions incorporated by reference shall prevail, except where the regulations in this Chapter are more stringent.

SUBCHAPTER 3. DEFINITIONS

252:110-3-1. Definitions

In addition to the definitions contained in OAC 252:110-5-1(1) and the Oklahoma Lead-based Paint Management Act, 27A O.S., Sec. 2-12-101 *et seq.*, the following words and terms, when used in this Chapter shall have the following meaning, unless otherwise indicated.

"**Act**" means the Oklahoma Lead-based Paint Management Act, 27A O.S., § 2-12-101 *et seq.*, and subsequent amendments.

"**Authorization**" means a certification, accreditation or approval granted by the Department.

"**Business day**" means Monday through Friday with the exception of State holidays.

"**Exam**" means a third party test, administered by the Department when required for LBP certification.

"**Hazard evaluator**" [See "**Lead-based Paint hazard evaluator**", 27A O.S. § 2-12-102(17).] For the purposes of this chapter, the term "hazard evaluator" is synonymous with the term "risk assessor."

"**HUD procedures**" means the Housing and Urban Development's *Guidelines for the Evaluation and Control of Lead-based Paint Hazards in Housing (June 1995 and revised in October 1997)*.

"**Instructor**" means any person who receives compensation from an accredited LBP training program for teaching all or a portion of a LBP training course.

"**LBP**" means Lead-based Paint.

"**LBP Contractor**" means an individual or firm certified by the Department as an inspector, risk assessor, abatement worker, project designer, supervisor, or firm.

"**OAC**" means the Oklahoma Administrative Code.

"**Quality assurance plan**" means a written description of quality assurance activities that will ensure the generation of data that are scientifically valid, defensible and of known and acceptable limits of precision and accuracy.

"**Training provider**" means any organization or entity accredited under OAC 252:110, Lead-based Paint Management.

"**XRF instrument**" or "**x-ray fluorescence spectroscopy instrument**" means an instrument using radiation from a source to stimulate radiation emission which can be analyzed to determine the presence of certain substances, including lead.

252:110-3-2 Terminology related to 40 CFR

For purposes of interfacing with 40 CFR, the following terms apply:

- (1) "**Administrator**" is synonymous with Executive Director;
- (2) "**EPA**" is synonymous with the Oklahoma Department of Environmental Quality.

SUBCHAPTER 5. INCORPORATION BY REFERENCE

252:110-5-1. Incorporation by reference

The following Sections of 40 CFR Part 745, as they exist on July 1, 2004, are, unless otherwise specified, incorporated by reference in their entirety; ~~(as published in the *Federal Register*, Volume 61, Number 169 on August 29, 1996 and amended in the *Federal Register*, Volume 66, Number 4 on January 5, 2001):~~

- (1) **Section 745.223.** Definitions, except the definitions of "Interim certification," "Business day" and "Training provider."
- (2) **Section 745.225.** Accreditation of training programs: target housing and child-occupied facilities, except:
 - (A) Section 745.225(a)(2) which refers to application dates.
 - (B) Section 745.225(a)(3) which refers to accreditation deadlines.
 - (C) Section 745.225(b)(3) which refers to accredited training courses.
 - (D) Section 745.225(c)(14)(iii) which refers to course notification means of submittal.
 - ~~(D)~~(E) Section 745.225(e)(5) which refers to training programs offering only refresher

training courses.

~~(E)~~(F) Section 745.225(f)(1) which refers to timelines for renewal accreditation of training programs.

~~(F)~~(G) Section 745.225(f)(2) which refers to renewal accreditation deadlines.

(3) **Section 745.226.** Certification of individuals and firms engaged in lead-based paint activities: target housing and child-occupied facilities, except:

(A) Section 745.226(a)(2) which refers to application dates.

(B) Section 745.226(a)(5) which refers to enforcement dates.

(C) Section 745.226(b)(4) which refers to interim certification.

(D) Section 745.226(c)(3) which refers to interim certification.

(E) Section 745.226(d) which refers to certification based on prior training.

(F) Section 745.226(e) which refers to re-certification.

(G) Section 745.226(f) which refers to certification of firms.

(4) **Section 745.227.** Work practice standards for conducting lead-based paint activities: target housing and child-occupied facilities, except:

(A) Section 745.227(a)(1) which refers to performance dates.

(B) Section 745.227(e)(4)(vii) which refers to abatement notification means of submittal.

(5) **Section 745.233.** Lead-based paint activities requirements.

(6) **Section 745.61.** Scope and applicability

(7) **Section 745.63.** Definitions

(8) **Section 745.65.** Lead-based paint Hazards

SUBCHAPTER 7. GENERAL REQUIREMENTS OF AUTHORIZATIONS

252:110-7-1. Scope

(a) **No LBP service required.** Nothing in the Act or this Chapter requires any property owner to inspect, evaluate, test for LBP, or reduce or abate LBP or LBP hazards at his property.

(b) **Accreditation.** OAC 252:110-5-1(2) and Subchapter 9 establish requirements for the accreditation of LBP training programs.

(c) **Certifications.** OAC 252:110-5-1(3) and Subchapter 11 establish requirements for the certification of LBP contractors in the disciplines of inspector, risk assessor, abatement worker, project designer, supervisor and firm.

(d) **Standards.** OAC 252:110-5-1(4) and (5) and Subchapter 13 set minimum standards for the performance of LBP services. Certified LBP contractors shall follow these standards when performing LBP services. Nothing in this Chapter prevents any facility owner who causes LBP services to be performed at his property from requiring that the services be performed according to the standards of Subchapter 13.

252:110-7-2. Applicable dates

(a) **Effective date of this Chapter.** This Chapter shall become effective upon final rule adoption.

(b) **Certification timelines.** The following sets forth the applicable dates for certification:

(1) **Initial certificate period.** Date of issuance through the following March 31.

(2) **Annual certificate renewal year.** April 1 through March 31.

(3) **Date on and after which persons and firms must be certified prior to performing LBP services.** November 1, 1996.

(4) **Annual period when regular renewal applications can be filed.** January 15 until March 31.

(5) **Annual period when late renewal applications will be accepted (without payment of late fee).** April 1 until April 30.

(6) **Waiting period for reapplication after certification has been revoked.** One (1) year from date of revocation.

(c) **Accreditation timelines.** The following sets forth the applicable dates for accreditation:

(1) **Initial accreditation period.** Date of issuance through the following August 31.

- (2) **Annual certificate renewal year.** September 1 through August 31.
- (3) **Annual period when regular renewal applications can be filed.** April 1 until July 31.
- (4) **Annual period when late renewal applications will be accepted (with payment of late fee).** August 1 until August 31.

252:110-7-3. Compliance

- (a) **Duty to comply.** Accredited training programs and certified firms or individuals shall comply with the requirements of the Act, the Oklahoma Environmental Quality Code, 27A O.S. § 2-1-101 *et seq.*, rules promulgated by the Board including this Chapter, the conditions of Department-issued LBP authorizations, and final orders.
- (b) **Failure to comply.** Failure to comply with any such law, rule, authorization or order may result in administrative enforcement and penalties, denial of applications, suspension or revocation of authorization, prosecution and/or any other available remedy in accordance with Part 5 of Article III and Part 3 of Article XII of the Code.
- (c) **Compliance and enforcement inspections.** For purposes of determining and facilitating compliance with the requirements of the Act and this Chapter, any authorized representative of the Department, after identifying himself, shall have the right to inspect, monitor, and evaluate LBP services (certification) and training (accreditation), review records required to be kept by this Chapter, report identified deficiencies to the holder, and require corrective action.

252:110-7-4. Application for authorization

- (a) **Fees.** Nonrefundable fees are payable at the time an application or other notice associated with a fee is filed with the Department.
- (b) **Forms.** Forms for the applications, reports and notices required by this Chapter may be available from the Department upon request.
- (c) **Applicant signature and verification.** An application shall be signed by the applicant and contain a verification stating that the application was prepared under his direction or supervision and the information it contains is, to the best of his knowledge and belief, true, accurate and complete.
- (d) **Withdrawal.** An applicant may withdraw an application at any time with written notice to the Department and forfeiture of fees.

252:110-7-5. Application for authorization renewal

- (a) **Application.** In addition to the requirements of Subchapters 9 and 11, an application for renewal of an authorization shall include documentation that the applicant has met the applicable annual renewal criteria established by this Chapter.
- (b) **Criteria for renewal.** The basis for renewal shall include a timely and complete application, cooperative participation in compliance inspections, compliance as specified in OAC 252:110-7-3, payment of monies owed to the Department and other specific renewal criteria set forth in this Chapter.
- (c) **Effect of renewal application on existing authorization.** A complete and timely renewal application filed with the Department shall extend the existing authorization until the Department either issues or denies the renewal.
- (d) **Notice not required.** An authorized holder is responsible for renewal or reactivation of his own authorization regardless of notification.

252:110-7-6. Application review

- (a) **Review procedure.** The Department shall review an application for completeness, shall give written notice to the applicant of deficiencies and shall specify a date the necessary information is due.
- (b) **Automatic termination.** If, within six months of the Department notice, the applicant fails to provide the information, the entire application shall become void unless a time extension has been granted by the Department for good cause.

252:110-7-7. Issuance, denial, revocation or suspension

- (a) **Basis for issuance.** Authorization shall only be issued to applicants who have submitted a complete application and have satisfactorily demonstrated substantial compliance as outlined in this Chapter, the Code and with other applicable requirements.
- (b) **Basis for denial.** No authorization shall be issued to any applicant who:
 - (1) Fails to satisfy any applicable requirement of the Act or this Chapter;
 - (2) Is not in substantial compliance with the terms and conditions of his expiring authorization or any final Department order issued to him unless the Department imposes special conditions on the new authorization to assure compliance;
 - (3) Purposely omitted material facts from any authorization application, as amended or supplemented;
 - (4) Had an authorization revoked in whole or suspended and not reinstated within one (1) year preceding the date of application;
 - (5) Had an application to the Department denied within the one (1) year preceding current application; or
 - (6) Has not paid monies owed to the Department.
- (c) **Basis for revocation or suspension.** See OAC 252:110-7-3.

252:110-7-8. Conditions of authorization

- (a) **Specific conditions.** The Department may establish conditions in any authorization to ensure compliance with this Chapter and the Code.
- (b) **Conditions applicable to all authorizations.** In addition to the requirements of this Chapter, the following conditions shall apply to all authorizations.
 - (1) **Effect of authorization.** An authorization does not convey any property rights of any sort or any exclusive privilege, nor does it constitute authorization for any invasion of other private rights, or any infringement of federal, state, or local law or rules. Issuance of any LBP authorization by the Department shall not imply Department approval of any LBP activity or service performed by the holder.
 - (2) **Practices and procedures.** All LBP operational practices and procedures used by the holder shall comply at all times with this Chapter and the Code.
 - (3) **Duty to mitigate.** The holder shall take all reasonable steps to minimize or correct any adverse impact on the environment, health and safety resulting from work performed pursuant to the authorization.
 - (4) **Consent to conditions.** Beginning LBP services under an authorization means the holder consents to all of its conditions.
 - (5) **Transferability.** An authorization cannot be transferred to another person, training program or firm.
 - (6) **Severability.** The provisions of an authorization are severable, and if any part or use of a part is held invalid by a court of law, the remaining parts and uses shall remain valid.
- (c) **Amendment and modification.** The Department may amend or modify or require the amendment or modification of a LBP authorization for cause or the holder may request amendment or modification at any time.
 - (1) **Notice and reporting requirements.** A holder shall give the Department written notice within 30 days after a change in the holder's mailing address or telephone or telefax numbers and of any other change when required by this Chapter.
 - (2) **Errors and omissions.** When a holder becomes aware that a material fact was submitted erroneously or omitted from an authorization application or in any report submitted by reason of the authorization to the Department (or to a client), the holder shall promptly submit correct facts or information to the Department (and/or the client).
- (d) **Duty to provide information.** A holder shall furnish to the Department, within a time specified, any information from required records which the Department may request to determine:
 - (1) whether cause exists for amending, suspending, or revoking his authorization;
 - (2) his compliance with the authorization; or

- (3) whether the authorization should be renewed.

SUBCHAPTER 9. ADDITIONAL ACCREDITATION REQUIREMENTS

252:110-9-1. Accreditation required

- (a) **Objective.** The Department accreditation is designed to recognize and facilitate uniform, consistent and quality-controlled training programs offered and taught to persons seeking discipline-specific training which meets the Department's certification requirements related to training in LBP services.
- (b) **Eligibility.** Accreditation is available only to educational institutions and government agencies offering on-going and continuous LBP training programs. Accreditation by the Department is not available to training programs that are only offering one or more LBP training courses on a one-time-only basis or for a period of less than 12 months. Training programs shall not receive accreditation for a refresher course if they do not also receive accreditation for the discipline-specific initial training course.
- (c) **Claims of accreditation status.** Only a Department-accredited program may advertise itself as an accredited LBP training program in Oklahoma.

252:110-9-1.1 Course Content. In addition to the training requirements contained in OAC 252:110-5-1, all training courses and the corresponding refreshers must contain hands-on training activities and review of OAC 252:110, Oklahoma Lead-Based Paint Management.

252:110-9-2. Programs accredited by other states or agencies

- (a) **Recognition and approval required.** Prior to offering or conducting a LBP training course in Oklahoma, a program accredited by another state or agency must apply for and receive recognition and approval by the Department as a Department-accredited LBP program.
- (b) **Application.** An application for approval and recognition shall be made in the same form and manner as an application for accreditation.
- (c) **On-site evaluation.** For on-site evaluations of other state/agency accredited programs, the program shall pay an equivalency review fee as shown in OAC 252:110-9-8 plus reimbursement to the Department for any actual costs incurred by the Department for travel to the program location and per day costs incurred by the evaluator(s) for evaluation-related vicinity transportation, lodging and meals.

252:110-9-3. Records and notices

- (a) **Notice of significant changed conditions.** An accredited program shall give written notice to the Department of any prospective or current course or program changes which may adversely affect any Department-administered exam.
- ~~(b) **Notice of course offerings.** At least five (5) days prior to teaching a course, a training program shall notify the Department in writing of the course name, date and location(s).~~
- ~~(c) **Notice of course cancellations.** Within twenty four (24) hours of course cancellation, a training program shall notify the Department in writing of the cancellation of a scheduled course and provide notice to the students enrolled therein.~~
- ~~(d)~~(b) **Notice of accreditation status.** The Department may require a training program to give written notice to its present or prospective students of the suspension or revocation of any part of its accreditation.
- ~~(e)~~(c) **Personnel changes.** An accredited program shall submit to the Department the information required in ~~Subchapter 11~~OAC 252:110-11-4, Certification Exam, as applicable, for each training manager or instructor proposed to be added to the program after it is accredited and request approval of the new personnel. If the Department does not deny the request within two (2) weeks of receipt, the request shall be deemed approved. A program shall also give the Department written notice of the name of any instructor no longer teaching in the program, and the title of the affected course(s), within two (2) weeks of the change.

252:110-9-4. Applications

In addition to the requirements of OAC 252:110-5-1(2), 252:110-7-4 and 252:110-7-5, an accreditation application shall contain:

(a) **General information.**

- (1) The name and address of any owner, stockholder, officer or training manager of the training program who was or is affiliated with another LBP training program whose accreditation has been previously suspended or revoked in part or in whole within the preceding 12 months or who has been a party in enforcement proceedings by the Department for a significant violation or violations of the Code or rules promulgated by the Board.
- (2) A copy of an EPA or state approval letter for each course previously approved by the EPA or another state.
- (3) Documentation of accreditation as a LBP training program issued by another state or entity.

(b) **Course information.**

- (1) A copy of all course materials, including handouts.
- (2) Details of the hands-on skills assessment.
- (3) Minimum competency and proficiency requirements.
- (4) If a training program does not use EPA-developed model training materials, its application for accreditation shall include:
 - (A) A copy of the student and instructor manuals to be used for each course; and,
 - (B) A copy of the course agenda for each course, including the time allotted to each curriculum element.

(c) **Program information.**

- (1) Copies or samples of advertising materials currently or proposed to be published by the training provider to promote its program and/or specific training courses.
- (2) A plan for tracking student attendance to ensure requisite hours of class participation.
- (3) A copy of proposed course completion certificate.

(d) **Instructor information.**

- (1) A completed instructor application for each instructor associated with the training program, including identification of all disciplines the instructor is seeking approval to teach.
- (2) Evidence, including test scores, that each instructor has passed the certification exam within the last three years for each discipline the instructor is seeking approval to teach.

252:110-9-5. Provisional accreditation.

(a) **Provisional approval for training courses.** When the restrictions of time or circumstances do not allow final approval of a course, the Department may grant a provisional approval that is:

- (1) Based on the Department's determination that the information, materials and qualifications of the training manager and instructors provided in the application appear to meet the requirements of this Chapter;
- (2) Contingent upon the applicant program giving notice of the date(s) on which the course is to commence; and
- (3) Conditioned on at least one Department on-site evaluation of the course, instructor(s) and program management.
- (4) A provisional approval shall be valid for no more than 12 months unless extended by the Department for cause for a period not to exceed six (6) months.

(b) **Conditions.** The Department may establish conditions in the provisional approval, including compliance schedules.

252:110-9-6. Basis for issuance, denial, revocation or suspension

(a) **General.** In addition to the provisions of OAC 252:110-7-7, accreditation may not be issued to any applicant who has an owner, stockholder, officer or training manager who was or is currently affiliated with another training program whose accreditation was suspended or revoked by an accrediting entity within the 12 months prior to application or who has been subject to the Department enforcement proceedings.

(b) **Specific.** An accredited program shall not:

- (1) Fail to follow Department-approved curricular course content.
- (2) Fail to implement Department-except for the implementation of required course updates and changes.
- (3)(2) Falsify the results of student performance.
- (4)(3) Misrepresent the contents of a training course to the Department ~~and/or the~~ to students population.
- (5)(4) Fail to submit required information or notifications in a timely manner, comply with a compliance schedule, or take other action required by this Chapter.
- (6)(5) Fail to maintain required records.
- (7)(6) Falsify accreditation records, instructor qualifications, or other accreditation information.
- (8)(7) Permit any person other than an approved instructor to act as a principal instructor or have the responsibility thereof, including but not limited to assessing students' hands-on skills or grading students' exams.
- (9) Permit guest speakers to instruct more than two (2) hours for every eight (8) hours of class instruction.

252:110-9-7. Renewal

(a) **Criteria for renewal.** In addition to the requirements of OAC 252:110-7-5, accreditation renewal shall be based on documented implementation of compliance updates and other program modifications, and satisfactory course and instructor evaluations.

(b) **Failure to renew.** Any accreditation for which a renewal application has not been filed with the Department by 4:30 p.m. on or before August 31 shall expire at 4:30 p.m., August 31.

252:110-9-8. Fees

(a) **Initial accreditation.** Application shall be accompanied by fees established in the following schedule:

- (1) **Per course.**
 - (A) Filing and review fee, \$400.00
 - (B) Accreditation fee, \$50.00.
- (2) **Per training program.**
 - (A) Training Manager Approval Fee, \$100.00.
 - (B) Principal Instructor Approval Fee, \$50.00.
- (3) **Other State/Agency Training Program Recognition & Approval.** In addition to "Per Course" and "Per Training Program" fees:
 - (A) Equivalency Review Fee, \$2000.00.
 - (B) Recognition & Approval Fee (In place of Accreditation Fee), \$250.00.

(b) **Renewal accreditation.** Application shall be accompanied by fees established in the following schedule:

- (1) **Per course.**
 - (A) Filing and review fee, \$200.00.
 - (B) Accreditation fee, \$50.00.
- (2) **Per training program.**
 - (A) Training Manager Approval Fee, \$50.00.
 - (B) Principal Instructor Approval Fee, \$25.00.
- (3) **Other State/Agency Training Program Recognition & Approval.** In addition to "Per Course" and "Per Training Program" fees:
 - (A) Equivalency Review Fee, \$1000.00.

- (B) Recognition & Approval Fee (In place of Accreditation Fee), \$125.00.
- (4) **Renewal late fee.** \$750.00.

SUBCHAPTER 11. ADDITIONAL LBP CERTIFICATION REQUIREMENTS

252:110-11-1. Certification requirements

- (a) **Certifications available.** Certification is available and required for all individuals and firms who perform or offer to perform LBP services in target housing and child-occupied facilities.
- (b) **Failure to become certified.** No person or firm shall advertise or otherwise present himself as a certified LBP contractor or perform or offer to perform LBP services in target housing and child-occupied facilities prior to becoming certified as such by the Department.
- (c) **Certification for approved instructors.** Department will not issue initial or renewal LBP certifications to applicants who submit LBP training certificates from those training courses that they have conducted as an instructor or participated in as a guest speaker.

252:110-11-2. Affidavit

An applicant for LBP Contractor certification shall by affidavit verify that:

- (1) any employee or subcontractor performing LBP services will have been certified by the Department prior to such performance;
- (2) the applicant and employees or subcontractors thereof will perform LBP services and maintain records thereof in accordance with all applicable local, state and federal standards; and,
- (3) the applicant will or will not obtain and maintain the required level of insurance and bonding required by the terms of a LBP agreement or contract for a specific project.

252:110-11-3. Training requirements for initial certification

- (a) **Approved courses.** For purposes of certification, any LBP training hours taken after the date that Department-accredited LBP training was offered, must be from approved courses conducted by a Department-accredited LBP training program unless the training is waived by the Department pursuant to OAC 252:110-11-7.
- (b) **Prior training.** Individuals seeking LBP inspector or risk assessor certification who received LBP training between October 1, 1990 and November 1, 1996 and individuals seeking LBP worker, supervisor or project designer certification who received LBP training between October 1, 1990 and the date of availability of Department-accredited LBP training courses, must perform the following for their training to be considered:
 - (1) Demonstrate that the applicant has successfully completed LBP training in the discipline for which certification is sought which meets the requirements of OAC 252:110-5-1(2);
 - (2) Demonstrate that the applicant meets or exceeds education and experience requirements established in OAC 252:110-5-1(3);
 - (3) Submit an application as established in OAC 110-5-1(3) and an affidavit established in OAC 252:110-11-2;
 - (4) Remit all applicable fees established in this Chapter;
 - (5) Successfully complete a Department-accredited refresher training course for the discipline for which certification is sought; and
 - (6) Successfully pass the appropriate Department certification exam as established in OAC 252:110-11-4.

252:110-11-4. Certification exam

- (a) **Purpose.** The certification exam is required of all initial applicants for LBP inspector, risk assessor, or supervisor certification. The certification exam and is required at least every third year for all renewal LBP inspector, risk assessor or supervisor certification applicants and is designed to test an applicant's skills and knowledge of, as well as competency in interpreting, and applying the rules for the performance of LBP services.

- (b) **Registration.** In his certification application, an applicant shall register for the date, time and type of the Department-administered LBP certification exam he intends to take. Unless specifically arranged otherwise by the Department on a group basis, an applicant must register for an exam to be held two (2) or more weeks after his date of filing the application. A missed examination shall be counted as a failed examination.
- (c) **Scheduling.** Dates, times and places of Department-administered LBP certification exams shall be published in advance. The exam shall be offered by the Department at such frequencies, times and places as is determined by the Department.
- (d) **Proof of identity.** Applicants shall provide a valid driver's license or other photo identification card at the certification exam.
- (e) **Confidentiality.** Exams, answer sheets and test scores are confidential and shall not be subject to disclosure, except an individual may obtain his own test score.
- (f) **Cheating.** Any applicant found cheating on an exam shall be deemed to have failed the exam, shall have his application denied, and may not apply for certification for one (1) year.

252:110-11-5. Certification of firms

- (a) **Required.** All firms which perform or offer to perform any LBP services shall be certified by the Department.
- (b) **Affidavit.** A firm seeking certification shall submit to the Department a letter attesting:
 - (1) that the firm shall only employ appropriately certified employees to conduct LBP services; and
 - (2) that the firm and its employees shall follow the work practice standards for conducting LBP services as established in this Chapter.
- (c) **Timelines for approval or denial.** From the date of receiving the firm's certification application, the Department shall have 90 days to approve or disapprove the firm's request for certification. Within that time, the Department shall respond with either a certificate of approval or a letter describing the reasons for a disapproval.
- (d) **Records maintenance.** The firm shall maintain all records pursuant to the requirements established in this Chapter.

252:110-11-6. Renewal of certification

- (a) **Renewal notice.** As a service, the Department will mail certification renewal notices on or before January 15 of each year to persons and firms certified of record.
- (b) **Renewal criteria.** In addition to the requirements of OAC 252:110-7-5, an applicant must show he has:
 - (1) ~~Passed the appropriate Department certification exam within the last three years, if applicable.~~
 - (2) ~~Successfully completed eight (8) hours of required refresher training in the preceding 12 months from a Department-accredited training program.~~
- (c) **Failure to renew.** Any certification for which a renewal application has not been received by the Department by 4:30 p.m., April 30 (or postmarked on or before that date) shall expire at 4:30 p.m., April 30.
- (d) **Reactivation or reinstatement.** Holders of expired certificates may submit an application for reactivation or reinstatement of the certification within one year of the March 31 expiration date if the applicant meets the education, experience and other requirements of this Chapter. Fees for the reactivation or reinstatement of certification shall be the same as initial certification fees.

252:110-11-7. Other state or agency certification

- (a) **Application filing.** Any person or firm who holds a current and valid certification issued by another state or certifying agency may file an application for initial Oklahoma certification with the Department. A waiver of initial certification training requirements, except for the Department-accredited

refresher training course, may be requested.

(b) **Application.** In addition to the requirements of OAC 252:110-7-4, an application shall provide documentation of the certification and of completed training and other services required by the certifying state or agency, copies of the certifying state's or agency's certification requirements, and the name, address and telephone number of an individual responsible for the other certification program.

(c) **Determination.** The Department, on a case by case basis, shall determine whether the certification is at least as stringent as Oklahoma's and whether any of the training requirements of this Chapter can be waived.

252:110-11-8. Certification documentation and display

Upon initial authorization, a wall certificate will be issued to the holder. Those holding certificates shall display the wall certificate in their Oklahoma offices. Upon initial certification to individuals, the Department will issue a wallet-size photo card for the holder to carry as proof of current certification.

252:110-11-9. Applicability and exemption

The following fee schedules shall apply to applicants for LBP certification, except employees of the state or a political subdivision thereof who are exempt under the provisions of 27A O.S. § 2-12-201(D)(3).

For applicants requesting approval of LBP certification from another state, an equivalency review fee of \$500.00 per certification shall be assessed upon application in addition to the certification fees in this Chapter.

252:110-11-10. LBP inspector certification fee schedule. Fees for inspector certification are:

- (1) **Initial Certification.** Application filing and review fee, \$ 200.00
- (2) **Certification Renewal.** Application filing and review fee, \$100.00

252:110-11-11. LBP risk assessor certification fee schedule. Fees for risk assessor certification are:

- (1) **Initial Certification.** Application filing and review fee, \$ 300.00
- (2) **Certification Renewal.** Application filing and review fee, \$150.00

252:110-11-12. LBP abatement worker fee schedule. Fees for abatement worker certification are:

- (1) **Initial Certification.** Application filing and review fee, \$ 30.00
- (2) **Certification Renewal.** Application filing and review fee, \$ 15.00

252:110-11-13. LBP project designer fee schedule. Fees for project designer certification are:

- (1) **Initial Certification.** Application filing and review fee, \$ 500.00
- (2) **Certification Renewal.** Application filing and review fee, \$ 250.00

252:110-11-14. LBP supervisor fee schedule. Fees for supervisor certification are:

- (1) **Initial Certification.** Application filing and review fee, \$ 150.00
- (2) **Certification Renewal.** Application filing and review fee, \$ 75.00

252:110-11-15. LBP firm fee schedule. Fees for firm certification are:

- (1) **Initial Certification.** Application filing and review fee, \$ 50.00
- (2) **Certification Renewal.** Application filing and review fee, \$ 50.00

252:110-11-16. Special service fees

- (1) **Certification exam.** The fee shall be \$50.00 per certification exam per individual.
- (2) **Replacement card or certificate fee.** Fees for the issuance of a replacement certification card or wall certificate is \$50.00 each.
- (3) **Reinstatement or reactivation of an expired certification.** Fees for the reinstatement or reactivation of an expired certificate shall be the same as the initial discipline-specific certification fee.

SUBCHAPTER 13. ADDITIONAL WORK PRACTICE STANDARDS

252:110-13-1. Scope and applicability

OAC 252:110-5-1(4) and (5), and this Subchapter establish the minimum standards for the performance LBP services in target housing and child-occupied facilities by persons certified by the Department as a LBP contractor.

252:110-13-2. Conflict of interest prohibited

To confer reliability of clearance testing results, no individual inspector or risk assessor shall perform project clearance testing for any individual or any other person with whom he has any economic relationship or other relationship that might create a conflict of interest.

~~252:110-13-3. Notice of lead-based paint projects~~

~~(a) **Initial notice.** A certified contractor shall give at least 10 days written notice to the Department before starting an abatement project at a designated facility. Upon written request, a shorter time may be granted by the Department only for emergency situations. For soil abatements, 15 days written notice shall be required. The notices shall at a minimum provide:~~

- ~~(1) The name, address and telephone number of the contractor;~~
- ~~(2) The name, address and telephone and pager numbers of the supervisor in charge;~~
- ~~(3) The name, location and address of the facility and the name and telephone number of the facility owner or manager;~~
- ~~(4) A brief description of services to be performed;~~
- ~~(5) The estimated dates of commencement and completion; and~~
- ~~(6) A copy of the pre-abatement plan/project design;~~

~~(b) **Subsequent notice.** A certified contractor shall give written notice to the Department of any significant changes enlarging the scope of the project or affecting the projected completion date.~~

252:110-13-4. Activities report

A quarterly report of all LBP services performed in target housing and child-occupied facilities by certified persons must be submitted to the Department. These reports are due by the 10th day of January, April, July, and October on forms available from the Department.

252:110-13-5. Testing methodologies

(a) **Quality control.** Testing for the presence of LBP shall be conducted by documented methodologies using quality control procedures. Procedures for sample collection, transfer, and testing shall be performed according to applicable HUD and EPA procedures and guidelines.

(b) **Types of detection/testing methods.** Acceptable methodologies include, but are not limited to:

- (1) **Laboratory analysis.** Only laboratories recognized by the United States Environmental Protection Agency may conduct laboratory analyses on soil, dust and paint film required by this Chapter. Each sample must be accompanied by a chain of custody document.
- (2) **X-ray fluorescence spectroscopy (XRF).** XRF instruments may be used for on-site lead detection. If inconclusive or questionable results are obtained from XRF testing, testing of paint chip samples by a qualified laboratory shall be conducted. This paragraph shall not be construed as to relieve the user of any duty to comply with other applicable requirements, including but not limited to the licensing requirements of OAC 252:410-1900-17 "~~Radiation Management Rules.~~" X-ray Fluorescence Instruments Used for Lead-based Paint Detection.

252:110-13-6. Waste management, handling and disposal

All hazardous LBP waste resulting from LBP services shall be managed, handled and disposed in accordance with the requirements of the Code (including the Oklahoma Hazardous Waste Management

Act), and rules promulgated thereunder, including incorporated sections of the Code of Federal Regulations.