

Washington Lead-Based Paint Programs



Biennial report submitted pursuant to RCW 70A.420.050

WASHINGTON LEAD-BASED
PAINT PROGRAMS

May 2022

Report to the Legislature

Director Lisa Brown

Acknowledgments

Washington State Department of Commerce

Diane Klontz, assistant director
Community Services and Housing

Cecil Daniels, managing director
Community Economic Opportunities

Cynthia Sanderson, program director
Lead-Based Paint Programs

Washington State Department of Commerce

Cynthia Sanderson
360-725-2941
cynthia.sanderson@commerce.wa.gov

LEAD-BASED PAINT PROGRAMS

1011 Plum St. SE
P.O. Box 42525
Olympia, WA 98504-2525

www.commerce.wa.gov

For people with disabilities, this report is available on request in other formats. To submit a request, please call 360-725-4000 (TTY 360-586-0772)

Table of Contents

Executive summary	2
Program status	3
Program funding and costs	6
Certifications	8
Appendix A: Comparison of RRP fees by state	14

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.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.

This report satisfies [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.

Recommendations

Washington's \$25 certification fee is the lowest among the 14 states that issue lead-based paint certifications. No other state has a certification fee below \$125 per year. Commerce recommends the Legislature increase the certification fees to provide program fiscal stability and increased enforcement.

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

Program status

Overview of Washington's Lead-Based Paint Programs

Commerce's Lead-Based Paint Programs aim to ensure contractors and homeowners work safely in homes containing lead-based paint. The programs' priority is education and training about work methods that may expose children to lead hazards. 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

Fund source	2018	2019	2020	2021
Federal funds	\$395,121	\$355,416	\$466,744	\$495,085
Program income	\$50,390	\$54,625	\$60,075	\$56,500
State appropriations	\$0.00	\$226,000	\$272,000	\$272,000
Totals	\$445,511	\$636,041	\$798,819	\$823,585

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

Federal fiscal year	Funds allocated	Funds spent	Funds returned to EPA
2020	\$466,744	\$451,854	\$14,890
2021	\$495,085	\$348,652	\$146,433
Total for biennium	\$961,829	\$800,506	\$161,323

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

State fiscal year	Firms	Individuals
July 1, 2019 - June 30, 2020	2,306	6,709
July 1, 2020 - June 30, 2021	1,879	6,070

Table 4: Lead Paint Activities Program certifications

State fiscal year	Firms	Individuals
July 1, 2019 - June 30, 2020	102	289
July 1, 2020 - June 30, 2021	113	284

Recommendations

Increase certification fees

Commerce proposes the Legislature increase the certification fees for both Renovation, Repair, and Painting and Lead-based paint activities programs:

- **Increase the Renovation, Repair and Painting firm certification fee to \$60 per year**, for a total of \$300 for a five-year certification. The individual Renovator registration fee would stay at \$25 per application.
- **Increase the Lead-Based Paint Activities firm certification and individual certification fees to \$180** each for a three-year certification. Commerce would adjust these fees for inflation annually.

This request would align us more with what our federal grantor, the Environmental Protection Agency (EPA), and other authorized states, such as Oregon, charge for certifications. See Table 5 for a comparison of certification fees.

Stakeholder work

Commerce conducted stakeholder engagement work from February to June 2022, holding three two-hour stakeholder meetings with 51 stakeholders to discuss, refine, and gauge support for the proposed fee increase. Stakeholders represented various perspectives, including, but not limited to:

- The rental housing industry
- Realtors
- Local government building officials
- Builders and building maintenance providers
- Housing authorities
- Lead abatement trainers
- Lead abatement and painting contractors
- Community action agencies
- Washington Poison Center

Most stakeholders support the proposal, some are neutral, and one is opposed:

- 36 stakeholders support the proposal
- 8 stakeholders are neutral or opposed to the proposal
- 6 stakeholders are neutral to the proposal
- 1 stakeholder is opposed to the proposal

Justification

The programs exist to prevent lead poisoning of children under six from lead-based paint hazards from work performed on pre-1978 residential properties and child-occupied facilities. The programs accomplish that goal by ensuring that those people who offer work on pre-1978 housing and child-occupied properties are trained and certified and in compliance with the program requirements, such as educating occupants of potential lead hazards, using lead-safe work practices while performing these projects and keeping records. The enforcement officer confirms compliance with the program through site visits, recordkeeping reviews and enforcement activity.

Preliminary data indicate a correlation between enforcement activity and the issuance of certifications. Whenever the enforcement officer went into an area to make records requests, pull permits, conduct site visits and speak to contractors, there was a spike in applications for that area. Commerce requires a steady source of income to conduct enforcement and issue certifications to the degree necessary to maintain the program adequately.

One of the program's top priorities is to use the additional funding to complete the process for an outward-facing database that contractors could submit applications and pay online. The existing database allows for limited information uploads, but the program could not get it down to the individual contractor level. The second priority is to hire a second certification specialist for the program.

Background

The Lead-Based Programs has four different types of fee-based certifications:

1. Lead-based paint activities firm certification
2. Lead-based paint activities individual certification
3. Renovation, Repair and Painting firm certification
4. Renovation, Repair and Painting renovator registration

Each certificate costs \$25, even though the timeframes are different based on the program. Lead-based paint activities certificates are valid for three years, and Renovation, Repair, and Painting certificates are valid for five years.

In 2016 Commerce convened a series of stakeholder meetings to discuss raising the certification fees to the following:

- Renovation, Repair and Painting firm certification fees from \$25 to \$250
- Lead-Based Paint Activities Program firm certification fees from \$25 to \$150
- Lead-Based Paint Activities individual certification fees from \$25 to \$150
- Renovator registration fees from \$25 to \$50 per year, a total of \$250 for a five-year certification

Commerce proposed a fee increase in the 2017 legislative session to help the Lead-Based Paint Programs to become more self-sufficient as the EPA grant monies continue to decrease. The fee increase would also help fund another enforcement officer for the state to better administer and enforce the lead-based paint program statewide. When EPA authorized Washington to administer the Lead-Based Paint Activities and the Renovation, Repair and Painting programs, the overall intent was for the state to manage the program independent of the EPA, like the asbestos program.

The Legislature rejected the fee increase, instead providing \$250,000 in the 2017-2019 biennium. The purpose of this grant was to hire two new enforcement staff. Unfortunately, the funding was insufficient to cover two full-time staff immediately. The program hired one enforcement officer based in Spokane to cover eastern Washington. The funds were renewed at the same rate for the 2019-2021 biennium, which gave the program enough funds to hire a second enforcement officer. The second enforcement officer started on April 1, 2020, which coincided with the start of COVID. At the same time, the program's federally funded enforcement officer retired, and the program was only funded as intended for one month. The pandemic created savings because

the enforcement staff were unable to do the required travel for fieldwork until September 2020. However, after a month, the enforcement officers were restricted from fieldwork until May 2021.

Due to the pandemic and the anticipated economic shortfall in state funds, Commerce decided not to ask for additional funding in the 2021-2023 biennium. In December 2020, the first enforcement officer applied for and accepted the federally funded position vacated in May 2020. The second enforcement officer left the program on March 31, 2022. She is currently being funded from program income since July 1, 2021. The program is back to one enforcement officer for the entire state, one certification specialist, and a program manager.

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: Comparison of RRP fees by state

State	Firms	Individuals
Alabama	\$300	\$100
Delaware	\$50	\$50
Georgia	\$100	\$150
Iowa	NA	\$60
Kansas	\$100	N/A
Massachusetts	\$375	N/A
Mississippi	\$350	\$75 (for up to two individuals)
North Carolina	\$300	N/A
Oklahoma	\$60	N/A
Oregon	\$100 Central Contractors Board + Oregon Health Authority	N/A
Rhode Island	\$8	\$8
Utah	\$200	\$150
Washington	\$5	\$5
Wisconsin	\$90	\$37.50
U.S. EPA (all other states)	\$60	N/A
Average fee	\$150	\$71