

Secretary of State
Certificate and Order for Filing
PERMANENT ADMINISTRATIVE RULES

I certify that the attached copies* are true, full and correct copies of the PERMANENT Rule(s) adopted on December 5, 2006 by the
(Date prior to or same as filing date.)

Construction Contractors Board OAR 812
(Agency and Division) (Administrative Rules Chapter Number)
Catherine Dixon 700 Summer Street NE Suite 300, Salem OR 97310 378-4621 ext. 4077
(Rules Coordinator) (Address) (Telephone)

to become effective January 1, 2007 Rulemaking Notice was published in the November 2006 Oregon Bulletin.**
(Date upon filing or later) (Month and Year)

RULE CAPTION

Rewrite of Division 7

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

List each rule number separately, 000-000-0000.

ADOPT: Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

AMEND:

812-007-0000	812-007-0020	812-007-0040	812-007-0060	812-007-0080
812-007-0010	812-007-0030	812-007-0050	812-007-0070	812-007-0090

REPEAL:

Renumber: Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

Amend & Renumber: Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

ORS 183.310 to 183.550, 670.310, 701.235, 701.500 to 701.515, & 701.515

Stat. Auth.

Other Authority

ORS 701.500 to 701.515, 701.510, & 701.515

Stats. Implemented

RULE SUMMARY

812-007-000, 812-007-010, 812-007-0020, 812-007-0030, 812-007-0040, 812-007-0050, 812-007-060, 812-0070, 812-007-0080, and 812-007-0090 are amended to rewrite Division 7, change the name from Health Division to Oregon Department of Human Services, to align language with Oregon Department of Human Services administrative rules on lead-based paint certification, and to delete language that applies to Department of Human Services procedures and do not apply to CCB's procedures/requirements.

Authorized Signer

Catherine Dixon
Printed Name

December 12, 2006
Date

*With this original, file one photocopy of certificate, one paper copy of rules listed in Rulemaking Actions, and electronic copy of rules.

**The *Oregon Bulletin* is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation. Notice forms must be submitted to the Administrative Rules Unit, Oregon State Archives, 800 Summer Street NE, Salem, Oregon 97310 by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a Saturday, Sunday or legal holiday when Notice forms are accepted until 5:00 pm on the preceding workday.
ARC 930-2005

NOTE: In order to save postage and printing costs in these difficult times, CCB is only providing a copy of the notice. To view the language of each individual rule change, please go to our web site at http://www.oregon.gov/CCB/Laws_Rules.shtml#Administrative_Rule_Notices. If you don't have web access, contact Cathy Dixon at (503) 378-4621 ext. 4077 for assistance in receiving a copy.

DIVISION 7

LICENSING OF INDIVIDUALS AND FIRMS ENGAGED IN LEAD-BASED PAINT ACTIVITY

812 007-0000

Authority, Purpose, Scope

(1) Authority. These rules are promulgated in accordance with and under the authority of ORS 701.515.

(2) Purpose.

(a) The purpose of these rules is to address Oregon's need for a qualified and properly trained workforce to perform inspection, risk assessment and ~~abatement~~ **removal** of hazards associated with lead-based paint, ~~[- Establishing these rules will ensure that individuals and firms will conduct lead-based activities in a way that will]~~ **to** safeguard the environment and protect human health, ~~[specifically,]~~ **and** the health of building occupants, ~~[(] especially~~ **for high risk groups** (children under ~~[6] six~~ years of age), ~~[and the workers themselves]~~ **from lead-based paint hazards**.

(b) These rules prescribe the requirements for licensing of individuals and firms engaged in lead-based paint activities in target housing and child occupied facilities ~~[and assure that a properly trained and certified work force is available to assist in the identification and control of hazards associated with lead-based paint].~~

(c) These rules will ~~[also ensure through licensing, that inspections for identification of lead-based paint]~~ **establish work practice standards for the performance of lead-based paint inspection**, risk assessment ~~[s for the evaluation of lead-based paint hazards, and abatement for the permanent elimination of lead-based paint hazards are conducted safely, effectively and reliably],~~ **and paint removal and stabilization activities for individuals and firms and will require that all lead-based paint activities be performed only by licensed individuals and firms**.

~~[(d) These rules cover a contractor who offers to abate a residence of lead-based paint hazards or who offers to conduct a lead-based paint inspection in a residential dwelling of child-occupied facility.]~~

(3) Scope.

(a) These rules ~~[are limited to the establishment of licensing for the disciplines of lead-based paint Inspector, Risk Assessor, Supervisor, Project Designer, Worker, and licensing of firms engaged in these activities;]~~ **apply to all individuals and firms who are engaged in lead-based paint activities as defined in ORS 701.505, except persons who perform these activities 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 activities are being performed, or a child residing in the building has been identified as having an elevated blood lead level.**

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

~~[(b)]~~ **(c)** These rules prescribe the requirements for, and the manner of, licensing applicants for **lead-based paint** inspector, risk assessor, supervisor, project designer, **and** worker, and licensing of firms employing ~~[this personnel, to assure the protection of the public, especially buildings occupied by children 6 years old and under, as required by federal law;]~~ **such individuals**.

~~[(c)]~~ **(d)** These rules prescribe **work practice standards for the removal or migration of lead-based paint hazards and for the performance of lead-based paint inspection and risk assessment**, **and** those actions or circumstances that constitute failure to achieve or maintain a license, or that otherwise are contrary to the public interest, for which Construction Contractors Board may deny, suspend, or revoke a license;

~~[(d)]~~ **(e)** These rules establish fees to extent necessary to defray costs of those activities prescribed herein.

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.515

(6/96, 11/96, 1/97, 5/97, 6/00, 12/06)

812-007-0010

Adoption by Reference

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

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.515

(6/96, 11/96, 1/97, 5/97, 12/06)

812-007-0020

Definitions

[The following definitions apply to Division 7 of OAR chapter 812:] **As used in division 7 of these rules, terms defined in ORS 701.505 have the same meaning given those terms in ORS 701.505.**

~~(1) “Abatement” means any measure or set of measures designed to permanently eliminate lead-based paint hazards including, but not limited to:~~

~~(a) The removal of lead-based paint and lead-contaminated dust, the permanent enclosure or encapsulation of lead-based paint, the replacement of lead-painted surfaces or fixtures, and the removal or covering of lead-contaminated soil; and~~

~~(b) All preparation, cleanup, disposal, and post-abatement clearance testing activities associated with such measures;~~

~~(c) Specifically, abatement includes, but is not limited to:~~

~~(A) Projects for which there is a written contract or other documentation, which provides that an individual or firm will be conducting activities in or to a residential dwelling or child-occupied facility that results in permanent elimination of lead-based paint hazards or designed to permanently eliminate lead-based paint hazards as described in subsections (1)(a) and (1)(b) above.~~

~~(B) Projects resulting in the permanent elimination of lead-based paint hazards, conducted by certified and licensed firms or individuals, unless such projects are covered under subsection (1)(d) of this definition.~~

~~(C) Projects resulting in the permanent elimination of lead-based paint hazards, conducted by firms or individuals who, through their company name or promotional literature, represent, advertise, or hold themselves out to be in the business of performing lead-based paint activities, unless such projects are covered under subsection (1)(d) of this section.~~

~~(D) Projects resulting in the permanent elimination of lead-based paint hazards, that are conducted in response to state or local abatement orders.~~

~~(d) Abatement does not include renovation, remodeling, landscaping or other activities, when such activities are not designed to permanently eliminate lead-based paint hazards, but, instead, are designed to repair, restore, or remodel a given structure or dwelling, even though these activities may incidentally result in a reduction or elimination of lead-based paint hazards. Furthermore, abatement does not include interim controls, operations and maintenance activities, or other measures and activities designed to temporarily, but not permanently, reduce lead-based paint hazards.~~

~~(2) “Accredited Training Program” means training program provisionally accredited or accredited by the Health Division, either directly or through a reciprocity agreement with other jurisdictions, to provide training for individuals engaged in lead-based paint activities.~~

~~(3) “Administrator” means the Administrator of the Construction Contractors Board.~~

(4) “Approved” means approved in writing by the Construction Contractors Board.

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

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

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

(8) “Clearance levels” are values that indicate the maximum amount of lead permitted in dust on a surface following completion of an abatement activity.

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

(10) “Contact hour” means 60 minutes of lead-based paint related training which may include a break of not more than ten minutes.

(11) “Course Completion document” means documentation issued by an accredited training provider to an individual as proof of successful completion of a Division approved lead-based paint course.

(12) “Demonstration testing” means the observation and scoring of a student’s job task and equipment use skills taught during a course or continuing education instruction.

(13) “Deteriorated paint” means paint that is cracking, chipping, peeling, blistering, flaking, worn, chalking, alligatoring or otherwise separating from the substrate of a building component.

(14) “Discipline” means a specific type or category of lead-based paint activity.

(15) “Distinct painting history” means the application history, as indicated by the visual appearance or a record of application, over time, of paint or other surface coatings to a component or room.

(16) “Division” means the Health Division of the Department of Human Resources.

(17) “Documented methodologies” are written methods or protocols used to sample for the presence of lead in paint, dust, and soil as recommended in U.S. Department of Housing and Urban Development “Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing”, revised October, 1997; Agency Guidance on Residential Lead-Based Paint, Lead-Contaminated Dust, and Lead-Based Contaminated Soil, September, 1995; and EPA Residential Sampling for Lead: Protocols for Dust and Soil Sampling, March 1995.

(18) “Firm” means a sole proprietorship, corporation, association, firm, partnership, and joint stock companies.

(19) “Hands-on training” means training during which students practice skills that they will be expected to perform at the work site.

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

(21) “Inspector” means an individual who is certified by the Health Division and licensed by the Construction Contractors Board to conduct in target housing and child occupied facilities a surface by surface investigation to determine the presence of lead based paint and the provision of a report, in writing, in accordance with OAR 333-069-0070 and 812-007-0070.

(22) “Job tasks” means the specific activities performed in the context of work.

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

(24) “Lead based paint activities” means, in the case of target housing and child occupied facilities, inspection, risk assessment, and abatement.

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

(26) “Licensed” means an individual or a firm who has been certified by the Health Division in one or more disciplines and has completed the requirements for licensing by the Construction Contractors Board.

(27) “Paint in poor condition,” means more than 10 square feet of deteriorated paint on exterior components with large surface areas; or more than 2 square feet of deteriorated paint on interior components with large surface areas (e.g., walls, ceilings, floors, doors); or more than 10 percent of the total surface area of the component is deteriorated or interior or exterior components with small surface areas (windowsills, baseboards, soffits, trim).

(28) “Person” means an individual.

(29) “Project designer” means an individual who is certified by the Health Division and licensed by the Construction Contractors Board to interpret lead inspection or risk assessment reports and to develop plans, specifications, and project procedures for lead abatement projects in target housing and child occupied facilities, including occupant notification and protection, clean up and clearance, and abatement reports.

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

(31) “Refresher training course” means a minimum 7 hour training program accredited by the Health Division to update an individual’s knowledge and skills so that he/she can effectively and safely continue to practice in the field.

(32) “Residential building” means a structure which is used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of one or more persons.

(33) “Risk assessment” means an on site investigation to determine the existence, nature, severity, and location of lead based paint hazards, and the provision of a report by the individual or the firm conducting the risk assessment, explaining the results of the investigation and options for reducing lead based hazards.

(34) “Risk assessor” means an individual who is certified by the Health Division and licensed by the Construction Contractors Board to conduct in target housing and child occupied facilities on site investigation to determine the existence, nature, severity, and location of lead based paint hazards, and to provide a report explaining the results of the investigation and options for reducing lead based hazards; and who may conduct a lead hazard screen in accordance with OAR 333-069-0070 and 812-007-0070.

~~(35) “Sample quality control” means a plan or design which ensures the authenticity, integrity, and accuracy of samples, including dust, soil, and paint chip or film samples. Sample quality control also includes provisions for representative sampling and control samples.~~

~~(36) “Supervisor” means an individual who is certified by the Health Division and licensed by the Construction Contractors Board to either conduct or oversee and direct the work-site conduct of lead-based paint abatement and clearance activities in target housing and child occupied facilities, and to prepare occupant protection plans and abatement reports in accordance with OAR 333-069-0070 and 812-007-0070.~~

~~(37) “Target housing” means any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any one or more children age six years or under resides or is expected to reside in such housing for the elderly or persons with disabilities) or any 0-bedroom dwelling.~~

~~(38) “These rules” means OAR 812-007-0000 through 812-007-0090.~~

~~(39) “Worker” means an individual who is certified by the Health Division and licensed by the Construction Contractors Board to conduct, to perform work-site lead-based paint abatement activities in target housing and child occupied facilities in accordance with OAR 333-069-0070 and 812-007-0070.]~~

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.515

(6/96, 11/96, 1/97, 5/97, 11/97, 10/98, 3/99, 6/00, 12/06)

812-007-0030

Licenses Required

(1) No ~~[individual]~~ **person, firm or public agency** shall offer to perform or perform lead-based paint inspection, risk assessment, or abatement activities in target housing or child-occupied facilities without first receiving certification from the ~~[Health Division]~~ **Oregon Department of Human Services** and a license from the Construction Contractors Board ~~[and without being an owner or employee of a firm that is certified by the Health Division and licensed with the Construction Contractors Board,]~~ except if such ~~[an individual]~~ **a person, firm or public agency** is exempt from Construction Contractors Board licensing requirements.

~~[(2) No firm or public agency shall offer to perform or perform lead-based paint inspection, risk assessment or abatement activities in target housing or child-occupied facilities without first receiving a certification from the Health Division and a license from the Construction Contractors Board and without having as an owner or employee an individual who is certified by the Health Division and licensed by the Construction Contractors Board, except if such a firm or public agency is exempt from Construction Contractors Board licensing requirements.]~~

~~[(3)]~~ **(2)** All licenses to perform lead-based paint activities issued under ORS 701.515 shall terminate within one year from date of issue and are renewable upon meeting all the requirements as determined by the Construction Contractors Board.

~~[(4)]~~ **(3)** Licensed ~~[individuals and licensed]~~ **persons or** firms conducting lead-based activities shall comply with the work practice standards for performing lead-based paint activities as prescribed in these rules **and OAR 333-069-0070. Painters shall follow the work practices described on the Permit application.**

~~[(5)]~~ **(4)** It shall be considered a violation of these rules for any ~~[individual or firm]~~ **person** to conduct any of the lead-based paint activities described unless the individual has received certification from the ~~[Health Division]~~ **Oregon Department of Human Services** and ~~[license]~~ **licensure** from the Construction Contractors Board, except if such a person, is exempt from Construction Contractors Board licensing requirements.

~~[(6) A certificate for an individual will be issued by the Division in the form of an identification card and a numbered certificate. This card will identify each discipline a person is certified [in] and must be worn in plain view at all times while conducting inspection, risk assessment, or abatement activities.]~~

~~[(7)]~~ **(5)** The Construction Contractors Board shall issue a numbered license to the individual. The Construction Contractors Board shall issue a numbered license to each firm.

~~[(8) A public agency whose employees perform “in house” lead-based paint services need not be certified; but shall furnish the Health Division with a letter of compliance certifying the following:~~

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

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

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

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

~~[(9)]~~ **(6)** A firm or public agency that contracts with ~~[another]~~ **a certified** firm or public agency to ~~[conduct]~~ **provide** lead-based paint activities on its behalf need not be certified **or licensed**~~[but must be licensed with the Construction Contractors Board].~~

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

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

~~(B) The firm or agency will follow the standards for conducting lead-based paint activities as prescribed in these rules, and;~~

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

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

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

~~[(10)]~~ **(7)** Employees or agents of regulatory agencies are exempt from these rules if: (1) those employees or agents are acting in a regulatory capacity, and (2) if they are carrying out activities within the scope of the agency’s regulatory authority, and (3) if they have been trained in a manner consistent with the public and environmental health objectives of these rules.

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.515

(6/96, 11/96, 1/97, 5/97, 3/99, 6/00, 12/06)

812-007-0040

Application Requirements ~~[and Eligibility Requirements]~~

(1) No person, ~~[or]~~ **firm or public agency removing lead-based paint from or stabilizing lead-based paint in or on** ~~[shall conduct or offer to conduct activities in]~~ target housing and/or child-occupied facilities, shall conduct such activities without first ~~[receiving a certificate from]~~ **applying to** the ~~[Health Division]~~ **Oregon Department of Human Services for and receiving a permit** to conduct such activities and without first obtaining a license from the Construction Contractors Board to conduct such activities.

(2) An individual must do the following to qualify for a license.

(a) Submit an application on a form presented by the Construction Contractors Board together with the license fee and;

(b) Submit a copy of the certificate issued by the ~~[Health Division]~~ **Oregon Department of Human Services** showing that the individual is qualified to perform the activities.

(3) A firm must do the following to qualify for a license.

(a) Become licensed with the Construction Contractors Board as a Specialty or General Contractor, All Structures and;

(b) Have as an owner or employee one or more individuals who have obtained a license from the Construction Contractors Board to perform the activities, and;

(c) Submit an application on a form prescribed by the Construction Contractors Board together with the fee payment and;

(d) Submit a copy of the certificate issued by the ~~[Health Division]~~ **Oregon Department of Human Services** showing that the firm is qualified to conduct the activities.

~~[(4) Following are the minimum eligibility requirements for specific activities:~~

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

~~(A) Successfully complete Lead Inspectors Training course and receive a course diploma from a training program accredited by the Health Division. The lead-based paint inspection training course must consist of at least 24 contact hours with at least 8 hours of hands on training;~~

~~(B) Pass the certification examination administered by the Health Division for inspector.~~

~~(b) Risk Assessor. To qualify, an individual shall complete all elements on the application form and meet the following minimum eligibility requirements:~~

~~(A) Successfully complete Lead-Based Risk Assessment Training course and receive a course diploma from a training program accredited by the Health Division. The lead-based paint inspection and risk assessment training course must consist of at least 40 contact hours with at least 12 hours hand on training (e.g., 24 contact hours inspector and 16 contact hours risk assessor training);~~

~~(B) Pass the certification exam administered by the Health Division for risk assessor;~~

~~(C) Have completed one of the following education and applicable experience criteria:~~

~~(i) Certification as an industrial hygienist, an engineer, a registered architect, or an environmentally related scientific field such as an environmental scientist; or~~

~~(ii) A bachelor's degree in biological, chemical or physical sciences, or a related field and at least one year experience in an occupation conducting inspections and assessing health, safety or environmental hazards (e.g. lead, asbestos, or environmental remediation work), or in the construction or building trades;~~
~~or~~

~~(iii) A high school diploma or its equivalent, plus at least 3 years of experience in an occupation conducting inspections and assessing health, safety or environmental hazards (e.g. lead, asbestos, or environmental remediation work).~~

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

~~(A) Successfully complete the Supervisor & Contractor Training course and receive a course diploma from a training program accredited by the Health Division. The lead-based paint supervisor & contractor training course must consist of at least 32 contact hours with at least 8 hours hands on training;~~

~~(B) Pass the certification exam administered by the Health Division for supervisor.~~

~~(C) Have completed one of the following experience requirements:~~

~~(i) One year of experience as a certified lead-based paint abatement worker; or~~

~~(ii) At least 2 years of experience in a related field (e.g. lead, asbestos, or environmental remediation work) or in the building trades.~~

~~(d) Abatement Worker. To qualify, an individual shall complete all elements on the application form and successfully complete the Abatement Worker Training course and receive a course diploma from a training program accredited by the Health Division. The lead-based paint abatement worker training course must consist of at least 16 contact hours with at least 8 hours hands on training.~~

~~(e) Project Designer. To qualify, an individual shall comply with all application requirements and the following minimum eligibility requirements:~~

~~(A) Successfully complete the Project Designer Training course and receive a course diploma from a training program accredited by the Health Division. The lead-based paint supervisor and project designer~~

~~accredited training course must consist of at least 40 contact hours with at least 8 hours hands on training (e.g., 32 contact hours supervisor and 8 contact hours project designer training);~~

~~(B) Have completed one of the following education and applicable experience criteria:~~

~~(i) Bachelor's degree in engineering, architecture, or a related profession, and one year of experience in building construction and design or a related field; or~~

~~(ii) Four years of experience in building construction and design or a related field.~~

~~(5) Applicants for certification may offer a refresher course in the same discipline in satisfaction of the training requirement if the following conditions are met:~~

~~(a) The original, standard training course was successfully completed after July 1995; or~~

~~(b) If an inspector training course, it incorporates the changes made by the revision of chapter 7 of the HUD "Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing", revised October 1997.~~

~~(c) The training course was offered by a training provider that at the time was approved in writing by the Health Division to offer lead-based paint training courses; or~~

~~(d) The training course was accredited by the Health Division.]~~

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.515

(6/96, 11/96, 1/97, 5/97, 11/97, 10/98, 3/99, 6/00, 12/06)

812-007-0050

Renewal

~~(1) To maintain a license and a certification in a particular discipline, or as a firm, certified individuals and firms shall apply annually to the Health Division for renewal of certification within one year of the issue date of the original certification.~~

~~(a) Individuals and firms shall apply for renewal by submitting a certification renewal application available from the Health Division, and by paying the appropriate fee per OAR 333-069-0090.~~

~~(b) Firms shall apply for renewal by completing a firm certification renewal application, and by paying the appropriate fee per OAR 333-069-0090.~~

~~(2) Recertification is required for individuals three years after the issue date of certification. To obtain recertification, an individual shall fulfill the following:~~

~~(a) Submit to the Health Division an application for recertification that shall include two (2) passport photographs and the appropriate fee for OAR 333-069-0090.~~

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

~~(c) Pass a qualifying examination (if applicable) administered by the Health Division.~~

~~(d) Meet minimum qualification requirements for the discipline for which recertification is being applied.~~

~~(3) An individual whose certification has been expired for more than six months, shall be required to successfully complete a refresher course in that discipline and pass a qualifying examination administered by the Health Division before the certification may be renewed.]~~

~~[(4)] (1) Applicants for license renewal shall submit required documentation and complete the Construction Contractors Board renewal form along with the appropriate fee.~~

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.515

(6/96, 11/96, 1/97, 5/97, 10/98, 3/99, 12/06)

812-007-0060

License Issuance

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

(a) When granted, the license shall be mailed to the applicant and the effective date of the license will be the date applicant meets all Construction Contractors Board requirements unless otherwise agreed in writing between the parties.

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

(c) An application may be withdrawn at any time by written request to the Construction Contractors Board.

(2) If denied, the Construction Contractors Board shall state, in writing, the reasons for denial.

(3) A license shall be non-transferable and shall be effective for one year from date of issue.

Stat. Auth.: ORS 670.310, 701.235 & 701.500 to 701.515

Stats. Implemented: ORS 701.500 to 701.515

(6/96, 11/96, 1/97, 5/97, 3/99, 12/06)

812-007-0070

Work Practice Standards

(1) When performing **paint removal or stabilization, or** any lead-based paint activity described by a certified and licensed individual as an inspection, lead hazard screen, risk assessment or abatement, a certified and licensed person must perform that activity in compliance with these rules~~[-, documented methodologies, and according to procedures and work practice standards]~~ **and OAR 333-069-0070.**

~~[(2) Inspection. An inspection shall be conducted only by a person certified by the Health Division and licensed by Construction Contractors Board as an inspector or risk assessor. Persons exempt from Construction Contractors Board licensing requirements shall be certified by the Health Division. Employees of public agencies who conduct "in-house" lead-based paint activities are exempt from licensing by the Construction Contractors Board.~~

~~(a) Locations shall be selected according to documented methodologies and tested for lead-based paint as follows:~~

~~(A) In target housing and child-occupied facilities, each component with a distinct painting history shall be tested, except those components determined to have been replaced after 1978 or to not contain lead-based paint; and~~

~~(B) In a multi-family dwelling or child-occupied facility, each component with a distinct painting history in every common area shall be tested, except those components determined to have been replaced after 1978 or to not contain lead-based paint.~~

~~(b) Paint shall be tested for the presence of lead using documented methodologies which incorporate sampling quality control procedures and all paint chip samples shall be analyzed for detectable levels of lead by a laboratory accredited under the National Lead Laboratory Accreditation Program (NLLAP).~~

~~(c) Inspection reports shall be prepared and include at least:~~

~~(A) Inspection date;~~

~~(B) Building address;~~

~~(C) Date of construction;~~

~~(D) Apartment identification (numbers, letters, names if applicable);~~

~~(E) Name, address and telephone number of owner or owners of each unit;~~

~~(F) Name, signature, and certification number of each inspector and risk assessor conducting testing;~~

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

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

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

~~(3) Lead hazard screen. A lead hazard screen shall be conducted only by a person certified by the Health Division and licensed by Construction Contractors Board as a risk assessor, except if such a~~

person, is exempt from Construction Contractors Board licensing requirements, and shall be conducted as follows:

(a) Background information shall be collected about the physical characteristics of the target housing or child-occupied facility and occupant use patterns that may cause lead-based paint exposure to one or more children 6 years and under shall be collected.

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

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

(d) In target housing, two composite dust samples shall be collected, one from the floors and the other from the windows, in rooms, hallways or stairwells where one or more children age 6 or under are likely to come in contact with dust.

(e) In multi-family dwellings and child-occupied facilities, in addition to floor and window composite dust sampling as required in target housing, also common areas composite dust samples shall be collected where one or more children age 6 or under are likely to come in contact with dust.

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

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

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

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

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

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

(b) Background information shall be collected regarding the physical characteristics and occupant use patterns that may cause lead-based paint exposure to one or more children age 6 years and under.

(c) Each surface with deteriorated paint determined, using documented methodologies, to be in poor condition and to have a distinct painting history, shall be tested for the presence of lead. Each other surface determined, using documented methodologies, to be a potential lead-based paint hazard and having a distinct painting history, shall also be tested for the presence of lead.

(d) In target housing, dust samples (either composite or single surface samples) shall be collected from the floor and window in all living areas where one or more children, age 6 and under, are most likely to come in contact with dust.

(e) In multi-family dwellings and child-occupied facilities, the samples required in subsection (4)(d) of this section shall be taken. In addition, window and floor dust samples (either composite or single surface samples) shall be collected in the following locations:

(A) Common areas adjacent to samples target house of child-occupied facility; and

(B) Other common areas in the building where the risk assessor determines that one or more children, age 6 and under, are likely to come in contact with dust.

(f) For child-occupied facilities, window and floor dust samples (either composite or single surface samples) shall be collected in each room, hallway or stairwell utilized by one or more children, age 6 and under, and in other common areas in the child-occupied facility where the risk assessor determines one or more children, age 6 and under, are likely to come in contact with dust.

(g) Soil samples shall be collected and analyzed for lead concentrations from exterior play areas and building dripline/foundation areas where bare soil is present.

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

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

(A) Assessment date.

(B) Address of each building.

(C) Date of construction of buildings.

(D) Apartment identification (number, letters, names if applicable).

(E) Name, address, and telephone number of each owner of each building.

(F) Name, signature, and certification number of each risk assessor conducting the assessment.

(G) Name, address and telephone number of the certified firm employing each risk assessor.

(H) Name, address and telephone number of each laboratory conducting analysis of collected

samples:

(I) Results of the visual inspection.

(J) Testing method and sampling procedure employed for paint analysis.

(K) Specific locations of each painted component tested for the presence of lead.

(L) All data collected from on-site testing, including quality control data, and if used, the serial number of any x-ray fluorescence (XRF) device.

(M) All results of laboratory analysis on collected paint, soil, and dust samples.

(N) Any other sampling results.

(O) Any background information collected pursuant to subsection (4)(b) of this section.

(P) To the extent used as part of the lead-based paint hazard determination, the results of any previous inspections or analyses for the presence of lead-based paint or other assessments of lead-based paint related hazards.

(Q) A description of the location, type, and severity of identified lead-based paint hazards and any other potential lead hazards.

(R) A description of interim controls and/or abatement options for each identified lead-based paint hazard and a recommended prioritization for addressing each hazard. If the use of an encapsulant or enclosure is recommended, the report shall recommend a maintenance and monitoring schedule for the encapsulant or enclosure.

(5) Abatement. An abatement shall be conducted only by a person certified by the Health Division and licensed by the Construction Contractors Board. Persons exempt from Construction Contractors Board licensing requirements shall be certified by the Health Division. Employees of public agencies who conduct "in-house" lead-based paint activities are exempt from licensing by the Construction Contractors Board. Abatement shall be conducted as follows:

(a) Certified and licensed supervisor is required for each abatement project and shall be onsite during all work site preparation, abatement activities and during post-abatement cleanup of work areas. At all other times when abatement activities are being conducted, the certified supervisor shall be onsite or available by telephone, pager, or answering service, and able to be present at the work site in no more than 2 hours.

(b) The certified and licensed supervisor and certified and licensed firm employing that supervisor shall ensure that all abatement activities are conducted according to the requirements of these rules and all federal, state and local requirements.

(c) Any firm or individual conducting lead-based paint abatement activities in target housing or child-occupied facilities shall notify the Health Division at least seven (7) business days before the start date of the project by completing and submitting a "Notice of Abatement" form available from the Health Division.

(d) A written occupant protection plan shall be developed prior to all abatement projects, be prepared by a certified and licensed supervisor or project manager, be unique to each target housing or child-occupied facility, describe the measures and management procedures that will be taken during the abatement to protect the building occupants from exposure to any lead-based paint hazards.

(e) These work practices shall be restricted during abatement.

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

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

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

(D) Dry scraping of lead-based paint is permitted only in conjunction with heat guns or around electrical outlets or when treating defective paint spots totaling no more than 2 square feet in any room, hallway or stairwell or totaling no more than 20 square feet on exterior surfaces; and

(E) Operating a heat gun on lead-based paint is permitted only at temperatures below 750 degrees Fahrenheit.

(f) When soil abatement is conducted, the lead-contaminated soil shall be replaced with soil that is not lead-contaminated, if soil is removed, or the lead-contaminated soil shall be permanently covered, if soil is not removed.

(g) The following post-abatement clearance procedures shall be performed only by a certified and licensed risk assessor:

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

(B) Clearance sampling for lead-contaminated dust shall be conducted following the visual inspection and any post-abatement cleanup.

(C) Dust samples for clearance purposes shall be taken using documented methodologies that incorporate sample quality control procedures and shall be taken a minimum of 1 hour after completion of final post-abatement cleanup activities.

(D) Post-abatement clearance activities shall be conducted based upon the extent or manner of abatement activities conducted in or to the target housing or child-occupied facility as follows:

(i) After conducting an abatement with containment between abated and unabated areas, one dust sample shall be taken from one window and one dust sample shall be taken from the floor of no less than four rooms, hallways or stairwells within the containment area. In addition, one dust sample shall be taken from the floor outside the containment area. If there are fewer than four rooms, hallways or stairwells within the containment area, then all rooms, hallways or stairwells shall be sampled.

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

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

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

(F) The certified and licensed risk assessor shall compare residual lead levels (as determined by laboratory analysis) from each dust sample with clearance levels for lead in dust on floors and windows.

If residual lead levels in a dust sample exceed clearance levels, all components represented by the failed sample shall be recleaned and retested until clearance levels are met.

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

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

(B) The randomly selected residential dwellings shall be sampled and evaluated for clearance according to subsection (5)(g) of this section.

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

(A) Start and completion dates of abatement.

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

(C) The occupant protection plan.

(D) The name, address and signature of each certified and licensed inspector or risk assessor conducting clearance sampling and the date of clearance testing.

(E) The results of clearance testing and all soil analyses and the name of each laboratory conducting analysis of collected samples.

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

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

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

(8) Reports or plans. All lead-based paint activity reports or plans shall be maintained by the certified firms or individual who prepared the report for no fewer than three years and six months. Also, the certified firm or individual shall provide copies of these reports to the building owner who contracted for the services.

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

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.515

(1/97, 5/97, 11/97, 10/98, 3/99, 6/00, 12/06)

812-007-0080

Denial, Suspension or Revocation of Certification

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

(a) Performing work requiring license at a job site without having a current valid original license identification card [worn in view] **available** at the job site **for** inspection;

(b) Permitting the duplication or use of the individual's own certificate or license by another;

- (c) Performing work for which appropriate certification and license has not been received from the ~~[Health Division]~~ **Oregon Department of Human Services** and the Construction Contractors Board;
- (d) Having been subject to a final administrative order imposing a civil penalty or a criminal conviction for engaging in a prohibited act under **Oregon Department of Human Services or Construction Contractors Board rules**;
- (e) Failing to comply with local, state, or federal ~~[relevant]~~ statutes or regulations including execution of a consent agreement in settlement of an enforcement action;
- (f) Failing to comply with work practices and standard ~~[of]~~ **set forth in** these rules and other generally accepted work practices;
- (g) Obtaining certification or license through fraudulent representation of documentation satisfying eligibility requirements;
- (h) Failing to renew certification and license **or to rectify** in a timely manner.
- (i) Gaining admission to and completing education through fraudulent representation of initial or previous education documents;**
- (j) Obtaining certification through fraudulent representation of certification requirements such as education, training, professional registration, or experience;**
- (k) Performing work requiring certification at a job site with individuals who are not certified;**
- (l) Failing to maintain required records; and**
- (m) Failing to comply with these rules including execution of a consent agreement in settlement of an enforcement action.**

(2) The Construction Contractors Board may deny issuance of, suspend, or revoke license for an individual for circumstances including but not limited to the following:

(a) Obtaining training documentation through fraudulent means, **and/or**;

(b) Gaining admission to and completed education through fraudulent representation of initial or previous education documentation.

(3) The Construction Contractors Board may deny issuance of, suspend, or revoke license of a firm for circumstances including but not limited to the following:

(a) Performing work requiring certification or license at a job site with individuals who are not certified or licensed.

(b) ~~[Failure]~~ **Failing** to maintain required records.

(4) Hearings on the denial, suspension or revocation of a license shall be conducted as a contested case in accordance with ORS 183.310 to 183.550.

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.510 & 701.515

(6/96, 11/96, 1/97, 5/97, 10/98, 3/99, 6/00, 12/06)

812-007-0090

Fees

The following fees are established:

(1) Contractor firms shall pay a non-refundable fee of \$50 **for an endorsement on their Construction Contractors Board license** in addition to the regular contractor license **application** fee ~~[for an endorsement on their Construction Contractors Board license]~~ that will allow them to perform lead-based paint activity for one year.

(2) Inspectors, risk assessors, supervisors and project designers shall pay a non-refundable license fee of \$50 for a one-year license.

(3) Abatement workers shall pay a non-refundable license fee of \$25 for a one-year license.

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.515

(6/96, 11/96, 1/97, 5/97, 9/99, 6/00, 12/06)