

Evaluation of the EPA's Oversight of Authorized State Lead-Based Paint Programs

July 16, 2025 | Report No. 25-E-0042



Abbreviations

C.F.R.	Code of Federal Regulations
EPA	U.S. Environmental Protection Agency
LBP	Lead-Based Paint
OCSP	Office of Chemical Safety and Pollution Prevention
OECA	Office of Enforcement and Compliance Assurance
OIG	Office of Inspector General
RRP	Renovation, Repair, and Painting
TSCA	Toxic Substances Control Act
U.S.C.	United States Code

Cover Image

A windowsill with chipping paint. (EPA image)

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At a Glance

Evaluation of the EPA's Oversight of Authorized State Lead-Based Paint Programs

Why We Did This Evaluation

To accomplish this objective:

The U.S. Environmental Protection Agency Office of Inspector General conducted this evaluation to determine whether the EPA verifies that EPA-authorized state lead-based paint programs continue to meet regulatory requirements after initial authorization. We initiated this evaluation in response to an anonymous OIG Hotline complaint.

Lead was commonly used in paint until the U.S. government banned such paint for residential use in 1978. Consequently, people may be exposed to lead in residential dwellings and child-occupied facilities constructed prior to that date. The EPA's lead-based paint programs aim to protect public health by reducing or eliminating lead-based paint hazards. With EPA authorization, states may administer these programs on behalf of the EPA.

To support these EPA mission-related efforts:

- *Compliance with the law.*
- *Partnering with states and other stakeholders.*
- *Operating efficiently and effectively.*

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[List of OIG reports.](#)

What We Found

The EPA is not verifying that authorized state lead-based paint programs remain at least as protective of human health and the environment as the federal programs and that the programs provide adequate enforcement after initial program authorization. Specifically, the EPA does not conduct periodic adequacy evaluations that meet regulatory requirements. After initial authorization, the EPA relies on the information that authorized state lead-based paint programs submit through grant reports and other required reports. However, the reports do not provide the information that the EPA needs to determine the overall adequacy of the state lead-based paint programs.

In addition, the EPA Office of Chemical Safety and Pollution Prevention and the EPA Office of Enforcement and Compliance Assurance have not developed policies for the EPA regional offices to verify that authorized state lead-based paint programs continue to meet regulatory requirements after initial program authorization. Staff from both offices asserted that their offices were not responsible for developing these policies. However, the EPA headquarters offices are responsible for developing national policy. Regarding the authorized state lead-based paint programs, the Office of Chemical Safety and Pollution Prevention is responsible for leading policy development for the programmatic elements for periodic adequacy evaluations and authorization withdrawals, while the Office of Enforcement and Compliance Assurance is responsible for leading policy development for the enforcement and compliance elements. Because those offices have not led the development of these policies, the regional offices do not have the necessary tools to consistently conduct oversight of authorized state lead-based paint programs.

Without changes to the EPA's oversight procedures, authorized state lead-based paint programs may not adequately protect public health, and children may suffer adverse and irreversible health effects.

Recommendations and Planned Agency Corrective Actions

We recommend that the assistant administrators for Chemical Safety and Pollution Prevention and Enforcement and Compliance Assurance coordinate to develop guidance that directs regional offices to conduct periodic adequacy evaluations, provides examples of what might constitute a "significant change" in an authorized program's implementation or enforcement, and provides examples of when the withdrawal process may be warranted. We also recommend that the assistant administrators clarify the headquarters and regional offices' oversight roles and responsibilities regarding state implementation of authorized lead-based paint programs. The EPA agreed with the spirit of our draft recommendations but disagreed with the specific language used in Recommendations 1 and 3. The Agency suggested revisions and provided acceptable corrective actions that met the intent of all four recommendations. The EPA agreed with our final recommendations, and all four recommendations are resolved with corrective actions pending.



OFFICE OF INSPECTOR GENERAL
U.S. ENVIRONMENTAL PROTECTION AGENCY

July 16, 2025

MEMORANDUM

SUBJECT: Evaluation of the EPA's Oversight of Authorized State Lead-Based Paint Programs
Report No. 25-E-0042

FROM: Nicole N. Murley, Acting Inspector General *Nicole N. Murley*

TO: Nancy Beck, Principal Deputy Assistant Administrator
Office of Chemical Safety and Pollution Prevention

Jeffery Hall, Assistant Administrator
Office of Enforcement and Compliance Assurance

This is our report on the subject evaluation conducted by the U.S. Environmental Protection Agency Office of Inspector General. The project number for this evaluation was OSRE-FY24-0089. This report contains findings that describe the problems the OIG has identified and corrective actions the OIG recommends. Final determinations on matters in this report will be made by EPA managers in accordance with established audit resolution procedures.

In accordance with EPA Manual 2750, your offices provided acceptable planned corrective actions and estimated milestone dates in response to OIG recommendations. All recommendations are resolved, and no final response to this report is required. If you submit a response, however, it will be posted on the OIG's website, along with our memorandum commenting on your response. Your response should be provided as an Adobe PDF file that complies with the requirements of section 508 of the Rehabilitation Act of 1973, as amended. The final response should not contain data that you do not want to be released to the public; if your response contains such data, you should identify the data for redaction or removal along with corresponding justification.

We will post this report to our website at www.epaoig.gov.

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Purpose

The U.S. Environmental Protection Agency Office of Inspector General initiated this evaluation to determine whether the EPA verifies that EPA-authorized state lead-based paint, or LBP, programs continue to meet regulatory requirements after initial authorization. We initiated this evaluation in response to an anonymous February 2024 OIG Hotline complaint.

Background

Health Risks from Lead-Based Paint

Over the last 50 years, the EPA, other federal regulators, and state regulators took actions that have significantly reduced the use of lead in products like gasoline and paint. The EPA reported that these actions, along with other public health initiatives, have contributed to a more than 90 percent reduction in blood lead levels since the mid-1970s. Despite this success, lead remains a public health issue because it was commonly used in paint until the U.S. government banned LBP for residential use in 1978, meaning residents who reside in homes constructed prior to that may be exposed to lead.¹

Lead-contaminated paint dust, which is created when LBP deteriorates or is disturbed, is the most common source of childhood lead exposure.² According to the EPA, young children occupy approximately 3.8 million homes that contain LBP hazards across the United States.³ According to the EPA's [website](#), the EPA and the U.S. Centers for Disease Control and Prevention affirm that "[t]here is no known safe level of lead in a child's blood," and lead causes a wide range of health effects, from behavioral problems and learning disabilities to increased blood pressure, seizures, and death. Children six years old and under are most at risk from exposure to lead because their developing bodies more readily absorb lead, their brains are particularly sensitive to the effects of lead, and they often put their hands and other lead-contaminated objects into their mouths.⁴

The EPA's Lead-Based Paint Programs

Title IV of the Toxic Substances Control Act, or TSCA, requires the EPA to implement and enforce LBP programs to reduce or eliminate LBP hazards and provides states and Indian tribes the opportunity to seek authorization to implement some of the LBP programs.⁵ The EPA issued regulations at 40 C.F.R. part 745, subparts E and L, to implement those statutory requirements and issued regulations at subpart Q to provide the process for EPA authorization of state implementation. After receiving

¹ U.S. Ctrs. For Disease Control & Prevention, *About Lead in Paint*, <https://www.cdc.gov/lead-prevention/prevention/paint.html> (last visited May 30, 2025).

² EPA, *What is the most significant source of childhood lead exposure in a residence?*, <https://www.epa.gov/lead/what-most-significant-source-childhood-lead-exposure-residence> (last visited May 30, 2025).

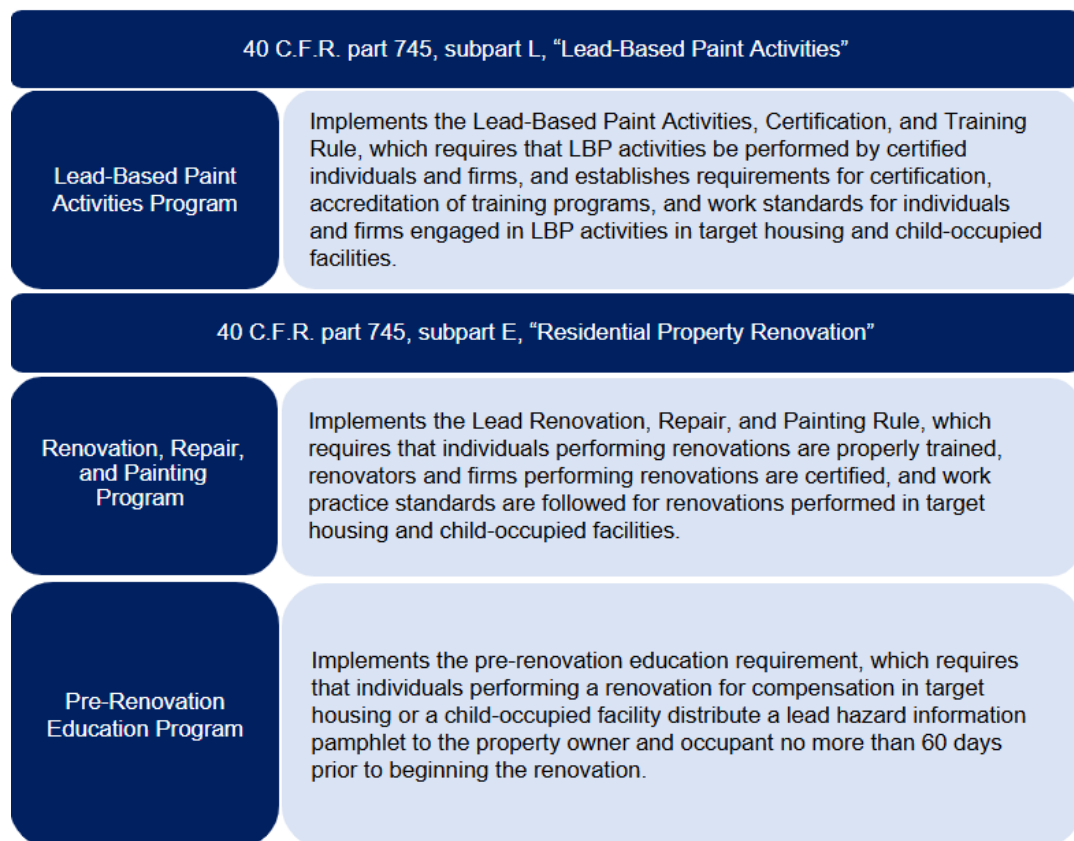
³ EPA, *EPA Strengthens Standards to Protect Children from Exposure to Lead Paint Dust*, <https://www.epa.gov/newsreleases/epa-strengthens-standards-protect-children-exposure-lead-paint-dust> (last visited May 30, 2025).

⁴ EPA, *Learn about Lead*, <https://www.epa.gov/lead/learn-about-lead> (last visited May 30, 2025).

⁵ While recognized Indian tribes may apply for authorization, the scope of our information collection and analysis was limited to authorized state LBP programs.

authorization, states assume the day-to-day implementation and enforcement responsibilities for the LBP programs. Figure 1 below describes the three LBP programs that states may administer on behalf of the EPA: (1) the Lead-Based Paint Activities program, which implements subpart L of 40 C.F.R. part 745, “Lead-Based Paint Activities”; (2) the Lead Renovation, Repair, and Painting, or RRP, program; and (3) the Pre-Renovation Education program. The RRP and Pre-Renovation Education programs together implement subpart E of 40 C.F.R. part 745, “Residential Property Renovation.”

Figure 1: EPA LBP programs available for state authorization



Notes: Target housing means “any housing constructed prior to 1978, except housing for the elderly or persons with disabilities or any 0-bedroom dwelling (unless any child who is less than 6 years of age resides or is expected to reside in such housing).”⁶ A child-occupied facility is “a building, or a portion of a building, constructed prior to 1978, visited regularly by the same child, under 6 years of age, on at least two different days within any week ... provided that each day’s visit lasts at least 3 hours and the combined weekly visits last at least 6 hours, and the combined annual visits last at least 60 hours.”⁷ Child-occupied facilities include daycare centers, preschools, and kindergarten classrooms.

Source: OIG summary of the LBP-related regulations published at 40 C.F.R. part 745. (EPA OIG image)

These LBP regulatory programs require the establishment of accredited training programs, certification of individuals and firms, and work practice standards for the conduct of renovation projects and LBP

⁶ 40 C.F.R. § 745.223.

⁷ 40 C.F.R. § 745.83.

activities in target housing and child-occupied facilities built prior to 1978. LBP activities include inspections, risk assessments, and abatements.

EPA Authorization of State Lead-Based Paint Programs

To obtain EPA authorization to implement an LBP program, both TSCA and the EPA’s implementing regulations provide that a state must submit an application that demonstrates that the state program is “at least as protective of human health and the environment” as the EPA’s RRP, Pre-Renovation Education, and Lead-Based Paint Activities programs.⁸ The application must also demonstrate that the state program provides “adequate enforcement.”⁹ Specifically, a state must exhibit programmatic elements to be considered “at least as protective” and must exhibit enforcement elements as evidence of providing “adequate enforcement,” as shown in Figure 2.

Figure 2: Required elements of an authorized state LBP program

Programmatic elements defined by 40 C.F.R. §§ 745.325 and 745.326		Enforcement elements defined by 40 C.F.R. § 745.327	
1	Procedures and requirements for the accreditation of training programs that educate individuals conducting renovations and LBP activities. For the RRP program only, training requirements must include refresher trainings and on-the-job training for some individuals.	1	The legal authority, standards, and regulations necessary to address any significant risks posed by noncompliance and a plan with a statement of resources that will be devoted to the program.
2	Procedures and requirements for the certification of individuals and firms conducting renovations and LBP activities.	2	Required performance elements, including training for enforcement and inspection personnel, and compliance assistance to the public and regulated community.
3	Work practice standards for LBP activities and renovations.		
4	Requirements that all activities are conducted by certified individuals and firms with properly trained individuals.		
5	Appropriate infrastructure and government capacity to effectively implement a program.	3	Regularly submit summary on progress and performance report in accordance with requirements at 40 C.F.R. § 745.324(h).
6	For the Pre-Renovation Education program only, requirements for the distribution of lead hazard information pursuant to 40 C.F.R. § 745.84.		

Source: OIG analysis of 40 C.F.R. §§ 745.325–327. (EPA OIG image)

The EPA developed the Lead-Based Paint Activities program in 1996 and has authorized 39 states; four tribes; Puerto Rico; and Washington, D.C., to implement that program. The Agency developed the RRP program in 2008 and has authorized 15 states and one tribe to implement that program. The EPA developed the Pre-Renovation Education program in 1998 and has authorized 17 states and one tribe to

⁸ 15 U.S.C. § 2684(b)(1); 40 C.F.R. § 745.324(e)(2)(i).

⁹ 15 U.S.C. § 2684(b)(2); 40 C.F.R. § 745.324(e)(2)(ii).

implement that program. The authorization information for these three programs is current as of May 2025.¹⁰

State and Tribal Assistance Grants for State Lead-Based Paint Programs

As authorized by section 404(g) of TSCA, the EPA Office of Chemical Safety and Pollution Prevention, or the OCSPP, provides State and Tribal Assistance Grants for authorized state LBP programs. EPA regional offices administer the TSCA 404(g) LBP grants on behalf of the OCSPP to support the development and implementation of authorized state LBP programs. EPA regional offices administer part of the EPA's Toxic Substances Compliance Monitoring grant on behalf of the EPA Office of Enforcement and Compliance Assurance, or OECA, to support the enforcement and compliance assurance components of authorized state LBP programs.

As part of the grant application process, authorized states must develop workplans that identify activities, goals, and timelines that the state will use to develop or implement its LBP program. Additionally, states must provide the appropriate EPA regional offices with reports on activities for LBP grants. States must submit quarterly TSCA 404(g) LBP performance reports and mid-year and end-of-year Toxic Substances Compliance Monitoring grant reports. Further, the EPA regional offices must provide OECA with end-of-year reports for each program funded by a Toxic Substances Compliance Monitoring grant.

EPA Oversight of State Lead-Based Paint Programs

While states are responsible for the day-to-day implementation and enforcement of an authorized LBP program, the EPA's primary role is to conduct oversight. As part of that oversight, the EPA must verify that authorized state LBP programs remain at least as protective of human health and the environment as the federal LBP programs. The EPA must also verify that authorized state programs provide adequate enforcement. Table 1 further details the EPA's oversight requirements.

Table 1: Requirements for EPA oversight of state LBP programs

Regulatory language	OIG summary of oversight requirements
Per 40 C.F.R. § 745.324(g), the "EPA shall periodically evaluate the adequacy of a State's or Indian Tribe's implementation and enforcement of its authorized programs."	Verify that authorized program implementation continues to meet all the programmatic and enforcement elements set by 40 C.F.R. part 745, subpart Q, outlined in Figure 2 above.
Per 40 C.F.R. § 745.324(h), every year or every two years, as applicable, authorized states shall submit reports to the EPA that include: 1. "Any significant changes in the content or administration of the State ... program implemented since the previous reporting period; and	Review state reports to determine whether the states are successfully implementing their programs.

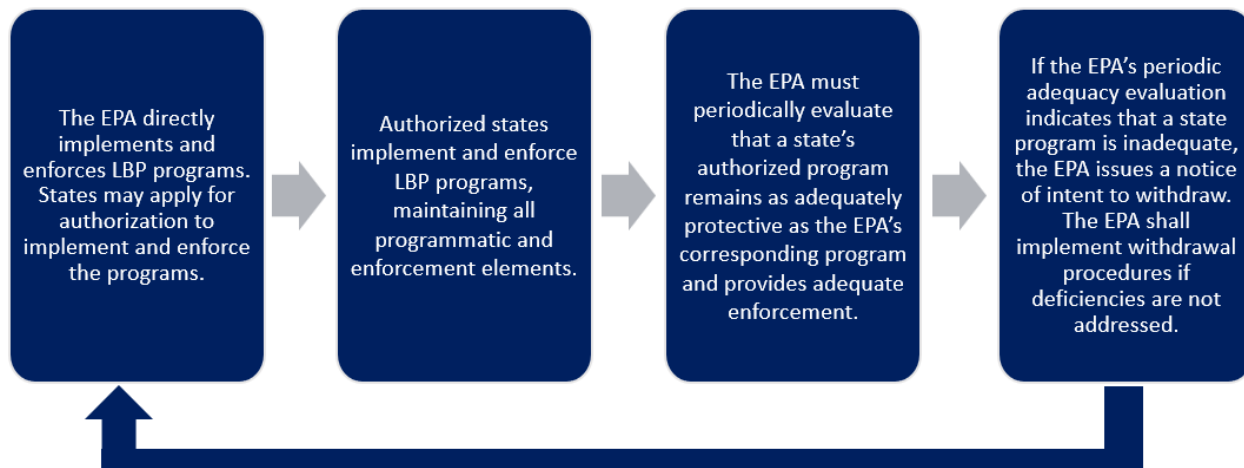
¹⁰ The EPA authorized some of these programs decades ago.

Regulatory language	OIG summary of oversight requirements
2. All information regarding the lead-based paint enforcement and compliance activities listed at. § 745.327(d) 'Summary on Progress and Performance.'"	
Per 40 C.F.R. § 745.324(i)(1), "[i]f EPA concludes that a State ... is not administering and enforcing an authorized program in compliance with the standards, regulations, and other requirements of sections 401 through 412 of the Toxic Substances Control Act and this subpart, the Administrator shall notify the primary agency for the State ... in writing and indicate EPA's intent to withdraw authorization of the program."	If the Agency determines that the state is not meeting the required programmatic and enforcement elements, the Agency shall issue a notice of intent to withdraw authorization and provide the state an opportunity to respond to its findings and complete a corrective action.

Source: OIG analysis of 40 C.F.R. § 745.324(g-i). (EPA OIG table)

The EPA uses the term "adequate" throughout 40 C.F.R. part 745, subpart Q, to indicate that an authorized state LBP program meets the required programmatic and enforcement elements. For simplicity, we use the term "periodic adequacy evaluation" in this report to refer to the regulatory requirement found at 40 C.F.R. § 745.324(g). The periodic adequacy evaluation is the EPA's primary regulatory oversight mechanism for verifying that authorized state LBP programs remain at least as protective as the federal LBP programs and that the programs provide adequate enforcement after initial authorization. As shown in Figure 3, the periodic adequacy evaluation also informs whether the state programs should remain authorized. If the EPA finds a state program to be inadequate, the Agency must issue a notice of intent to withdraw authorization of that program. If the state does not respond within 60 days of the notice of intent to withdraw or fails to reach an agreement correcting the identified deficiencies within 180 days, the EPA must withdraw its authorization after meeting all withdrawal requirements set forth in 40 C.F.R. § 745.324(i).

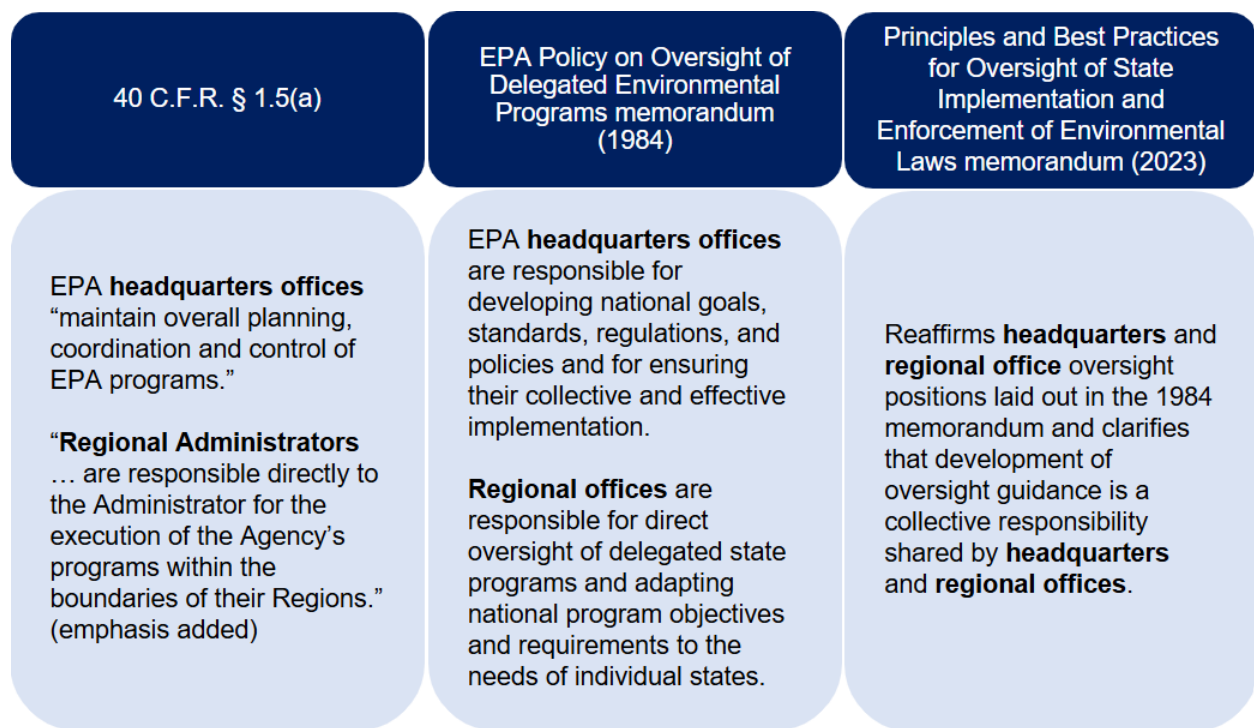
Figure 3: The LBP programs' implementation, authorization, and oversight process



Source: OIG analysis of 40 C.F.R. § 745.324. (EPA OIG image)

The EPA headquarters offices—in this case, the OCSPP and OECA—and the EPA regional offices play distinct but complementary roles in that oversight process. The EPA outlines the roles of headquarters and regional offices in regulation at 40 C.F.R. § 1.5(a), as well as in two policy memorandums: the 1984 *EPA Policy on Oversight of Delegated Environmental Programs* and the 2023 *Principles and Best Practices for Oversight of State Implementation and Enforcement of Environmental Laws*. As shown in Figure 4, these oversight documents describe the EPA headquarters offices as responsible for developing national goals and policy and the EPA regions as responsible for directly overseeing authorized programs and adapting national policy to meet state needs. Specifically, the OCSPP and OECA are responsible for developing national guidance and reviewing reports from states and regional offices. The regional offices are responsible for implementing national guidance and directly overseeing authorized state programs funded under the EPA state grants.

Figure 4: EPA authorities relevant to headquarters and regional office oversight of EPA programs



Note: According to *EPA Policy on Oversight of Delegated Environmental Programs*, delegation is the “review and ‘approval’ or ‘authorization’ process by which EPA assigns to competent and willing states the responsibility to operate a program mandated by federal statute.”

Source: OIG summary of EPA authorities relevant to headquarters and regional office oversight of EPA programs. (EPA OIG image)

Responsible Offices

To summarize the details provided above, the OCSPP is responsible for directing authorized state LBP program implementation through the development of national policies and procedures, including grant program guidance. The Land, Chemicals, and Redevelopment Divisions in each EPA region are responsible for overseeing the day-to-day implementation of authorized state LBP programs. In fiscal

year 2023, the OCSPP allocated \$12.20 million to its TSCA 404(g) LBP grant program. OECA is responsible for directing authorized state LBP program enforcement and compliance through the development of national policies and procedures, including its Toxic Substances Compliance Monitoring grant program. The Enforcement and Compliance Assurance Divisions in each EPA region are responsible for overseeing the day-to-day enforcement and compliance of authorized state LBP programs. In fiscal year 2023, OECA allocated \$3.03 million to its Toxic Substances Compliance Monitoring State and Tribal Assistance grant for LBP programs.

Scope and Methodology

We conducted this evaluation from May 2024 to March 2025 in accordance with the *Quality Standards for Inspection and Evaluation* published in December 2020 by the Council of the Inspectors General on Integrity and Efficiency. Those standards require that we perform the evaluation to obtain sufficient and appropriate evidence to support our findings. We initiated this evaluation in response to an anonymous February 2024 OIG Hotline complaint. That complaint alleged that an authorized state's LBP programs lacked the administrative and infrastructure capacity to successfully implement all required programmatic and enforcement elements. We designed our evaluation to identify the root cause of the issues alleged in the hotline complaint.

To identify the EPA's LBP program oversight requirements, we reviewed applicable laws and regulations, including relevant portions of TSCA. After considering the amount of housing built prior to 1978 and the number of authorized state LBP programs in each region, we selected four regional offices for review: EPA Regions 2, 3, 5, and 10. We reviewed policy and procedure documents provided by OECA, the OCSPP, and Regions 3 and 5. We interviewed staff from OECA, the OCSPP, and selected regional offices to distinguish roles and responsibilities and to identify policies and procedures for complying with state oversight requirements.

Prior Report

In EPA OIG Report No. [19-P-0302](#), *EPA Not Effectively Implementing the Lead-Based Paint Renovation, Repair and Painting Rule*, issued September 9, 2019, we found that the EPA lacked internal controls, coordinated strategies, objectives, and goals for implementing the RRP Rule. We recommended that the Agency identify the regulated universe for the RRP program; update current program guidance; establish management oversight controls as well as objectives, goals, and measurable outcomes; and establish a forum to share best practices and innovations. The Agency certified that it completed each of these corrective actions.

Results

The EPA is not verifying that authorized state LBP programs remain adequately protective and provide adequate enforcement after initial program authorization. Specifically, the Agency does not collect sufficient information to satisfy the requirement for a periodic adequacy evaluation. In addition, the OCSPP and OECA have not met their responsibilities to develop national program guidance, which would

include the development of policies and procedures for periodic adequacy evaluations or required authorization withdrawals. Without changes to the EPA’s oversight procedures, the authorized state LBP programs may not adequately protect public health. Further, children may suffer adverse and irreversible health effects.

The EPA Does Not Have Procedures to Verify that Authorized State Lead-Based Paint Programs Remain Adequately Protective and Provide Adequate Enforcement

The EPA does not have procedures to verify that authorized state LBP programs remain adequately protective of human health and the environment and that the programs provide adequate enforcement after initial approval. Consequently, the EPA does not conduct periodic adequacy evaluations that meet the requirements of 40 C.F.R. § 745.324(g). Instead of having specific procedures for conducting adequacy evaluations, the EPA relies on the information that authorized state LBP programs must submit through TSCA 404(g) LBP grant reports, Toxic Substances Compliance Monitoring grant reports, and the reports required pursuant to 40 C.F.R. § 745.324(h) on any significant changes and program performance. Although OECA has issued compliance monitoring grant guidance and the OSCPP has issued TSCA 404(g) LBP grant guidance,¹¹ neither guidance document instructs the states to provide reports that include the information required for the EPA to determine the overall adequacy of the state LBP programs after initial authorization. Collectively, the information gathered through grant reporting requirements and reports required pursuant to 40 C.F.R. § 745.324(h) is insufficient to demonstrate whether the programs meet all the required programmatic and enforcement elements to remain adequately protective of human health and the environment and provide adequate enforcement. Table 2 summarizes the information that authorized state LBP programs must submit to the EPA.

Table 2: Summary of the information that authorized state LBP programs must submit to the EPA

TSCA 404(g) LBP grant reports	Toxic Substances Compliance Monitoring grant reports	40 C.F.R. § 745.324(h) reports
Comparison of accomplishments to workplan objectives and the number of certified individuals and firms, certifications issued, training course accreditations issued, and training courses.	Outputs and outcomes, problems encountered and actions to address unresolved problems, evaluation of a state’s performance under the grant, and the projected and actual number of inspections for each funded program.	Any significant change in the administration or content of an authorized program and a summary on progress and performance.* The summary must include the scope of the regulated community, inspections conducted, enforcement actions taken, compliance assistance provided, and the level of resources that the state committed to these activities.

Note: A summary on progress and performance, as part of the 40 C.F.R. § 745.324(h) reporting requirements, assesses enforcement and compliance outputs and only pertains to enforcement elements.

Source: OIG summary of OECA and OCSPG guidance documents and 40 C.F.R. § 745.324(h). (EPA OIG table)

* “Significant change” is not defined at 40 C.F.R. § 745.324(h)(1).

¹¹ EPA OECA, Toxic Substances Compliance Monitoring Grant Guidance (2024). EPA OSCPP, FY 2024 TSCA Section 404(g) Lead-Based Paint Grant Program Guidance.

Although the EPA is required to “periodically evaluate the adequacy of a State’s ... implementation and enforcement of its authorized programs,”¹² the Agency has not defined “periodic.” To determine whether an authorized program is “adequate,” the periodic adequacy evaluation must assess whether the authorized program is maintaining the required programmatic and enforcement elements. During interviews, when asked about conducting periodic adequacy evaluations, regional staff referred us to the grant and regulatory reporting requirements. However, as shown in Tables 3 and 4, these reporting requirements do not address all the programmatic and enforcement elements required to verify that authorized state LBP programs remain at least as protective as the federal LBP programs and provide adequate enforcement. In fact, collectively, the information fulfills only one of the required elements—the requirement for regular summary on progress and performance reports. The EPA does not collect sufficient information to verify the remaining programmatic and enforcement elements. Further, although 40 C.F.R. § 745.324(h)(1) requires authorized states to report any “significant changes” in the content or administration of a program since the prior reporting period, none of the headquarters or regional office staff in our interviews indicated that they had policies that defined a significant change.

Table 3: OIG assessment of whether the information that the EPA collects from authorized state LBP programs is sufficient to verify that a program meets each required programmatic element

Programmatic elements	TSCA 404(g) LBP grant reports	40 C.F.R. § 745.324(h) reports
Procedures and requirements for the accreditation of training programs that educate individuals conducting renovations and LBP activities. For the RRP program only, training requirements must include refresher trainings and on-the-job training for some individuals.	✗ Does not provide sufficient information.	✗ Does not provide sufficient information.
Procedures and requirements for the certification of individuals and firms conducting renovations or LBP activities.	✗ Does not provide sufficient information.	✗ Does not provide sufficient information.
Work practice standards for the conduct of LBP activities and renovations.	✗ Does not provide sufficient information.	✗ Does not provide sufficient information.
Requirements that all activities are conducted by certified individuals and firms with properly trained individuals.	✗ Does not provide sufficient information.	✗ Does not provide sufficient information.

¹² 40 C.F.R. § 745.324(g).

Programmatic elements	TSCA 404(g) LBP grant reports	40 C.F.R. § 745.324(h) reports
Appropriate infrastructure and government capacity.	✗ Does not provide sufficient information.	✗ Does not provide sufficient information.
For the Pre-Renovation Education program only, procedures and requirements for the distribution of lead hazard information pursuant to 40 C.F.R. § 745.84.	✗ Does not provide sufficient information.	✗ Does not provide sufficient information.

Source: OIG analysis of 40 C.F.R. §§ 745.325–326, the OCSPP TSCA 404(g) LBP grant guidance, and the 40 C.F.R. § 745.324(h) reporting requirements. (EPA OIG table)

Table 4: OIG assessment of whether the information that the EPA collects from authorized state LBP programs is sufficient to verify that a program meets each required enforcement element

Enforcement elements	Toxic Substances Compliance Monitoring grant reports	40 C.F.R. § 745.324(h) reports
The legal authority, standards, and regulations necessary to address any significant risks posed by noncompliance and a plan with a statement of resources that will be devoted to the program.	✗ Does not provide sufficient information.	✗ Does not provide sufficient information.
Required performance elements, including training for enforcement and inspection personnel, compliance assistance to the public, and the ability to implement a compliance monitoring and enforcement program.	✗ Does not provide sufficient information.	✗ Does not provide sufficient information.
Regularly submit summary on progress and performance reports in accordance with requirements at 40 C.F.R. § 745.324(h).	✗ Does not provide sufficient information.	✓ Meets the requirement to regularly submit such a report.

Source: OIG analysis of 40 C.F.R. § 745.327, the OECA Toxic Substances Compliance Monitoring grant guidance, and the 40 C.F.R. § 745.324(h) reporting requirements. (EPA OIG table)

The EPA is also required to initiate the withdrawal process if the EPA “concludes that a State or Indian Tribe is not administering and enforcing an authorized program in compliance with standards, regulations, and other requirements.”¹³ Despite this requirement, the EPA does not have policies and procedures that identify the evidence necessary to initiate the withdrawal of its program authorization. According to the OCSPP, the EPA has never withdrawn a state LBP program authorization. Headquarters staff rely on the EPA regions to identify programmatic and enforcement issues through formal and

¹³ 40 C.F.R. § 745.324(i)(1).

informal communications with their state counterparts. However, none of the regions we spoke with had policies or procedures that established criteria for escalating state program issues to headquarters or that identified the evidence needed to initiate and support a withdrawal of authorization. The OCSPP, OECA, and most of the regions we interviewed said that they refer to regulatory language to guide withdrawal. However, the regulation only includes processes that the EPA must follow once the Agency has concluded that a state or Indian tribe is not administering and enforcing an authorized program in compliance with the standards, regulations, and other program requirements.

Without policies or procedures for conducting periodic adequacy evaluations and definitions for “periodic” and “significant change,” regional oversight of authorized state LBP programs may be inconsistent or insufficient. Furthermore, without policies and procedures that provide examples of when initiation of the withdrawal process under 40 C.F.R. 734.324(i) may be warranted, state programs that do not maintain the required programmatic and enforcement elements may retain authorization.

The Offices of Chemical Safety and Pollution Prevention and Enforcement and Compliance Assurance Are Not Meeting Their Leadership and Policy Development Responsibilities Related to Authorized State Lead-Based Paint Programs

The OCSPP and OECA have not led the development of national program guidance for the regional offices to verify that authorized state LBP programs continue to meet regulatory requirements after initial program authorization. Staff from the OCSPP and OECA each asserted that their offices were not responsible for developing the policies for the required periodic adequacy evaluations. In our initial interview with the OCSPP, a manager stated that it is the responsibility of regions to carry out the regulation at 40 C.F.R. § 745.324 and that the OCSPP has not supplemented the regulation with additional guidance. That manager referred to the EPA delegation of authority, *Authorization of State and Tribal Programs under Section 404*, dated November 24, 2009, to support the OCSPP’s assertion that developing these policies was not within its responsibility and authority. While this document delegates some decision-making power to the regional administrators, such as decision-making for processing applications, the delegation does not prevent or limit the headquarters offices from developing policies and procedures for periodic adequacy evaluations or for recommending the initiation of the withdrawal process.

Consistent with the oversight roles described in 40 C.F.R. § 1.5(a) and in the 1984 and 2023 oversight memorandums, the EPA headquarters offices are responsible for developing national policy. In the context of authorized state LBP programs, the OCSPP is responsible for leading policy development for the programmatic elements for periodic adequacy evaluations and withdrawals, while OECA is responsible for leading policy development for the enforcement and compliance elements. Because the OCSPP and OECA have not led the development of these policies, the regional offices do not have the necessary tools to consistently conduct oversight of authorized state LBP programs.

Conclusions

Without conducting comprehensive periodic adequacy evaluations, the EPA does not have sufficient information to verify that authorized state LBP programs remain protective of human health and the environment or to verify that the programs continue to provide adequate enforcement after initial authorization. Additionally, without a periodic adequacy evaluation process in place, the EPA may not have sufficient evidence to determine when withdrawal of a program is warranted. Since several LBP programs have been authorized for decades and the EPA has not conducted periodic adequacy evaluations, there is a risk that authorized state LBP programs are no longer able to demonstrate that all the programmatic and enforcement elements remain adequate. Inadequate LBP programs may increase the risk of lead exposure to children. Additionally, if the EPA cannot verify that authorized state programs remain protective, the Agency risks wasting or inefficiently expending annual grant funding for authorized state LBP programs—such as the \$12.20 million from the OCSPP and \$3.03 million from OECA in fiscal year 2023.

Recommendations

To promote effective EPA oversight of authorized state implementation of LBP programs, we recommend that the assistant administrator for Chemical Safety and Pollution Prevention, in coordination with the assistant administrator for Enforcement and Compliance Assurance:

1. Develop guidance that:
 - a. Directs regional offices to conduct the periodic adequacy evaluations required by 40 C.F.R. § 745.324(g) for lead-based paint programs and specifies the expected frequency of the periodic evaluations and the programmatic elements required to evaluate the adequacy of an authorized lead-based paint program. Doing so will help verify that authorized state programs remain at least as protective of human health and the environment as the federal programs after initial authorization.
 - b. Provides examples of what might constitute a “significant change” in the content or administration of an authorized lead-based paint program as it relates to 40 C.F.R. § 745.324(h)(1). This will help the EPA to specify the types of program changes that authorized states must report to their EPA regional offices.
 - c. Provides examples of when the withdrawal process under 40 C.F.R. § 745.324(i) may be warranted for an authorized lead-based paint program. Doing so will help EPA staff communicate the circumstances that could result in a recommendation for authorized state program withdrawal to the delegated EPA official.
2. Clarify the headquarters and regional offices’ oversight roles and responsibilities regarding state implementation of authorized Lead-Based Paint Activities; Lead Renovation, Repair, and Painting; and Pre-Renovation Education programs consistent with 40 C.F.R. § 1.5 and EPA

policy memorandums. With a clear understanding of roles and responsibilities, the EPA can more effectively implement its oversight functions.

To promote effective EPA oversight of authorized state LBP compliance and enforcement program requirements, we recommend that the assistant administrator for Enforcement and Compliance Assurance, in coordination with the assistant administrator for Chemical Safety and Pollution Prevention:

3. Develop guidance that:
 - a. Directs regional offices to conduct the periodic adequacy evaluations required by 40 C.F.R. § 745.324(g) and specifies the expected frequency of the periodic evaluations and the enforcement elements required to evaluate the adequacy of an authorized program. Doing so will help verify that authorized state programs continue to provide adequate enforcement after initial authorization.
 - b. Provides examples of what might constitute a “significant change” in the content or administration of an authorized lead-based paint program as it relates to 40 C.F.R. § 745.324(h)(1). This will help the EPA to specify the types of program changes that authorized states must report to their EPA regional offices.
 - c. Provides examples of when the withdrawal process under 40 C.F.R. § 745.324(i) may be warranted for an authorized lead-based paint program. Doing so will help EPA staff communicate the circumstances that could result in a recommendation for authorized state program withdrawal to the delegated EPA official.
4. Clarify the headquarters and regional offices’ oversight roles and responsibilities regarding state implementation of authorized Lead-Based Paint Activities and Lead Renovation, Repair, and Painting, and Pre-Renovation Education programs consistent with 40 C.F.R. § 1.5 and EPA policy memorandums. With a clear understanding of roles and responsibilities, the EPA can more effectively implement its oversight functions.

Agency Response and OIG Assessment

The EPA’s response to our draft report is in Appendix A. The EPA also provided technical comments, which we considered and applied as appropriate.

In its response to our draft report, the EPA stated that it agreed with the spirit of all four of our recommendations but disagreed with the specific language used in Recommendations 1 and 3. The Agency suggested revisions that met the intent of our recommendations. The Agency also suggested that we consolidate our report recommendations from four to two and address them jointly to OECA and OCSP action officials. However, we believe that the distinction between the programmatic and enforcement requirements calls for separate recommendations to each action official. We accepted the Agency’s proposed revisions but maintained the separate recommendations. The EPA agreed with our

revised recommendations. The Agency provided acceptable corrective actions that meet the intent of our recommendations, including developing the relevant guidance and clarifying oversight roles. According to the Agency, its two-year timeline to implement the corrective actions appropriately allows for OECA and the OCSPP to collaborate with the EPA Office of General Counsel and the regional staff that will be required to implement the guidance. All four recommendations are resolved with corrective actions pending.

Status of Recommendations

Rec. No.	Page No.	Recommendation	Status*	Action Official	Planned Completion Date
1	12	In coordination with the assistant administrator for Enforcement and Compliance Assurance, develop guidance that: <ul style="list-style-type: none"> a. Directs regional offices to conduct the periodic adequacy evaluations required by 40 C.F.R. § 745.324(g) for lead-based paint programs and specifies the expected frequency of the periodic evaluations and the programmatic elements required to evaluate the adequacy of an authorized lead-based paint program. Doing so will help verify that authorized state programs remain at least as protective of human health and the environment as the federal programs after initial authorization. b. Provides examples of what might constitute a "significant change" in the content or administration of an authorized lead-based paint program as it relates to 40 C.F.R. § 745.324(h)(1). This will help the EPA to specify the types of program changes that authorized states must report to their EPA regional offices. c. Provides examples of when the withdrawal process under 40 C.F.R. § 745.324(i) may be warranted for an authorized lead-based paint program. Doing so will help EPA staff communicate the circumstances that could result in a recommendation for authorized state program withdrawal to the delegated EPA official. 	R	Assistant Administrator for Chemical Safety and Pollution Prevention	3/15/27
2	12	In coordination with the assistant administrator for Enforcement and Compliance Assurance, clarify the headquarters and regional offices' oversight roles and responsibilities regarding state implementation of authorized Lead-Based Paint Activities; Lead Renovation, Repair, and Painting; and Pre-Renovation Education programs consistent with 40 C.F.R. § 1.5 and EPA policy memorandums. With a clear understanding of roles and responsibilities, the EPA can more effectively implement its oversight functions.	R	Assistant Administrator for Chemical Safety and Pollution Prevention	3/15/27
3	13	In coordination with the assistant administrator for Chemical Safety and Pollution Prevention, develop guidance that: <ul style="list-style-type: none"> a. Directs regional offices to conduct the periodic adequacy evaluations required by 40 C.F.R. § 745.324(g) and specifies the expected frequency of the periodic evaluations and the enforcement elements required to evaluate the adequacy of an authorized program. Doing so will help verify that authorized state programs continue to provide adequate enforcement after initial authorization. b. Provides examples of what might constitute a "significant change" in the content or administration of an authorized lead-based paint program as it relates to 40 C.F.R. § 745.324(h)(1). This will help the EPA to specify the types of program changes that authorized states must report to their EPA regional offices. c. Provides examples of when the withdrawal process under 40 C.F.R. § 745.324(i) may be warranted for an authorized lead-based paint program. Doing so will help EPA staff communicate the circumstances that could result in a recommendation for authorized state program withdrawal to the delegated EPA official. 	R	Assistant Administrator for Enforcement and Compliance Assurance	3/15/27
4	13	In coordination with the assistant administrator for Chemical Safety and Pollution Prevention, clarify the headquarters and regional offices' oversight roles and responsibilities regarding state implementation of authorized Lead-Based Paint Activities and Lead Renovation, Repair, and Painting, and Pre-Renovation Education programs consistent with 40 C.F.R. § 1.5 and EPA policy memorandums. With a clear understanding of roles and responsibilities, the EPA can more effectively implement its oversight functions.	R	Assistant Administrator for Enforcement and Compliance Assurance	3/15/27

* C = Corrective action completed.

R = Recommendation resolved with corrective action pending.

U = Recommendation unresolved with resolution efforts in progress.

Agency Response to the Draft Report



WASHINGTON, D.C. 20460

April 24, 2025

MEMORANDUM

SUBJECT: Response to Draft Report entitled "Evaluation of the EPA's Oversight of Authorized State Lead-Based Paint Programs," Project No. OSRE-FY24-0089

FROM: Nancy B. Beck, PhD
Principal Deputy Assistant Administrator
Office of Chemical Safety and Pollution Prevention

Jeffery A. Hall
Acting Assistant Administrator
Office of Enforcement and Compliance Assurance

TO: Nicole N. Murley
Acting Inspector General

NANCY
BECK

Digitally signed by
NANCY BECK
Date: 2025.04.24
17:03:34 -04'00'

EPA's Office of Chemical Safety and Pollution Prevention (OCSPP) and Office of Enforcement and Compliance Assurance (OECA) appreciate the opportunity to respond to the findings and recommendations presented in the Office of Inspector General's (OIG's) draft report, "Evaluation of the EPA's Oversight of Authorized State Lead-Based Paint Programs" (the "Draft Report"). Attached to this memorandum are OCSPP's and OECA's Technical Comments, which we respectfully request remain internal to EPA.

I. General Comments:

OCSPP and OECA appreciate the OIG's effort in evaluating Agency verification that EPA-authorized state lead-based paint (LBP) programs continue to meet regulatory requirements after their initial authorization. We agree that Agency oversight of authorized state LBP programs is critical to ensure that

these programs continue to meet regulatory requirements and protect human health and the environment for all residents of the United States.

The OIG offers four recommendations to strengthen Agency oversight of authorized state LBP programs. While we agree with the spirit of all four recommendations, we disagree with OIG recommendations 1 and 3 because, as written, they seemingly require OCSPP and OECA to develop guidance that goes beyond clarifying existing regulatory obligations to implementing new requirements.

Accordingly, we have proposed revisions to these recommendations to reflect what we are able to do in a guidance document. We have also proposed two corrective actions that in our view fully implement the revised recommendations. OCSPP and OECA will jointly develop a guidance document that includes the specific information discussed by the OIG in the Draft Report, such as clarifying the Headquarters (HQ) and regional offices' oversight roles and responsibilities regarding state implementation of authorized lead-based programs. We have set a two-year timeframe for developing this guidance, which will enable OCSPP and OECA to collaborate with the Regions and EPA's Office of General Counsel to determine the best course of action to make the planned changes.

II. Recommendations and Agency Response

Recommendations 1 (and 3)¹: Develop guidance that:

- a) Directs regional offices to conduct the periodic adequacy evaluations required by 40 C.F.R. § 734.324(g) and, as part of that guidance, specify the expected frequency of the periodic evaluations and the programmatic (and enforcement elements)² required to evaluate the adequacy of an authorized program.
- b) Defines the scope of a "significant change" as it relates to 40 C.F.R. § 734.324(h)(1).
- c) Describes the evidence necessary to implement the withdrawal process under 40 C.F.R. § 734.324(i).

EPA Response – Disagree

- **Proposed Combined Revised Recommendation 1:** Develop guidance that:
 - a) Directs regional offices to conduct the periodic adequacy evaluations required by 40 C.F.R. § 734.324(g) and, as part of that guidance, specify the expected frequency of the periodic evaluations and the programmatic and enforcement elements required to evaluate the adequacy of an authorized program.

¹ The OIG's Draft Report contains nearly identical recommendations directed at OCSPP and OECA, which we propose combining as described below.

² This parenthetical language appears in the OIG's Recommendation 3, directed at OECA.

- b) Provides examples of what might constitute a “significant change” as it relates to 40 C.F.R. § 734.324(h)(1).
- c) Provides examples of facts or circumstances where implementation of the withdrawal process under 40 C.F.R. § 734.324(i) may be warranted.
- **Proposed Corrective Action 1:** OCSPP and OECA, with regional input, will develop regional guidance that aligns with the requirements of Recommendations 1 and 3, as described in sections (a) through (c) of these recommendations.
 - **Target Completion Date:** March 15, 2027

Recommendations 2 and 4: Clarify the HQ and regional offices' oversight roles and responsibilities regarding state implementation of authorized Lead-Based Paint Activities and Lead Renovation, Repair and Painting programs as it relates to 40 C.F.R. § 1.5 and EPA policy memorandums.

EPA Response – Agree

- **Proposed Corrective Action 2:** The guidance OCSPP and OECA will develop under Corrective Action 1 will clarify the HQ's and regional offices' oversight roles and responsibilities regarding state implementation of authorized Lead-Based Paint Activities and Lead Renovation, Repair and Painting programs.
 - **Target Completion Date:** March 15, 2027

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