

# HOUSE BILL No. 6343

September 18, 2002, Introduced by Rep. Scranton and referred to the Committee on Regulatory Reform.

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 5453, 5454, 5455, 5456, 5457, 5458, 5459, 5460, 5462, 5463, 5467, 5468, 5471, 5472, 5473a, 5475, 5476, and 5477 (MCL 333.5453, 333.5454, 333.5455, 333.5456, 333.5457, 333.5458, 333.5459, 333.5460, 333.5462, 333.5463, 333.5467, 333.5468, 333.5471, 333.5472, 333.5473a, 333.5475, 333.5476, and 333.5477), sections 5453, 5454, 5455, 5456, 5462, 5463, 5467, 5471, and 5476 as added by 1998 PA 220 and sections 5457, 5458, 5459, 5460, 5468, 5472, 5473a, 5475, and 5477 as added by 1998 PA 219.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 5453. (1) "Abatement", except as otherwise provided in  
2 subsection (2), means a measure or set of measures designed to

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1 permanently eliminate lead-based paint hazards. Abatement  
2 includes all of the following:

3 (a) The removal of lead-based paint and ~~lead-contaminated~~  
4 dust LEAD HAZARDS, the permanent enclosure or encapsulation of  
5 lead-based paint, the replacement of lead-painted surfaces or  
6 fixtures, the removal or covering of ~~lead-contaminated~~ soil  
7 LEAD HAZARDS, and all preparation, cleanup, disposal, and post-  
8 abatement clearance testing activities associated with such  
9 measures.

10 (b) A project for which there is a written contract or other  
11 documentation that provides that a person will be conducting  
12 activities in or to a residential dwelling or child occupied  
13 facility that will result in the permanent elimination of  
14 lead-based paint hazards or that are designed to permanently  
15 eliminate lead-based paint hazards.

16 (c) A project resulting in the permanent elimination of  
17 lead-based paint hazards, conducted by a person certified under  
18 this ~~act~~ PART, except a project that is exempt from this part.

19 (d) A project resulting in the permanent elimination of  
20 lead-based paint hazards, conducted by a person who, through  
21 their company name or promotional literature, represents, adver-  
22 tises, or holds themselves out to be in the business of perform-  
23 ing lead-based paint activities except a project that is exempt  
24 from this part.

25 (e) A project resulting in the permanent elimination of  
26 lead-based paint hazards that is conducted in response to a state  
27 or local government abatement order.

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1 (2) Abatement does not include any of the following:

2 (a) Renovation, remodeling, landscaping, or other activity,  
3 if the activity is not designed to permanently eliminate  
4 lead-based paint hazards, but is instead designed to repair,  
5 restore, or remodel a structure, target housing, or dwelling even  
6 though the activity may incidentally result in a reduction or  
7 elimination of a lead-based paint hazard.

8 (b) An interim control, operation, and maintenance activity,  
9 or other measure or activity designed to temporarily, but not  
10 permanently, reduce a lead-based paint hazard.

11 (c) Any lead-based paint activity performed by the owner of  
12 an owner-occupied residential dwelling or an owner-occupied mul-  
13 tifamily dwelling containing 4 or fewer units if the activity is  
14 performed only in that owner-occupied unit of the multifamily  
15 dwelling.

16 (3) "Accredited training program" means a training program  
17 that has been accredited by the department under this part to  
18 provide training for individuals engaged in lead-based paint  
19 activities.

20 (4) "Adequate quality control" means a plan or design that  
21 ensures the authenticity, integrity, and accuracy of a sample  
22 including, but not limited to, a dust sample, a soil or paint  
23 chip sample, or a paint film sample. Adequate quality control  
24 also includes a provision in a plan or design described in this  
25 subsection for representative sampling.

26 Sec. 5454. (1) "Certified abatement worker" means an  
27 individual who has been trained to perform abatements by an

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1 accredited training program AND WHO IS CERTIFIED BY THE  
2 DEPARTMENT UNDER THIS PART TO PERFORM ABATEMENT.

3 (2) "CERTIFIED CLEARANCE TECHNICIAN" MEANS AN INDIVIDUAL WHO  
4 HAS COMPLETED AN APPROVED TRAINING COURSE AND BEEN CERTIFIED BY  
5 THE DEPARTMENT UNDER THIS PART TO CONDUCT CLEARANCE TESTING FOL-  
6 LOWING INTERIM CONTROLS.

7 (3) ~~-(2)-~~ "Certified firm" means a person that performs a  
8 lead-based paint activity for which the department has issued a  
9 certificate of approval under this part.

10 (4) ~~-(3)-~~ "Certified inspector" means an individual who has  
11 been trained by an accredited training program and certified by  
12 the department under this part to conduct inspections and take  
13 samples for the presence of lead in paint, dust, and soil for the  
14 purposes of abatement clearance testing.

15 (5) ~~-(4)-~~ "Certified project designer" means an individual  
16 who has been trained by an accredited training program and certi-  
17 fied by the department under this part to prepare abatement  
18 project designs, occupant protection plans, and abatement  
19 reports.

20 (6) ~~-(5)-~~ "Certified risk assessor" means an individual who  
21 has been trained by an accredited training program and certified  
22 by the department under this part to conduct INSPECTIONS AND risk  
23 assessments and TO take samples for the presence of lead in  
24 paint, dust, and soil for the purposes of abatement clearance  
25 testing.

26 (7) ~~-(6)-~~ "Certified supervisor" means an individual who has  
27 been trained by an accredited training program and certified by

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1 the department under this part to supervise and conduct  
2 abatements and to prepare occupant protection plans and abatement  
3 reports.

4 (8) ~~-(7)-~~ "Child occupied facility" means a building or por-  
5 tion of a building constructed before 1978 that is visited regu-  
6 larly by a child who is 6 years of age or less, on at least 2  
7 different days within a given week, if each day's visit is at  
8 least 3 hours and the combined weekly visit is at least 6 hours  
9 in length, and the combined annual visits are at least 60 hours  
10 in length. Child-occupied facility includes, but is not limited  
11 to, a day-care center, a preschool, and a kindergarten  
12 classroom.

13 Sec. 5455. (1) "Clearance levels" means the values that  
14 indicate the maximum amount of lead permitted in dust on a sur-  
15 face following completion of an abatement ~~activity~~ as listed in  
16 rules promulgated by the department.

17 (2) "CLEARANCE PROFESSIONAL" MEANS 1 OR MORE OF THE FOLLOW-  
18 ING INDIVIDUALS WHEN PERFORMING CLEARANCE TESTING:

19 (A) A CERTIFIED INSPECTOR.

20 (B) A CERTIFIED RISK ASSESSOR.

21 (C) A CERTIFIED CLEARANCE TECHNICIAN.

22 (3) ~~-(2)-~~ "Common area" means a portion of a building that  
23 is generally accessible to all occupants of the building. Common  
24 area includes, but is not limited to, a hallway, a stairway, a  
25 laundry and recreational room, a playground, a community center,  
26 a garage, and a boundary fence.

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1           (4) ~~-(3)-~~ "Component" or "building component" means a  
2 specific design or structural element or fixture of a building,  
3 residential dwelling, or child occupied facility that is distin-  
4 guished by its form, function, and location. Component or build-  
5 ing component, includes but is not limited to, a specific  
6 interior or exterior design or structural element or fixture.

7           (5) ~~-(4)-~~ "Containment" means a process to protect workers  
8 and the environment by controlling exposure to ~~the~~  
9 ~~lead-contaminated dust~~ A DUST LEAD HAZARD and debris created  
10 during an abatement.

11           (6) ~~-(5)-~~ "Course agenda" means an outline of the key topics  
12 to be covered during an accredited training program, including  
13 the time allotted to teach each topic.

14           (7) ~~-(6)-~~ "Course test" means an evaluation of the overall  
15 effectiveness of the accredited training program by testing a  
16 trainee's knowledge and retention of the topics covered during  
17 the accredited training program.

18           (8) ~~-(7)-~~ "Course test blueprint" means written documen-  
19 tation identifying the proportion of course test questions  
20 devoted to each major topic in the accredited training program  
21 curriculum.

22           Sec. 5456. (1) "Department" means the department of commu-  
23 nity health.

24           (2) "Deteriorated paint" means paint OR OTHER SURFACE  
25 COATING that is cracking, flaking, chipping, peeling, or other-  
26 wise DAMAGED OR separating from the substrate of a building  
27 component.

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1           (3) "Discipline" means 1 of the specific types or categories  
2 of lead-based paint activities identified in this part for which  
3 an individual may receive training from an accredited training  
4 program and become certified by the department.

5           (4) "Distinct painting history" means the application histo-  
6 ry, as indicated by its visual appearance or a record of applica-  
7 tion, over time of paint or other surface coatings to a component  
8 or room.

9           (5) "Documented methodology" means a method or protocol used  
10 to ~~sample~~ DO EITHER OR BOTH OF THE FOLLOWING:

11           (A) SAMPLE and test for the presence of lead in paint, dust,  
12 and soil.

13           (B) PERFORM RELATED WORK PRACTICES AS DESCRIBED IN RULES  
14 PROMULGATED UNDER THIS PART.

15           (6) "DUST LEAD HAZARD" MEANS SURFACE DUST IN A RESIDENTIAL  
16 DWELLING OR CHILD OCCUPIED FACILITY THAT CONTAINS A CONCENTRATION  
17 OF LEAD AT OR IN EXCESS OF LEVELS IDENTIFIED BY THE EPA PURSUANT  
18 TO SECTION 403 OF TITLE IV OF THE TOXIC SUBSTANCES CONTROL ACT,  
19 PUBLIC LAW 94-469, 15 U.S.C. 2683, OR AS OTHERWISE DEFINED BY  
20 RULE.

21           (7) ~~(6)~~ "Elevated blood level" or "EBL" means for purposes  
22 of lead abatement an excessive absorption of lead that is a con-  
23 firmed concentration of lead in whole blood of 20 ug/dl, micro-  
24 grams of lead per deciliter of whole blood, for a single venous  
25 test or of 15-19 ug/dl in 2 consecutive tests taken 3 to 4 months  
26 apart. For purposes of case management of children ~~under six~~ 6  
27 years of age ~~screened and tested for lead~~ OR LESS, elevated

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1 blood level means an excessive absorption of lead that is a  
2 confirmed concentration of lead in whole blood of 10 ug/dl.

3 (8) ~~(7)~~ "Encapsulant" means a substance that forms a bar-  
4 rier between lead-based paint and the environment using a  
5 liquid-applied coating, with or without reinforcement materials,  
6 or an adhesively bonded covering material.

7 (9) ~~(8)~~ "Encapsulation" means the application of an  
8 encapsulant.

9 (10) ~~(9)~~ "Enclosure" means the use of rigid, durable con-  
10 struction materials that are mechanically fastened to the sub-  
11 strate in order to act as a barrier between lead-based paint and  
12 the environment.

13 (11) ~~(10)~~ "EPA" means the United States environmental pro-  
14 tection agency.

15 Sec. 5457. (1) "Guest instructor" means an individual des-  
16 igned by the manager or principal instructor of an accredited  
17 training program to provide instruction specific to the lecture,  
18 hands-on activities, or work practice components of a course in  
19 the accredited training program.

20 (2) "Hands-on skills assessment" means an evaluation that  
21 tests a trainee's ability to satisfactorily perform the work  
22 practices, work procedures, or any other skill taught in an  
23 accredited training program.

24 (3) "Hazardous waste" means waste as defined in 40  
25 C.F.R. 261.3.

26 (4) "Inspection" means a surface-by-surface investigation IN  
27 TARGET HOUSING OR A CHILD OCCUPIED FACILITY to determine the



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1 presence of lead-based paint [and the provision of a report  
2 explaining the results of the investigation].

3 (5) "Interim controls" means a set of measures designed to  
4 temporarily reduce human exposure or likely exposure to  
5 lead-based paint hazards including, but not limited to, special-  
6 ized cleaning, repairs, maintenance, painting, temporary contain-  
7 ment, ongoing monitoring of lead-based paint hazards or potential  
8 hazards, and the establishment and operation of management and  
9 resident education programs.

10 Sec. 5458. (1) "Lead-based paint" means paint or other sur-  
11 face coatings that contain lead equal to or in excess of 1.0 mil-  
12 ligrams per square centimeter or more than 0.5% by weight.

13 (2) "Lead-based paint activity" means inspection, risk  
14 assessment, and abatement in target housing and child occupied  
15 facilities OR IN ANY PART THEREOF.

16 (3) "Lead-based paint hazard" means ~~a condition causing~~  
17 ~~exposure to lead from lead-contaminated dust, lead-contaminated~~  
18 ~~soil, or lead-based or lead-contaminated paint that is deterio-~~  
19 ~~rated or present in an accessible surface, friction surface, or~~  
20 ~~impact surface that would result in adverse human health~~  
21 ~~effects.~~ ANY OF THE FOLLOWING CONDITIONS:

22 (A) ANY LEAD-BASED PAINT ON A FRICTION SURFACE THAT IS  
23 SUBJECT TO ABRASION AND WHERE THE LEAD DUST LEVELS ON THE NEAREST  
24 HORIZONTAL SURFACE ARE EQUAL TO OR GREATER THAN THE DUST LEAD  
25 HAZARD LEVELS IDENTIFIED IN RULES PROMULGATED UNDER THIS PART.

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1 (B) ANY DAMAGED OR OTHERWISE DETERIORATED LEAD-BASED PAINT  
2 ON AN IMPACT SURFACE THAT IS CAUSED BY IMPACT FROM A RELATED  
3 BUILDING COMPONENT.

4 (C) ANY CHEWABLE LEAD-BASED PAINTED SURFACE ON WHICH THERE  
5 IS EVIDENCE OF TEETH MARKS.

6 (D) ANY OTHER DETERIORATED LEAD-BASED PAINT IN OR ON ANY  
7 RESIDENTIAL BUILDING OR CHILD OCCUPIED FACILITY.

8 (E) SURFACE DUST IN A RESIDENTIAL DWELLING OR CHILD OCCUPIED  
9 FACILITY THAT CONTAINS LEAD IN A MASS-PER-AREA CONCENTRATION  
10 EQUAL TO OR EXCEEDING THE LEVELS ESTABLISHED BY RULES PROMULGATED  
11 UNDER THIS PART.

12 (F) BARE SOIL ON RESIDENTIAL REAL PROPERTY OR PROPERTY OF A  
13 CHILD OCCUPIED FACILITY THAT CONTAINS LEAD EQUAL TO OR EXCEEDING  
14 LEVELS ESTABLISHED BY RULES PROMULGATED UNDER THIS PART.

15 ~~(4) "Lead-contaminated dust" means surface dust in a resi-~~  
16 ~~dential dwelling or child occupied facility that contains an area~~  
17 ~~or mass concentration of lead at or in excess of levels identi-~~  
18 ~~fied by the EPA pursuant to section 403 of title IV of the toxic~~  
19 ~~substance control act, Public Law 94-469, 15 U.S.C. 2683, or as~~  
20 ~~otherwise defined by rule.~~ "LEAD-BASED PAINT INVESTIGATION"

21 MEANS AN ACTIVITY DESIGNED TO DETERMINE THE PRESENCE OF  
22 LEAD-BASED PAINT OR LEAD-BASED PAINT HAZARDS IN TARGET HOUSING  
23 AND CHILD OCCUPIED FACILITIES.

24 ~~(5) "Lead-contaminated soil" means bare soil on residential~~  
25 ~~real property or on the property of a child occupied facility~~  
26 ~~that contains lead at or in excess of levels identified by the~~  
27 ~~EPA pursuant to section 403 of title IV of the toxic substance~~

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1 ~~control act, Public Law 94-469, 15 U.S.C. 2683, or as otherwise~~  
2 ~~defined by rule.~~

3 ~~(6) "Lead-hazard screen" means a limited risk assessment~~  
4 ~~activity that involves limited lead-based or lead-contaminated~~  
5 ~~paint and lead dust sampling.~~

6 (5) ~~(7)~~ "Living area" means an area of a residential  
7 dwelling used by 1 or more children age 6 and under including,  
8 but not limited to, a living room, kitchen area, den, playroom,  
9 and a children's bedroom.

10 Sec. 5459. (1) "Multifamily dwelling" means a structure  
11 that contains more than 1 separate residential dwelling unit and  
12 that is used or occupied, or intended to be used or occupied, in  
13 whole or in part, as the home or residence of 1 or more persons.

14 (2) "Paint in poor condition" means 1 or more of the  
15 following:

16 (a) More than 10 square feet of deteriorated paint on an  
17 exterior component with a large surface area.

18 (b) More than 2 square feet of deteriorated paint on an  
19 interior component with large surface areas.

20 (c) More than 10% of the total surface area of the component  
21 is deteriorated on an interior or exterior component with a small  
22 surface area.

23 (3) "Permanently covered soil" means soil that has been sep-  
24 arated from human contact by the placement of a barrier consist-  
25 ing of solid, relatively impermeable materials including, but not  
26 limited to, pavement or concrete ~~—~~, but not including grass,  
27 mulch, or other landscaping materials.

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1 (4) "Person" means that term as defined in section 1106 but  
2 including the state and a political subdivision of the state.

3 (5) "Principal instructor" means the individual who has the  
4 primary responsibility for organizing and teaching a particular  
5 course in an accredited training program.

6 (6) "Recognized laboratory" means an environmental labora-  
7 tory recognized by the EPA pursuant to section 405 of title IV of  
8 the toxic substances control act, Public Law 94-469, 15  
9 U.S.C. 2685, as being capable of performing an analysis for lead  
10 compounds in paint, soil, and dust.

11 (7) "Reduction" means a measure designed to reduce or elimi-  
12 nate human exposure to a lead-based paint hazard through methods  
13 including, but not limited to, interim controls and abatement.

14 (8) "Residential dwelling" means either of the following:

15 (a) A detached single family dwelling unit, including, but  
16 not limited to, attached structures such as porches and stoops  
17 AND ANCILLARY BUILDINGS AND STRUCTURES SUCH AS GARAGES, FENCES,  
18 AND NONAGRICULTURAL OR NONCOMMERCIAL OUTBUILDINGS.

19 (b) A ~~single family dwelling unit in a~~ BUILDING structure  
20 that contains more than 1 separate residential dwelling unit THAT  
21 IS used or occupied, in whole or in part, as the home or resi-  
22 dence of 1 or more persons.

23 (9) "Risk assessment" means [both of the following:

(a) An  
24 ] on-site investigation IN TARGET HOUSING OR A CHILD OCCUPIED  
25 FACILITY to determine the existence, nature, severity, and loca-  
26 tion of a lead-based paint hazard.

[(b) The provision of a  
27 report by the person conducting the risk assessment explaining

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1 the results of the investigation and options for reducing the  
2 lead-based paint hazard.]

3 (10) "SOIL LEAD HAZARD" MEANS BARE SOIL ON A RESIDENTIAL  
4 DWELLING OR ON THE PROPERTY OF A CHILD OCCUPIED FACILITY THAT  
5 CONTAINS LEAD AT OR IN EXCESS OF LEVELS IDENTIFIED BY THE EPA  
6 PURSUANT TO SECTION 403 OF TITLE IV OF THE TOXIC SUBSTANCES CON-  
7 TROL ACT, PUBLIC LAW 94-469, 15 U.S.C. 2683, OR AS OTHERWISE  
8 DEFINED BY RULE.

9 Sec. 5460. (1) "Target housing" means housing constructed  
10 before 1978, except ~~either~~ ANY of the following:

11 (a) Housing for the elderly or persons with disabilities,  
12 unless any 1 or more children age 6 years or ~~under~~ LESS resides  
13 or is expected to reside in that housing.

14 (b) A 0-bedroom dwelling.

15 (c) AN UNOCCUPIED DWELLING UNIT PENDING DEMOLITION, PROVIDED  
16 THE DWELLING UNIT REMAINS UNOCCUPIED UNTIL DEMOLITION.

17 (2) "Third party examination" means the examination for cer-  
18 tification under this part in the disciplines of CLEARANCE  
19 TECHNICIAN, inspector, risk assessor, worker, and supervisor  
20 offered and administered by a party other than an accredited  
21 training program.

22 (3) "Training curriculum" means an established set of course  
23 topics for instruction in an accredited training program for a  
24 particular discipline designed to provide specialized knowledge  
25 and skills.

26 (4) "Training hour" means not less than 50 minutes of actual  
27 learning, including, but not limited to, time devoted to lecture,

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1 learning activities, small group activities, demonstrations,  
2 evaluations, or hands-on experience or a combination of those  
3 activities.

4 (5) "Training manager" means the individual responsible for  
5 administering an accredited training program and monitoring the  
6 performance of principal instructors and guest instructors.

7 (6) "Visual inspection for clearance testing" means the  
8 visual examination of a residential dwelling or a child occupied  
9 facility following an abatement designed to determine whether the  
10 abatement has been successfully completed.

11 (7) "Visual inspection for risk assessment" means the visual  
12 examination of a residential dwelling or a child occupied facil-  
13 ity to determine the existence of deteriorated paint or other  
14 potential sources of lead-based paint hazards.

15 Sec. 5462. (1) A person may seek accreditation for a train-  
16 ing program to offer courses in lead-based paint activities in 1  
17 or more of the following disciplines:

18 (a) Inspector.

19 (b) Risk assessor.

20 (c) Supervisor.

21 (d) Project designer.

22 (e) Abatement worker/laborer.

23 (F) CLEARANCE TECHNICIAN.

24 (2) A person may also seek accreditation for a training pro-  
25 gram to offer refresher courses for each of the disciplines  
26 described in subsection (1).

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1           (3) ~~Beginning March 1, 1999, a~~ A person shall not provide,  
2 offer, or claim to provide EPA-accredited courses in lead-based  
3 paint activities without applying for and receiving accreditation  
4 from the department under this part.

5           (4) A person seeking accreditation for a training program  
6 shall submit a written application to the department containing  
7 all of the following:

8           (a) If the applicant is a sole proprietorship or corpora-  
9 tion, its "doing business as" or corporate identification  
10 number.

11           (b) The fee required by section 5471.

12           (c) The name of each principal position, partner, sharehold-  
13 er, member, or owner.

14           (d) The training program's proposed name, address, and tele-  
15 phone number.

16           (e) A list of courses and disciplines for which it is seek-  
17 ing accreditation.

18           (f) A statement signed by the training program manager cer-  
19 tifying that the training program meets the requirements estab-  
20 lished by this part and the rules promulgated under this part.

21           (g) A copy of the student and instructor manuals or other  
22 materials to be used for each course.

23           (h) A copy of the course agenda for each course.

24           (i) A description of the facilities and equipment to be used  
25 for lecture and hands-on training.

26           (j) A copy of the course test blueprint for each course.



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1           (k) A description of the activities and procedures that will  
2 be used for conducting the hands-on skills assessment for each  
3 course.

4           (l) A copy of the quality control plan as defined in rules  
5 promulgated by the department.

6           (5) ~~-(6)-~~ The department shall approve an application for  
7 accreditation of a training program within 180 days after receiv-  
8 ing a complete application from the training program if the  
9 department determines that the applicant meets the requirements  
10 of this part and the rules promulgated under this part. In the  
11 case of approval, the department shall send a certificate of  
12 accreditation to the applicant. Before disapproving an applica-  
13 tion, the department may advise the applicant as to specific  
14 inadequacies in the application for accreditation or specific  
15 instances where the training program does not meet the require-  
16 ments of this part or the rules promulgated under this part, or  
17 both. The department may request additional information or mate-  
18 rials from the training program under this section. If the  
19 department disapproves a training program's application for  
20 accreditation, the applicant may reapply for accreditation at any  
21 time.

22           (6) ~~-(7)-~~ A training program shall meet all of the following  
23 requirements in order to become accredited to offer courses in  
24 lead-based paint activities:

25           (a) Employ a training manager who has training, education,  
26 and experience as described in rules promulgated by the  
27 department.

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1 (b) Provide that the training manager described in  
2 subdivision (a) designate a qualified principal instructor for  
3 each course who has training, education, and experience as  
4 described in rules promulgated by the department.

5 (c) Provide that the principal instructor described in  
6 subdivision (b) be responsible for the organization of the course  
7 and oversight of the teaching of all course material. A training  
8 manager may designate guest instructors as needed to provide  
9 instruction specific to the lecture, hands-on activities, or work  
10 practice components of a course.

11 (7) ~~(8)~~ The following documents are recognized by the  
12 department as evidence that a training manager or a principal  
13 instructor has the education, work experience, training require-  
14 ments, or demonstrated experience specifically listed in rules  
15 promulgated by the department, which documentation is not  
16 required to be submitted with the accreditation application but,  
17 if not submitted, must be retained by the training program as  
18 required by the record-keeping requirements contained in this  
19 part:

20 (a) An official academic transcript or diploma as evidence  
21 of meeting the education requirements.

22 (b) A resume, letter of reference, or documentation of work  
23 experience, as evidence of meeting the work experience  
24 requirements.

25 (c) A certificate from a train-the-trainer course or a  
26 lead-specific training course, or both, as evidence of meeting  
27 the training requirements.

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1           (8) ~~-(9)-~~ A training program accredited under this part  
2 shall ensure the availability of, and provide adequate facilities  
3 for, the delivery of the lecture, course test, hands-on training,  
4 and assessment activities including, but not limited to, provid-  
5 ing training equipment that reflects current work practices and  
6 maintaining or updating the equipment and facilities of the  
7 training program, as needed.

8           Sec. 5463. (1) A training program accredited under  
9 section 5462 shall provide training courses that meet the follow-  
10 ing training hour requirements in order to become accredited in  
11 the following disciplines:

12           (a) An inspector course shall last a minimum of 24 training  
13 hours, with a minimum of 8 hours devoted to hands-on training  
14 activities. The department shall promulgate rules to determine  
15 the minimum curriculum requirements for the inspector course.

16           (b) A risk assessor course shall last a minimum of 16 train-  
17 ing hours, with a minimum of 4 hours devoted to hands-on training  
18 activities. The department shall promulgate rules to determine  
19 the minimum curriculum requirements for the risk assessor  
20 course.

21           (c) A supervisor course shall last a minimum of 32 training  
22 hours, with a minimum of 8 hours devoted to hands-on activities.  
23 The department shall promulgate rules to determine the minimum  
24 curriculum requirements for the supervisor course.

25           (d) A project designer course shall last a minimum of 8  
26 training hours. The department shall promulgate rules to

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1 determine the minimum curriculum requirements for the project  
2 designer course.

3 (e) An abatement worker course shall last a minimum of 16  
4 training hours, with a minimum of 8 hours devoted to hands-on  
5 training activities. The department shall promulgate rules to  
6 determine the minimum curriculum requirements for the abatement  
7 worker course.

8 (F) A CLEARANCE TECHNICIAN COURSE SHALL LAST A MINIMUM OF 8  
9 TRAINING HOURS, WITH A MINIMUM OF 2 HOURS DEVOTED TO HANDS-ON  
10 TRAINING ACTIVITIES. THE DEPARTMENT SHALL PROMULGATE RULES TO  
11 DETERMINE THE MINIMUM CURRICULUM REQUIREMENTS FOR THE CLEARANCE  
12 TECHNICIAN COURSE. UNTIL RULES ARE PROMULGATED, A CLEARANCE  
13 TECHNICIAN COURSE SHALL USE THE CURRICULUM FOR THE LEAD SAMPLING  
14 TECHNICIAN COURSE APPROVED BY THE EPA UNDER SUBPART Q OF PART 745  
15 OF TITLE 40 OF THE CODE OF FEDERAL REGULATIONS.

16 (2) The department may promulgate rules to modify 1 or more  
17 of the requirements imposed under subsection (1) if changes are  
18 needed to comply with federal mandates or for another reason con-  
19 sidered appropriate by the department.

20 (3) For each course offered, the training program shall con-  
21 duct a course test at the completion of the course and, if appli-  
22 cable, a hands-on skills assessment. Each individual enrolled in  
23 the training program must successfully complete the hands-on  
24 skills assessment, if conducted for that course, and receive a  
25 passing score on the course test in order to pass a course.

26 (4) The training manager shall maintain the validity and  
27 integrity of a hands-on skills assessment to ensure that it

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1 accurately evaluates the trainees' performance of the work  
2 practices and procedures associated with the course topics con-  
3 tained in rules promulgated under this section and the course  
4 test to ensure that it accurately evaluates the trainees' knowl-  
5 edge and retention of the course topics.

6 (5) A training program's course test shall be developed in  
7 accordance with the test blueprint submitted with the training  
8 program accreditation application.

9 (6) A training program shall issue course completion certif-  
10 icates to each individual who passes the training course. The  
11 course completion certificates shall include:

12 (a) The name and address of the individual, along with a  
13 unique identification number.

14 (b) The name of the particular course that the individual  
15 passed.

16 (c) Dates of course completion and test passage.

17 (d) Expiration date of course certificate.

18 (e) The name, address, and telephone number of the training  
19 program.

20 (7) The training manager shall develop and implement a qual-  
21 ity control plan designed to maintain and improve the quality of  
22 the training program. The quality control plan shall contain at  
23 least both of the following elements:

24 (a) Procedures for periodic revision of training materials  
25 and the course test to reflect innovations in the field.

26 (b) Procedures for the training manager's annual review of  
27 each principal instructor's competence.

1           (8) The training program shall offer courses that teach the  
2 work practice standards for conducting lead-based paint activi-  
3 ties and other standards developed by the EPA pursuant to title  
4 IV of the ~~TSCA~~ TOXIC SUBSTANCES CONTROL ACT and considered  
5 appropriate or necessary by the department. The work practice  
6 standards shall be taught in the appropriate courses to provide  
7 trainees with the knowledge needed to perform the lead-based  
8 paint activities.

9           (9) The training manager shall ensure that the training pro-  
10 gram complies at all times with all of the requirements of this  
11 section and the rules promulgated under this section.

12           (10) The training manager shall allow the department to  
13 audit the training program to verify the contents of the applica-  
14 tion for accreditation.

15           Sec. 5467. (1) An accredited training program shall main-  
16 tain, and make available to the department, upon request, all of  
17 the following records:

18           (a) Each document that demonstrates the qualifications of a  
19 training manager or a principal instructor.

20           (b) Current curriculum and course materials and documents  
21 reflecting changes made to these materials.

22           (c) The course test blueprint.

23           (d) Information regarding how the hands-on skills assessment  
24 is conducted including, but not limited to, all of the  
25 following:

26           (i) The person conducting the hands-on skills assessment.

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1 (ii) The method of grading the hands-on skills.

2 (iii) A description of the facilities used.

3 (iv) The pass/fail rate.

4 (E) ~~(v)~~ The quality control plan.

5 (F) ~~(vi)~~ The results of the students' hands-on skills  
6 assessments and course tests and a record of each student's par-  
7 ticipation, including name, social security number, and score,  
8 within 10 calendar days of the last day of the course taken.

9 (G) ~~(vii)~~ Any other material that was submitted to the  
10 department as part of the program's application for  
11 accreditation.

12 (2) A training program shall retain the records described in  
13 subsection (1) for at least 3-1/2 years at the address specified  
14 on the training program accreditation application.

15 (3) The training program shall notify the department in  
16 writing within 30 days of changing the address specified on its  
17 training program accreditation application or transferring the  
18 records from that address.

19 Sec. 5468. (1) An individual seeking certification by the  
20 department to engage in lead-based paint activities shall pay the  
21 appropriate ~~application fee~~ FEES required under section 5471  
22 and submit an application to the department demonstrating either  
23 of the following:

24 (a) Compliance with the requirements of this part and the  
25 rules promulgated under this part for the particular discipline  
26 for which certification is sought.

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1 (b) A copy of a valid lead-based paint activities  
2 certification or its equivalent, as determined by the department,  
3 from a training program that has been authorized by the EPA pur-  
4 suant to 40 C.F.R. part 745 along with proof of the applicant's  
5 third party examination results.

6 (2) Following the submission of an application demonstrating  
7 that the requirements of this part and the rules promulgated  
8 under this part have been met, the department shall certify an  
9 applicant in 1 or more of the following disciplines:

- 10 (a) Inspector.
- 11 (b) Risk assessor.
- 12 (c) Supervisor.
- 13 (d) Project designer.
- 14 (e) Abatement worker.
- 15 (F) CLEARANCE TECHNICIAN.

16 (3) Upon receiving the department certification in 1 or more  
17 of the disciplines described in subsection (2), an individual  
18 conducting lead-based paint activities shall comply with the work  
19 practice standards for performing that discipline as established  
20 under this part and the rules promulgated under this part.

21 (4) ~~Beginning March 1, 1999, an~~ AN individual shall not  
22 conduct a lead-based paint activity unless that individual is  
23 certified by the department under this section in the appropriate  
24 discipline.

25 (5) An individual shall do all of the following in order to  
26 become certified by the department as an inspector, risk  
27 assessor, abatement worker, or supervisor:



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1 (a) Successfully complete a course in the appropriate  
2 discipline and receive a course completion certificate from an  
3 accredited training program.

4 (b) Pass the third party exam in the appropriate  
5 discipline.

6 (c) Meet the experience or education requirements, or both,  
7 as described in rules promulgated by the department.

8 (6) After an individual passes the appropriate certification  
9 exam and submits an application demonstrating that he or she  
10 meets the appropriate training, education, and experience  
11 requirements AND PASSES THE APPROPRIATE CERTIFICATION EXAM, the  
12 department shall issue a certificate to the individual in the  
13 specific discipline for which certification is sought. To main-  
14 tain certification, an individual must be recertified pursuant to  
15 this part.

16 (7) An individual shall ~~take~~ PASS the third party exam  
17 within 6 months after receiving a course completion certificate  
18 ~~or must again complete the appropriate course from an accredited~~  
19 ~~training program~~ in order to be eligible for certification. An  
20 individual is not eligible to take the third party exam more than  
21 3 times within the 6 months after receiving a course completion  
22 certificate. AN INDIVIDUAL WHO DOES NOT PASS THE THIRD PARTY  
23 EXAM AFTER 3 ATTEMPTS SHALL REPEAT THE APPROPRIATE COURSE FROM AN  
24 ACCREDITED TRAINING PROGRAM IN ORDER TO BE ELIGIBLE TO RETAKE THE  
25 EXAM.

26 (8) An individual shall do both of the following in order to  
27 become certified by the department as a project designer:

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1 (a) Successfully complete a course in the appropriate  
2 discipline and receive a course completion certificate from an  
3 accredited training program.

4 (b) Meet the experience or education requirements, or both,  
5 as described in rules promulgated by the department.

6 (9) After an individual has successfully completed the  
7 appropriate training courses, applied to the department, and met  
8 the requirements of this part and the rules promulgated under  
9 this part, the department shall issue a certificate to the indi-  
10 vidual in the discipline of project designer. To maintain certi-  
11 fication, the individual must be periodically recertified pursu-  
12 ant to this part.

13 (10) An individual who received training in a lead-based  
14 paint activity between October 1, 1990 and March 1, 1999 and an  
15 individual who has received lead-based paint activities training  
16 at an EPA-authorized accredited training program are eligible for  
17 certification by the department under rules promulgated by the  
18 department.

19 ~~(11) Until August 30, 1999, an individual may apply to the~~  
20 ~~department for certification under subsection (10). Beginning~~  
21 ~~August 30, 1999, an individual seeking certification to engage in~~  
22 ~~lead-based paint activities shall apply for initial certification~~  
23 ~~under this part.~~

24 ~~(12) Upon submission of an application and payment of the~~  
25 ~~appropriate fee, the department shall issue a certification to~~  
26 ~~engage in lead-based paint activities to an individual registered~~

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1 ~~by the department by August 30, 1998 under the department's~~  
2 ~~voluntary registration program.~~

3 (11) ~~(13)~~ In order to maintain certification in a particu-  
4 lar discipline, a certified individual shall apply to and be  
5 recertified in that discipline by the department every 3 years.

6 (12) AN INDIVIDUAL SHALL DO BOTH OF THE FOLLOWING IN ORDER  
7 TO BECOME A CERTIFIED CLEARANCE TECHNICIAN:

8 (A) SUCCESSFULLY COMPLETE AN APPROVED COURSE FOR THE DISCI-  
9 PLINE OF CLEARANCE TECHNICIAN AND RECEIVE A COURSE COMPLETION  
10 CERTIFICATE.

11 (B) PASS THE THIRD PARTY EXAM FOR THE DISCIPLINE OF CLEAR-  
12 ANCE TECHNICIAN.

13 Sec. 5471. (1) ~~Fees~~ SUBJECT TO SUBSECTION (7), FEES for a  
14 person accredited or seeking accreditation for a training program  
15 offering courses or refresher courses in lead-based paint  
16 ~~activities~~ ABATEMENT are as follows:

17 (a) Initial application processing fee..... \$100.00.

18 (b) Initial accreditation fee..... \$475.00 per discipline.

19 (c) Reaccreditation fee, annual.... \$265.00 per discipline.

20 (2) Fees for an individual certified or seeking certifica-  
21 tion to engage in lead-based paint ~~activities~~ ABATEMENT are as  
22 follows:

23 (a) Initial application processing fee..... \$25.00.

24 (b) Certification fee, per year:

25 (i) Inspector..... \$150.00.

26 (ii) Risk assessor..... \$150.00.

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1	(iii) Supervisor.....	\$50.00.
2	(iv) Project designer.....	\$150.00.
3	(v) Abatement worker/laborer.....	\$25.00.
4	(vi) CLEARANCE TECHNICIAN.....	\$50.00.

5 (3) Fees for a person certified or seeking certification to  
6 engage in lead-based paint ~~activities~~ ABATEMENT are as  
7 follows:

8	(a) Initial application processing fee.....	\$100.00.
9	(b) Certification fee, per year.....	\$220.00.

10 (4) If the department increases fees under subsection (5),  
11 the increase shall be effective for that fiscal year. The  
12 increased fees shall be used by the department as the basis for  
13 calculating fee increases in subsequent fiscal years.

14 (5) By August 1 of each year, the department shall provide  
15 to the director of the department of management and budget and to  
16 the chairpersons of the appropriations committees of the senate  
17 and house of representatives a complete schedule of fees to be  
18 collected under this section.

19 (6) The fees imposed under this part shall not exceed the  
20 actual cost of administering this part.

21 (7) THE DEPARTMENT MAY WAIVE THE FEES FOR AN ACCREDITED  
22 TRAINING PROGRAM FOR A PERSON WHO HAS DEMONSTRATED THAT NO PART  
23 OF ITS NET EARNINGS BENEFIT ANY PRIVATE SHAREHOLDER OR  
24 INDIVIDUAL.

25 Sec. 5472. Before beginning a lead-based paint ~~activity~~  
26 ABATEMENT, a person conducting lead-based paint ~~activities~~  
27 ABATEMENT shall notify the department, on forms provided by the

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1 department OR THROUGH ELECTRONIC METHODS APPROVED BY THE  
2 DEPARTMENT, regarding information the department considers neces-  
3 sary in order to conduct an unannounced site inspection. The  
4 person shall send notification not less than ~~7-calendar~~ 3  
5 BUSINESS days before commencing the lead-based paint ~~activity~~  
6 ABATEMENT.

7       Sec. 5473a. (1) The department shall administer this part  
8 and promulgate rules as may be necessary for the administration  
9 and enforcement of this part pursuant to the administrative pro-  
10 cedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

11       (2) The department shall authorize, coordinate, and conduct  
12 programs to educate persons including, but not limited to, home-  
13 owners and remodelers of lead hazards associated with remodeling  
14 target housing and methods of lead-hazard reduction activities.

15       (3) The department shall establish a program that provides  
16 an opportunity for property owners, managers, and maintenance  
17 staff to learn about lead-safe practices and the avoidance of  
18 creating lead-based paint hazards during minor painting, repair,  
19 or renovation.

20       (4) Not later than January 1, 2000, the department shall  
21 recommend appropriate maintenance practices for owners of resi-  
22 dential property, day care facilities, and secured lenders that  
23 are designed to prevent lead poisoning among children ~~under~~ 6  
24 years of age OR LESS and pregnant women. In making its recommen-  
25 dations, the department shall consult with affected stakeholders  
26 and shall consider the effects of those maintenance practices on  
27 the availability and affordability of housing and credit.

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1           (5) THE FOLLOWING INFORMATION REQUIRED TO BE SUBMITTED TO  
2 THE DEPARTMENT BY CERTIFIED INDIVIDUALS AND PERSONS UNDER THIS  
3 PART AND RULES PROMULGATED UNDER THIS PART IS EXEMPT FROM DISCLO-  
4 SURE AS A PUBLIC RECORD UNDER THE FREEDOM OF INFORMATION ACT,  
5 1976 PA 442, MCL 15.231 TO 15.246:

6           (A) THE NAME, STREET ADDRESS, AND TELEPHONE NUMBER OF THE  
7 OWNER, AGENT, OR TENANT OF A RESIDENTIAL DWELLING WHERE  
8 LEAD-BASED PAINT INVESTIGATIONS HAVE BEEN CONDUCTED.

9           (B) INFORMATION THAT COULD BE USED TO IDENTIFY 1 OR MORE  
10 CHILDREN WITH ELEVATED BLOOD LEAD LEVELS THAT HAVE BEEN REPORTED  
11 TO THE DEPARTMENT.

12           (C) INFORMATION CONTAINED IN AN EBL INVESTIGATION REPORT  
13 THAT COULD BE USED TO IDENTIFY 1 OR MORE CHILDREN WITH ELEVATED  
14 BLOOD LEAD LEVELS.

15           Sec. 5475. (1) The department shall receive or initiate  
16 complaints of alleged violations of this part or rules promul-  
17 gated under this part and take action with respect to alleged  
18 violations or complaints as prescribed by this part.

19           (2) The department, in its own discretion, or upon the writ-  
20 ten complaint of an aggrieved party or of a state agency or  
21 political subdivision of this state, may investigate the acts of  
22 an accredited training program, ~~or~~ an individual or other  
23 person certified under this part, OR A PERSON ALLEGEDLY ENGAGED  
24 IN LEAD-BASED PAINT ACTIVITY. The department may deny, suspend,  
25 or revoke certification or accreditation issued under this part  
26 if a certified person, accredited training program, ~~or~~  
27 certified individual, OR A PERSON ALLEGEDLY ENGAGED IN LEAD-BASED

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1 PAINT ACTIVITY is found to be not in compliance with this part or  
2 the rules promulgated under this part. In addition, the depart-  
3 ment may deny, suspend, or revoke a certification or accredi-  
4 ation issued under this part for 1 or more of the following:

5 (a) Willful or negligent acts that cause a person to be  
6 exposed to a lead-containing substance in violation of this part,  
7 the rules promulgated under this part, or other state or federal  
8 law pertaining to the public health and safety aspects of lead  
9 abatement.

10 (b) Falsification of records required under this part.

11 (c) Continued failure to obtain or renew certification or  
12 accreditation under this part.

13 (d) Deliberate misrepresentation of facts or information in  
14 applying for certification or accreditation under this part.

15 (e) Permitting a person who has not received the proper  
16 training and certification under this part or other applicable  
17 state or federal law to come in contact with lead or be responsi-  
18 ble for a lead abatement project.

19 Sec. 5476. (1) A person who violates this part OR A RULE  
20 PROMULGATED UNDER THIS PART is subject to an administrative fine  
21 up to the following amounts for each violation or each day that a  
22 violation continues:

23 (a) For a first violation..... \$2,000.00.

24 (b) For a second violation..... \$5,000.00.

25 (c) For a third or subsequent violation..... \$10,000.00.

26 (2) If the department has reasonable cause to believe that a  
27 person has violated this part or a rule promulgated under this

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1 part, the department may issue a citation at that time or not  
2 later than 180 days after discovery of the alleged violation.  
3 The citation shall be written and shall state with particularity  
4 the nature of the violation as provided for by the administrative  
5 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. An  
6 alleged violator may request an administrative hearing pursuant  
7 to the administrative procedures act of 1969, 1969 PA 306,  
8 MCL 24.201 to 24.328.

9       Sec. 5477. (1) A person who engages in a ~~regulated~~  
10 LEAD-BASED PAINT activity as provided for by this part ~~or any~~  
11 ~~person who~~ AND WHO WILLFULLY OR REPEATEDLY violates this part or  
12 ~~any rules~~ A RULE promulgated under this part ~~and~~ OR A PERSON  
13 who fails to correct the violation after notice from the depart-  
14 ment under this part is guilty of a misdemeanor, punishable by a  
15 fine of not more than \$5,000.00, and upon conviction for a second  
16 or subsequent offense, not more than \$10,000.00, or imprisonment  
17 for not more than 6 months, or both. A violation of this ~~part~~  
18 SUBSECTION may be prosecuted by either the attorney general or  
19 the prosecuting attorney of the judicial district in which the  
20 violation was committed.

21       (2) The application of sanctions under this part is cumula-  
22 tive and does not preclude the application of other sanctions ~~,~~  
23 OR penalties ~~,~~ ~~or~~ CONTAINED IN THE provisions of any other fed-  
24 eral, state, or political subdivision STATUTE, RULE, REGULATION,  
25 OR ORDINANCE.

26       (3) This ~~act~~ PART does not diminish the responsibilities  
27 of an owner or occupant, or the authority of enforcing agents



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1 under state, county, city, municipal, or other local building,  
2 housing, or health and safety codes.

3 (4) The requirements of this ~~act~~ PART are in addition to  
4 other pertinent provisions of a code listed in subsection (3).