

HOUSE BILL NO. 5420

October 19, 2021, Introduced by Reps. Beson, Rogers, Witwer, Steckloff, Neeley, Haadsma, Sowerby, Young, Brixie, Aiyash, Cavanagh, Ellison, LaGrand, Bolden, Liberati, Breen, Thanedar, Clemente, Brabec, Tyrone Carter, Scott, Brenda Carter, Koleszar, Hope, Stone, O'Neal, Cherry, Sneller, Pohutsky, Kuppa, Lasinski, Sabo, Hood, Hammoud, Rabhi, Whitsett, Manoogian and Steenland and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending sections 5454, 5455, 5456, 5459, 5460, 5460a, 5461, 5461a, 5462, 5463, 5466, 5468, 5469, 5470, 5471, 5472, 5473a, and 5475 (MCL 333.5454, 333.5455, 333.5456, 333.5459, 333.5460, 333.5460a, 333.5461, 333.5461a, 333.5462, 333.5463, 333.5466, 333.5468, 333.5469, 333.5470, 333.5471, 333.5472, 333.5473a, and 333.5475), sections 5454, 5455, 5456, 5459, 5460, 5462, 5463, 5468, 5471, 5472, 5473a, and 5475 as amended by 2002 PA 644, sections

5460a, 5461, 5469, and 5470 as added by 1998 PA 219, and sections 5461a and 5466 as added by 1998 PA 220.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5454. (1) "Certified abatement worker" means an
2 individual who has been trained to perform abatements by an
3 accredited training program and who is certified by the department
4 under this part to perform abatement.

5 (2) "Certified clearance technician" means an individual who
6 has completed an approved training course and been certified by the
7 department under this part to conduct clearance testing following
8 interim controls.

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

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

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

21 **(6) "Certified renovator" means a renovator who has**
22 **successfully completed a renovator course accredited by the EPA or**
23 **an EPA authorized state or tribal program.**

24 (7) ~~(6)~~—"Certified risk assessor" means an individual who has
25 been trained by an accredited training program and certified by the
26 department under this part to conduct inspections and risk

1 assessments and to take samples for the presence of lead in paint,
2 dust, and soil for the purposes of abatement clearance testing.

3 (8) ~~(7)~~—"Certified supervisor" means an individual who has
4 been trained by an accredited training program and certified by the
5 department under this part to supervise and conduct abatements and
6 to prepare occupant protection plans and abatement reports.

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

15 Sec. 5455. (1) **"Cleaning verification card" means a card**
16 **developed and distributed, or otherwise approved, by the EPA to**
17 **determine if post-renovation cleaning was properly completed**
18 **through the comparison of wet and dry disposable cleaning cloths**
19 **with the card.**

20 (2) ~~(1)~~—"Clearance levels" means the values that indicate the
21 maximum amount of lead permitted in dust on a surface following
22 completion of an abatement as listed in rules promulgated by the
23 department.

24 (3) ~~(2)~~—"Clearance professional" means 1 or more of the
25 following individuals when performing clearance testing:

- 26 (a) A certified inspector.
27 (b) A certified risk assessor.
28 (c) A certified clearance technician.

29 (4) ~~(3)~~—"Common area" means a portion of a building that is

1 generally accessible to all occupants of the building. Common area
2 includes, but is not limited to, a hallway, a stairway, a laundry
3 and recreational room, a playground, a community center, a garage,
4 and a boundary fence.

5 (5) ~~(4)~~—"Component" or "building component" means a specific
6 design or structural element or fixture of a building, residential
7 dwelling, or child occupied facility that is distinguished by its
8 form, function, and location. Component or building component,
9 includes, but is not limited to, a specific interior or exterior
10 design or structural element or fixture.

11 (6) ~~(5)~~ "Containment" means a process to protect workers and
12 the environment by controlling exposure to a dust lead hazard and
13 debris created during an abatement **or renovation project**.

14 (7) ~~(6)~~—"Course agenda" means an outline of the key topics to
15 be covered during an accredited training program, including the
16 time allotted to teach each topic.

17 (8) ~~(7)~~—"Course test" means an evaluation of the overall
18 effectiveness of the accredited training program by testing a
19 trainee's knowledge and retention of the topics covered during the
20 accredited training program.

21 (9) ~~(8)~~—"Course test blueprint" means written documentation
22 identifying the proportion of course test questions devoted to each
23 major topic in the accredited training program curriculum.

24 Sec. 5456. (1) "Department" means the department of ~~community~~
25 health **and human services**.

26 (2) "Deteriorated paint" means paint or other surface coating
27 that is cracking, flaking, chipping, peeling, or otherwise damaged
28 or separating from the substrate of a building component.

29 (3) "Discipline" means 1 of the specific types or categories

1 of lead-based paint activities **or renovations** identified in this
2 part for which an individual may receive training from an
3 accredited training program and become certified by the department.

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

8 (5) "Documented methodology" means a method or protocol used
9 to do either or both of the following:

10 (a) Sample and test for the presence of lead in paint, dust,
11 and soil.

12 (b) Perform related work practices as described in rules
13 promulgated under this part.

14 (6) **"Dry disposable cleaning cloth" means a commercially**
15 **available, dry, electrostatically charged, white, disposable cloth**
16 **designed for cleaning hard surfaces such as uncarpeted floors or**
17 **countertops.**

18 (7) ~~(6)~~—"Dust lead hazard" means surface dust in a residential
19 dwelling or child occupied facility that contains a concentration
20 of lead at or in excess of levels identified by the EPA pursuant to
21 section 403 of title IV of the toxic substances control act, ~~Public~~
22 ~~Law 94-469, 15 U.S.C. USC 2683~~, or as otherwise defined by rule.

23 (8) ~~(7)~~—"Elevated blood level" or "EBL" means for purposes of
24 lead abatement an excessive absorption of lead that is a confirmed
25 concentration of lead in whole blood of 20 ug/dl, micrograms of
26 lead per deciliter of whole blood, for a single venous test or of
27 15-19 ug/dl in 2 consecutive tests taken 3 to 4 months apart. For
28 purposes of case management of children 6 years of age or less,
29 elevated blood level means an excessive absorption of lead that is

1 a confirmed concentration of lead in whole blood of 10 ug/dl.

2 (9) ~~(8)~~—"Encapsulant" means a substance that forms a barrier
3 between lead-based paint and the environment using a liquid-applied
4 coating, with or without reinforcement materials, or an adhesively
5 bonded covering material.

6 (10) ~~(9)~~—"Encapsulation" means the application of an
7 encapsulant.

8 (11) ~~(10)~~—"Enclosure" means the use of rigid, durable
9 construction materials that are mechanically fastened to the
10 substrate ~~in order~~ to act as a barrier between lead-based paint and
11 the environment.

12 (12) ~~(11)~~—"EPA" means the United States ~~environmental~~
13 ~~protection agency.~~ **Environmental Protection Agency.**

14 Sec. 5459. (1) **"Minor repair and maintenance activities" means**
15 **that term as defined in 40 CFR 745.83.**

16 (2) ~~(1)~~—"Multifamily dwelling" means a structure that contains
17 more than 1 separate residential dwelling unit and that is used or
18 occupied, or intended to be used or occupied, in whole or in part,
19 as the home or residence of 1 or more persons.

20 (3) ~~(2)~~—"Paint in poor condition" means 1 or more of the
21 following:

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

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

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

29 (4) ~~(3)~~—"Permanently covered soil" means soil that has been

1 separated from human contact by the placement of a barrier
2 consisting of solid, relatively impermeable materials including,
3 but not limited to, pavement or concrete but not including grass,
4 mulch, or other landscaping materials.

5 (5) ~~(4)~~—"Person" means that term as defined in section 1106
6 but including the state and a political subdivision of the state.

7 (6) ~~(5)~~—"Principal instructor" means the individual who has
8 the primary responsibility for organizing and teaching a particular
9 course in an accredited training program.

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

15 (8) **"Recognized test kit" means a commercially available kit**
16 **recognized by the EPA under 40 CFR 758.88 as being capable of**
17 **allowing a user to determine the presence of lead at levels equal**
18 **to or in excess of 1.0 milligrams per square centimeter or more**
19 **than 0.5% lead by weight, in a paint chip, paint powder, or painted**
20 **surface.**

21 (9) ~~(7)~~—"Reduction" means a measure designed to reduce or
22 eliminate human exposure to a lead-based paint hazard through
23 methods including, but not limited to, interim controls and
24 abatement.

25 (10) **"Renovation" means the modification of any existing**
26 **structure, or portion thereof, that results in the disturbance of**
27 **painted surfaces, unless that activity is performed as part of an**
28 **abatement. Renovation does not include minor repair and maintenance**
29 **activities. Renovation includes, but is not limited to, all of the**

1 following:

2 (a) The removal, modification, or repair of painted surfaces
3 or painted components including, but not limited to, modification
4 of painted doors, surface restoration, window repair, or surface
5 preparation activity such as sanding, scraping, or other activities
6 that may generate paint dust.

7 (b) The removal of building components including, but not
8 limited to, walls, ceilings, plumbing, or windows.

9 (c) Weatherization projects including, but not limited to,
10 cutting holes in painted surfaces to install blown-in insulation or
11 to gain access to attics and planing thresholds to install weather
12 stripping.

13 (d) Interim controls that disturb painted surfaces.

14 (e) A renovation to convert a building, or part of a building,
15 into target housing or a child occupied facility.

16 (11) "Renovator" means an individual who either performs or
17 directs workers who perform renovations.

18 (12) ~~(8)~~ "Residential dwelling" means either of the following:

19 (a) A detached single family dwelling unit, including, but not
20 limited to, attached structures such as porches and stoops and
21 accessory structures such as garages, fences, and nonagricultural
22 or noncommercial outbuildings.

23 (b) A building structure that contains more than 1 separate
24 residential dwelling unit that is used or occupied, in whole or in
25 part, as the home or residence of 1 or more persons.

26 (13) ~~(9)~~ "Risk assessment" means both of the following:

27 (a) An on-site investigation in target housing or a child
28 occupied facility to determine the existence, nature, severity, and
29 location of a lead-based paint hazard.

1 (b) The provision of a report by the person conducting the
2 risk assessment explaining the results of the investigation and
3 options for reducing the lead-based paint hazard.

4 **(14)** ~~(10)~~—"Soil lead hazard" means bare soil on a residential
5 dwelling or on the property of a child occupied facility that
6 contains lead at or in excess of levels identified by the EPA
7 pursuant to section 403 of title IV of the toxic substances control
8 act, ~~Public Law 94-469,~~ 15 U.S.C. ~~USC~~ 2683, or as otherwise defined
9 by rule.

10 Sec. 5460. (1) "Target housing" means housing constructed
11 before 1978, except any of the following:

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

15 (b) A 0-bedroom dwelling.

16 (c) An unoccupied dwelling unit pending demolition, provided
17 the dwelling unit remains unoccupied until demolition.

18 (2) "Third party examination" means the examination for
19 certification under this part in the disciplines of clearance
20 technician, inspector, risk assessor, worker, and supervisor
21 offered and administered by a party other than an accredited
22 training program.

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

27 (4) "Training hour" means not less than 50 minutes of actual
28 learning, including, but not limited to, time devoted to lecture,
29 learning activities, small group activities, demonstrations,

1 evaluations, or hands-on experience or a combination of those
2 activities.

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

6 (6) **"Vertical containment" means a vertical barrier consisting**
7 **of plastic sheeting or other impermeable material over scaffolding**
8 **or a rigid frame, or an equivalent system of containing the work**
9 **area.**

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

14 (8) ~~(7)~~—"Visual inspection for risk assessment" means the
15 visual examination of a residential dwelling or a child occupied
16 facility to determine the existence of deteriorated paint or other
17 potential sources of lead-based paint hazards.

18 (9) **"Wet disposable cleaning cloth" means a commercially**
19 **available, pre-moistened, white, disposable cloth designed for**
20 **cleaning hard surfaces such as uncarpeted floors or countertops.**

21 (10) "Wet mopping system" means a device with all of the
22 following:

23 (a) A long handle.

24 (b) A mop head designed to be used with disposable, absorbent
25 cleaning pads.

26 (c) A reservoir for cleaning solution.

27 (d) A built-in mechanism for distributing or spraying the
28 cleaning solution onto a floor or a method of equivalent efficacy.

29 (11) "Work area" means the area that the certified lead

1 **abatement supervisor or certified renovator establishes to contain**
2 **dust and debris generated by lead hazard control or renovation**
3 **work.**

4 Sec. 5460a. (1) This part contains procedures and requirements
5 for the accreditation of lead-based paint activities **and renovation**
6 training programs, procedures and requirements for the
7 certification of individuals and other persons engaged in lead-
8 based paint activities **and renovations**, and work practice standards
9 for performing lead-based paint activities **and renovations**. ~~as that~~
10 ~~term is defined in section 5458.~~ This part requires that all lead-
11 based paint activities **and renovations** be performed by certified
12 individuals and persons. ~~, except for those circumstances and~~
13 ~~persons described in section 5453(2).~~

14 (2) This part does not apply to individuals and persons
15 engaged in lead-based paint activities **and renovations** conducted
16 within or on certain owner-occupied residential and multifamily
17 dwellings ~~as further described in section 5453(2)~~ except in certain
18 dwellings in which a residing child is identified as having an
19 elevated blood lead level.

20 (3) This part does not require the owner or occupant to
21 undertake any lead-based paint activities **or renovations**.

22 Sec. 5461. (1) A person shall not engage or offer to engage in
23 a lead-based paint activity **or renovation** unless certified in the
24 appropriate discipline under this part. A person conducting a lead-
25 based paint activity **or renovation** shall comply with the standards
26 for performing lead-based paint activities **and renovations**
27 contained in this part and the rules promulgated under this part.

28 (2) The department shall certify a person applying for
29 certification under this part if that person demonstrates to the

1 department that he or she is licensed, certified, or registered in
2 another state and the standards for obtaining that license,
3 certification, or registration are substantially similar to those
4 imposed under this part.

5 Sec. 5461a. (1) A person shall not provide or offer to provide
6 a training program for lead-based paint activities **or renovations**
7 unless the training program is accredited under the appropriate
8 discipline under this part. A person providing an accredited
9 training program shall comply with the standards for accreditation
10 and training certification prescribed in this part and the rules
11 promulgated under this part.

12 (2) The department shall accredit a training program if the
13 training program is registered by the department under the
14 department's voluntary registration program by August 30, 1998 if
15 the training program submits an application under section 5462.

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

- 19 (a) Inspector.
- 20 (b) Risk assessor.
- 21 (c) Supervisor.
- 22 (d) Project designer.
- 23 (e) Abatement worker/laborer.
- 24 (f) Clearance technician.
- 25 **(g) Renovator.**
- 26 **(h) Dust sampling technician.**

27 (2) A person may also seek accreditation for a training
28 program to offer refresher courses for each of the disciplines
29 described in subsection (1).

1 (3) A person shall not provide, offer, or claim to provide
2 EPA-accredited courses in lead-based paint activities **or**
3 **renovations** without applying for and receiving accreditation from
4 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 all
7 of the following:

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

10 (b) The fee required by section 5471.

11 (c) The name of each principal position, partner, shareholder,
12 member, or owner.

13 (d) The training program's proposed name, address, and
14 telephone number.

15 (e) A list of courses and disciplines for which it is seeking
16 accreditation.

17 (f) A statement signed by the training program manager
18 certifying that the training program meets the requirements
19 established by this part and the rules promulgated under this part.

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

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

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

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

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

29 (l) A copy of the quality control plan as defined in rules

1 promulgated by the department.

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

17 (6) A training program ~~shall~~**must** meet all of the following
18 requirements ~~in order~~ to become accredited to offer courses in
19 lead-based paint activities **and renovations:**

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

22 (b) Provide that the training manager described in subdivision
23 (a) designate a qualified principal instructor for each course who
24 has training, education, and experience as described in rules
25 promulgated by the department.

26 (c) Provide that the principal instructor described in
27 subdivision (b) be responsible for the organization of the course
28 and oversight of the teaching of all course material. A training
29 manager may designate guest instructors as needed to provide

1 instruction specific to the lecture, hands-on activities, or work
2 practice components of a course.

3 (7) The following documents are recognized by the department
4 as evidence that a training manager or a principal instructor has
5 the education, work experience, training requirements, or
6 demonstrated experience specifically listed in rules promulgated by
7 the department, which documentation is not required to be submitted
8 with the accreditation application but, if not submitted, must be
9 retained by the training program as required by the record-keeping
10 requirements contained in this part:

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

13 (b) A resume, letter of reference, or documentation of work
14 experience, as evidence of meeting the work experience
15 requirements.

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

19 (8) A training program accredited under this part ~~shall~~**must**
20 ensure the availability of, and provide adequate facilities for,
21 the delivery of the lecture, course test, hands-on training, and
22 assessment activities including, but not limited to, providing
23 training equipment that reflects current work practices and
24 maintaining or updating the equipment and facilities of the
25 training program, as needed.

26 Sec. 5463. (1) A training program accredited under section
27 5462 ~~shall~~**must** provide training courses that meet the following
28 training hour requirements ~~in order~~ to become accredited in the
29 following disciplines:

1 (a) An inspector course ~~shall~~**must** last a minimum of 24
2 training hours, with a minimum of 8 hours devoted to hands-on
3 training activities. The department shall promulgate rules to
4 determine the minimum curriculum requirements for the inspector
5 course.

6 (b) A risk assessor course ~~shall~~**must** last a minimum of 16
7 training hours, with a minimum of 4 hours devoted to hands-on
8 training activities. The department shall promulgate rules to
9 determine the minimum curriculum requirements for the risk assessor
10 course.

11 (c) A supervisor course ~~shall~~**must** last a minimum of 32
12 training hours, with a minimum of 8 hours devoted to hands-on
13 activities. The department shall promulgate rules to determine the
14 minimum curriculum requirements for the supervisor course.

15 (d) A project designer course ~~shall~~**must** last a minimum of 8
16 training hours. The department shall promulgate rules to determine
17 the minimum curriculum requirements for the project designer
18 course.

19 (e) An abatement worker course ~~shall~~**must** last a minimum of 16
20 training hours, with a minimum of 8 hours devoted to hands-on
21 training activities. The department shall promulgate rules to
22 determine the minimum curriculum requirements for the abatement
23 worker course.

24 (f) A clearance technician course ~~shall~~**must** last a minimum of
25 8 training hours, with a minimum of 2 hours devoted to hands-on
26 training activities. The department shall promulgate rules to
27 determine the minimum curriculum requirements for the clearance
28 technician course. Until rules are promulgated, a clearance
29 technician course ~~shall~~**must** use the curriculum for the lead

1 sampling technician course approved by the EPA under ~~subpart Q of~~
2 ~~part 745 of title 40 of the code of federal regulations.~~ **40 CFR**
3 **745.320 to 745.339.**

4 **(g) The renovator and dust sampling technician course must**
5 **last a minimum of 8 training hours, with a minimum of 2 hours**
6 **devoted to hands-on training activities.**

7 (2) The department may promulgate rules to modify 1 or more of
8 the requirements imposed under subsection (1) if changes are needed
9 to comply with federal mandates or for another reason considered
10 appropriate by the department.

11 (3) For each course offered, the training program ~~shall~~**must**
12 conduct a course test at the completion of the course and, if
13 applicable, a hands-on skills assessment. Each individual enrolled
14 in the training program must successfully complete the hands-on
15 skills assessment, if conducted for that course, and receive a
16 passing score on the course test ~~in order to~~ pass a course.

17 (4) The training manager shall maintain the validity and
18 integrity of a hands-on skills assessment to ensure that it
19 accurately evaluates the trainees' performance of the work
20 practices and procedures associated with the course topics
21 contained in rules promulgated under this section and the course
22 test to ensure that it accurately evaluates the trainees' knowledge
23 and retention of the course topics.

24 (5) A training program's course test ~~shall~~**must** be developed
25 in accordance with the test blueprint submitted with the training
26 program accreditation application.

27 (6) A training program ~~shall~~**must** issue course completion
28 certificates to each individual who passes the training course. The
29 course completion certificates ~~shall~~**must** include **all of the**

1 **following information:**

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

4 (b) The name of the particular course that the individual
5 passed.

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

7 (d) Expiration date of course certificate.

8 (e) The name, address, and telephone number of the training
9 program.

10 (7) The training manager shall develop and implement a quality
11 control plan designed to maintain and improve the quality of the
12 training program. The quality control plan ~~shall~~**must** contain at
13 least both of the following elements:

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

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

18 (8) The training program ~~shall~~**must** offer courses that teach
19 the work practice standards for conducting lead-based paint
20 activities **and renovations** and other standards developed by the EPA
21 pursuant to title IV of the toxic substances control act, **15 USC**
22 **chapter 53, subchapter IV**, and considered appropriate or necessary
23 by the department. The work practice standards ~~shall~~**must** be taught
24 in the appropriate courses to provide trainees with the knowledge
25 needed to perform the lead-based paint activities **and renovations**.

26 (9) The training manager shall ensure that the training
27 program complies at all times with all of the requirements of this
28 section and the rules promulgated under this section.

29 (10) The training manager shall allow the department to audit

1 the training program to verify the contents of the application for
2 accreditation.

3 Sec. 5466. (1) The department may, after notice and an
4 opportunity for hearing pursuant to the administrative procedures
5 act of 1969, 1969 PA 306, MCL 24.201 to 24.328, suspend, revoke, or
6 modify a training program accreditation or a refresher course
7 training program accreditation if the department determines that a
8 training program, training manager, or other person with
9 supervisory authority over the training program has done 1 or more
10 of the following:

11 (a) Misrepresented the contents of a training course to the
12 department or the trainees enrolled in the training program, or
13 both.

14 (b) Failed to submit required information or notifications in
15 a timely manner.

16 (c) Failed to maintain required records.

17 (d) Falsified accreditation records, student certificates,
18 instructor qualifications, or other accreditation-related
19 information or documentation.

20 (e) Failed to comply with the training standards and
21 requirements of this part and the rules promulgated under this
22 part.

23 (f) Failed to comply with a federal, state, or local statute,
24 rule, or regulation involving lead-based paint activities **and**
25 **renovations.**

26 (g) Made false or misleading statements to the department in
27 its application for accreditation or reaccreditation that the
28 department relied upon in approving the application.

29 (2) In addition to an administrative or judicial finding of a

1 violation, the execution of a consent agreement in settlement of an
2 enforcement action is considered, for purposes of this section,
3 evidence of a failure to comply with the standards and requirements
4 of this part and the rules promulgated under this part or other
5 relevant statutes or regulations involving lead-based paint
6 activities **and renovations**.

7 Sec. 5468. (1) An individual seeking certification by the
8 department to engage in lead-based paint activities **and renovations**
9 shall pay the appropriate fees required under section 5471 and
10 submit an application to the department demonstrating either of the
11 following:

12 (a) Compliance with the requirements of this part and the
13 rules promulgated under this part for the particular discipline for
14 which certification is sought.

15 (b) A copy of a valid lead-based paint activities **or**
16 **renovation** certification or its equivalent, as determined by the
17 department, from a training program that has been authorized by the
18 EPA pursuant to 40 ~~C.F.R.~~ **CFR** part 745 along with proof of the
19 applicant's third party examination results, **if applicable**.

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

24 (a) Inspector.

25 (b) Risk assessor.

26 (c) Supervisor.

27 (d) Project designer.

28 (e) Abatement worker.

29 (f) Clearance technician.

1 **(g) Renovator.**

2 **(h) Dust sampling technician.**

3 (3) Upon receiving the department certification in 1 or more
4 of the disciplines described in subsection (2), an individual
5 conducting lead-based paint activities **or renovations** shall comply
6 with the work practice standards for performing that discipline as
7 established under this part and the rules promulgated under this
8 part.

9 (4) An individual shall not conduct a lead-based paint
10 activity **or renovation** unless that individual is certified by the
11 department under this section in the appropriate discipline, **except**
12 **that a certified renovator may train workers for renovations for a**
13 **specific project.**

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

17 (a) Successfully complete a course in the appropriate
18 discipline and receive a course completion certificate from an
19 accredited training program.

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

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

23 (6) After an individual passes the appropriate certification
24 exam and submits an application demonstrating that he or she meets
25 the appropriate training, education, and experience requirements
26 and passes the appropriate certification exam, the department shall
27 issue a certificate to the individual in the specific discipline
28 for which certification is sought. To maintain certification, an
29 individual must be recertified pursuant to this part.

1 (7) An ~~individual shall~~**applicant for certification in lead-**
 2 **based paint activities must** pass the third party exam within 6
 3 months after receiving a course completion certificate ~~in order to~~
 4 be eligible for certification. An individual is not eligible to
 5 take the third party exam more than 3 times within the 6 months
 6 after receiving a course completion certificate. An individual who
 7 does not pass the third party exam after 3 attempts ~~shall~~**must**
 8 repeat the appropriate course from an accredited training program
 9 ~~in order to~~ be eligible to retake the exam.

10 (8) An individual ~~shall~~**must** do both of the following ~~in order~~
 11 to become certified by the department as a project designer:

12 (a) Successfully complete a course in the appropriate
 13 discipline and receive a course completion certificate from an
 14 accredited training program.

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

17 (9) After an individual has successfully completed the
 18 appropriate training courses, applied to the department, and met
 19 the requirements of this part and the rules promulgated under this
 20 part, the department shall issue a certificate to the individual in
 21 the discipline of project designer. To maintain certification, the
 22 individual must be periodically recertified pursuant to this part.

23 **(10) An applicant pursuing certification as a certified**
 24 **renovator or dust sampling technician must successfully complete a**
 25 **course in the appropriate discipline and receive a course**
 26 **completion certificate from an accredited training program before**
 27 **applying to the department for certification.**

28 **(11) ~~(10)~~**An individual who received training in a lead-based
 29 paint activity between October 1, 1990 and March 1, 1999 and an

1 individual who has received lead-based paint activities training at
 2 an EPA-authorized accredited training program are eligible for
 3 certification by the department under rules promulgated by the
 4 department.

5 (12) ~~(11) In order to~~ **To** maintain certification in a
 6 particular discipline, a certified individual ~~shall~~ **must** apply to
 7 and be recertified in that discipline by the department every 3
 8 years.

9 (13) ~~(12) An individual shall~~ **must** do both of the following ~~in~~
 10 ~~order~~ to become a certified clearance technician:

11 (a) Successfully complete an approved course for the
 12 discipline of clearance technician and receive a course completion
 13 certificate.

14 (b) Pass the third party exam for the discipline of clearance
 15 technician.

16 Sec. 5469. (1) ~~Beginning August 30, 1999, a~~ **A** person shall not
 17 perform or offer to perform lead-based paint activities **or**
 18 **renovations** without obtaining certification by the department under
 19 this part.

20 (2) A person seeking certification under subsection (1) shall
 21 submit to the department a letter attesting that the person shall
 22 only employ appropriately certified employees **under section 5468** to
 23 conduct lead-based paint activities **or renovations** and that the
 24 person and its employees shall follow the work practice standards
 25 for conducting lead-based paint activities **and renovations** as
 26 established in rules promulgated by the department.

27 (3) A person seeking certification under subsection (1) shall
 28 do all of the following:

29 (a) Complete the application and pay the appropriate fee

1 accompanied by a corporate identification number, certificate of
2 sole proprietorship, or other business entity documentation
3 acceptable to the department.

4 (b) Indicate whether the applicant has liability insurance.

5 (c) Submit proof of Michigan workers' disability compensation
6 insurance.

7 (d) Submit proof that each employee or agent involved in lead-
8 based paint activities **or renovations** has received training and
9 certification as required by this part.

10 (e) If applicable, submit the name of each principal partner,
11 shareholder, member, or owner.

12 (4) Not more than 90 days from the date of receipt of the
13 person's completed application, the department shall approve or
14 disapprove the person's request for certification. Within that time
15 period, the department shall respond with either a certificate of
16 approval or a letter describing the reasons for a disapproval.

17 (5) A person certified by the department under this section
18 shall maintain all records pursuant to the requirements imposed in
19 rules promulgated by the department.

20 Sec. 5470. ~~Beginning on March 1, 1999, all~~ **All** lead-based
21 paint activities ~~shall~~ **and renovations must** be performed by an
22 individual certified in the appropriate discipline under this part
23 and pursuant to the work practice standards prescribed in rules
24 promulgated by the department.

25 Sec. 5471. (1) Subject to subsection (7), fees for a person
26 accredited or seeking accreditation for a training program offering
27 courses or refresher courses in lead-based paint ~~abatement~~
28 **activities and renovations** are as follows:

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

1 ~~\$475.00~~ **\$450.00** per
2 (b) Initial accreditation fee..... discipline.

3 ~~\$265.00~~ **\$250.00** per
4 (c) Reaccreditation fee, annual..... discipline.

5 (2) Fees for an individual certified or seeking certification
6 to engage in lead-based paint ~~abatement~~ **activities and renovations**
7 are as follows:

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

9 (b) Certification fee, per year **if 1 of the**
10 **following disciplines:**

11 \$
12 ~~150.00~~ **\$125.0**
13 (i) Inspector..... **0.**

14 \$
15 ~~150.00~~ **\$125.0**
16 (ii) Risk assessor..... **0.**

17 \$
18 (iii) Supervisor..... ~~50.00~~ **\$75.00.**

19 \$
20 ~~150.00~~ **\$125.0**
21 (iv) Project designer..... **0.**

22 \$
23 (v) Abatement worker/laborer..... ~~25.00~~ **\$50.00.**

24 (c) ~~Clearance~~
25 ~~technician.....~~ **Certificat**
26 **ion fee, per every 3 years if a dust**
27 **sampling technician.....** \$ 50.00.

28 (3) Fees for a person certified or seeking certification to
29 engage in lead-based paint ~~abatement~~ **activities and renovations** are

1 as follows:

- 2 (a) Initial **abatement** application processing
- 3 fee..... \$ 100.00.
- 4 (b) ~~Certification~~**Abatement firm certification**
- 5 fee, per year..... \$ 220.00.
- 6 (c) **Initial renovation firm application**
- 7 **processing fee** \$ 100.00.
- 8 (d) **Renovation firm certification fee, per year**
- 9 \$ 60.00.

10 (4) If the department increases fees under subsection (5), the
11 increase ~~shall be~~**is** effective for that fiscal year. The increased
12 fees ~~shall~~**must** 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 to
15 the director of the department of management and budget and to the
16 chairpersons of the appropriations committees of the senate and
17 house of representatives a complete schedule of fees to be
18 collected under this section.

19 (6) The fees imposed under this part ~~shall~~**must** 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 of
23 its net earnings benefit any private shareholder or individual.

24 Sec. 5472. Before beginning a lead-based paint abatement, a
25 person conducting lead-based paint abatement shall notify the
26 department, on forms provided by the department or through
27 electronic methods approved by the department, regarding
28 information the department considers necessary in order to conduct
29 an unannounced site inspection. The person shall send notification

1 not less than 3 business days before commencing the lead-based
2 paint abatement. **For renovation projects, which do not require**
3 **notification, the department may conduct unannounced site**
4 **inspections.**

5 Sec. 5473a. (1) The department shall administer this part and
6 promulgate rules as may be necessary for the administration and
7 enforcement of this part pursuant to the administrative procedures
8 act of 1969, 1969 PA 306, MCL 24.201 to 24.328. **Rules promulgated**
9 **under this subsection must do both of the following:**

10 (a) **Adopt by reference the provisions of the regulations**
11 **issued by the EPA for renovation work practice activities in 40 CFR**
12 **part 745.**

13 (b) **Allow vertical containment to be used in any renovation or**
14 **lead-based paint activity.**

15 (2) The department shall authorize, coordinate, and conduct
16 programs to educate persons including, but not limited to,
17 homeowners and remodelers of lead hazards associated with
18 remodeling target housing and methods of lead-hazard reduction
19 activities.

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

24 (4) Not later than January 1, 2000, the department shall
25 recommend appropriate maintenance practices for owners of
26 residential property, day care facilities, and secured lenders that
27 are designed to prevent lead poisoning among children 6 years of
28 age or less and pregnant women. In making its recommendations, the
29 department shall consult with affected stakeholders and shall

1 consider the effects of those maintenance practices on the
2 availability and affordability of housing and credit.

3 (5) The following information required to be submitted to the
4 department by certified individuals and persons under this part and
5 rules promulgated under this part is exempt from disclosure as a
6 public record under the freedom of information act, 1976 PA 442,
7 MCL 15.231 to 15.246:

8 (a) The name, street address, and telephone number of the
9 owner, agent, or tenant of a residential dwelling where lead-based
10 paint investigations have been conducted.

11 (b) Information that could be used to identify 1 or more
12 children with elevated blood lead levels that have been reported to
13 the department.

14 (c) Information contained in an EBL investigation report that
15 could be used to identify 1 or more children with elevated blood
16 lead levels.

17 Sec. 5475. (1) The department shall receive or initiate
18 complaints of alleged violations of this part or rules promulgated
19 under this part and take action with respect to alleged violations
20 or complaints as prescribed by this part.

21 (2) The department, in its own discretion, or upon the written
22 complaint of an aggrieved party or of a state agency or political
23 subdivision of this state, may investigate the acts of an
24 accredited training program, an individual or other person
25 certified under this part, or a person allegedly engaged in lead-
26 based paint ~~activity.~~ **activities or renovations, or both.** The
27 department may deny, suspend, or revoke certification or
28 accreditation issued under this part if a certified person,
29 accredited training program, certified individual, or a person

1 allegedly engaged in lead-based paint ~~activity~~**activities or**
2 **renovations, or both,** is found to be not in compliance with this
3 part or the rules promulgated under this part. In addition, the
4 department may deny, suspend, or revoke a certification or
5 accreditation issued under this part for 1 or more of the
6 following:

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

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

13 (c) Continued failure to obtain or renew certification or
14 accreditation under this part.

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

17 (e) Permitting a person who has not received the proper
18 training and certification under this part or other applicable
19 state or federal law to come in contact with lead or be responsible
20 for a lead abatement **or renovation** project.