

DEPARTMENT OF COMMUNITY HEALTH
HEALTH LEGISLATION AND POLICY DEVELOPMENT

LEAD HAZARD CONTROL

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By authority conferred on the department of community health by sections 2226, 5461 to 5464, 5466, 5468 to 5470, 5473a, and 5475 to 5477 of 1978 PA 368, and Executive Reorganization Order No. 1996-1, being MCL 333.2226, 333.5461 to 333.5464, 333.5466, 333.5468 to 333.5470, 333.5473a, 333.5475 to 333.5477, and 330.3101.

TABLE OF CONTENTS

Part 1. General Provisions

Scope; application; rescission.....	R325.99101
Definitions.....	R325.99102
Recordkeeping.....	R325.99103
Enforcement actions.....	R325.99104

Part 2. Training Programs

Training program accreditation; disciplines; training manager; principal instructor.....	R325.99201
Training program facilities; course test; skills assessment; course certificate; audits.....	R325.99202
Training records.....	R325.99203
Quality control plan.....	R325.99204
Core lead basics course curriculum.....	R325.99205
Lead Abatement Worker course curriculum.....	R325.99206
Lead Supervisor course curriculum.....	R325.99207
Lead Inspector course curriculum.....	R325.99208
Risk Assessor course curriculum.....	R325.99209
Clearance Technician course curriculum.....	R325.99210
Project Designer course curriculum.....	R325.99211
Accreditation of refresher courses.....	R325.99212
Reaccreditation of training program.....	R325.99213

Part 3. Certified Individuals and Firms

Lead professional certification; disciplines; third party examination.....	R325.99301
Lead professional certification requirements.....	R325.99302
Lead abatement firm certification.....	R325.99303
Recertification.....	R325.99304

Part 4. Work Practice Standards

Standards for lead activities; documented methodologies; <i>de minimis</i> levels.....	R325.99401
Hazard and clearance levels.....	R325.99402
Lead inspection.....	R325.99403
Risk Assessment.....	R325.99404
EBL environmental investigation.....	R325.99405
Lead hazard control activities.....	R325.99406
Clearance procedures.....	R325.99407
Notification.....	R325.99408
Pre-renovation education.....	R325.99409

PART 1. GENERAL PROVISIONS

R 325.99101 Scope; application; rescission.

Rule 101. (1) These rules apply to all activities defined by sections 5451 to 5477 of 1978 PA 368, MCL 333.5451 to 333.5477 and referred to in these rules as the "act."

(2) These rules provide specifications applicable to lead-based paint activities for all of the following:

- (a) Training program requirements
- (b) Certification requirements.
- (c) Work practice standards.
- (d) Notification requirements.
- (e) Enforcement actions.

(3) These rules replace R325.9901 to R325.9925, which are hereby rescinded.

R 325.99102 Definitions.

Rule 102. (1) As used in these rules:

(a) "EBL environmental investigation" means both of the following:

(i) A study for case management purposes of the living environment of 1 or more children 6 years of age or less with an elevated blood lead level performed by an EBL investigator to identify causative lead exposures.

(ii) The provision of a report by the EBL investigator explaining the results of the study and options for remediation of exposures.

(b) EBL "investigator" means a certified risk assessor who has been endorsed by the department to conduct EBL environmental investigations.

(c) "Emergency renovation operations" means renovation activities, such as operations necessitated by non-routine failures of equipment, that were not planned but result from a sudden, unexpected event that, if not immediately attended to, presents a safety or public health hazard, or threatens equipment and/or property with significant damage.

(d) "Lead hazard control activity" means a measure or set of measures which are designed or performed specifically to reduce or eliminate lead-based paint hazards in target housing and child-occupied facilities. Lead hazard control activity includes, but is not limited to, abatement, interim controls and clearance examinations.

(e) "Pamphlet" means the US EPA's pamphlet number EPA 747-K-99-001, entitled "Protect Your Family From Lead in Your Home," or a true reproduction, or an equivalent pamphlet approved by the department.

(f) "Renovation" means the modification of an

existing residential dwelling, or portion thereof, that results in the disturbance of painted surfaces, unless the activity is performed as part of an abatement as defined in the act. Renovation includes, but is not limited to, the removal or modification of building components, surface preparation of painted surfaces, and window or door replacement to improve structural or operational integrity.

(g) "Renovator" means any person who performs for compensation a renovation.

(2) Unless the context dictates otherwise, terms defined in sections 5453 to 5460 of the act have the same meanings when used in these rules.

R 325.99103. Recordkeeping.

Rule 103. (1) A person who is certified by the department, the act, and these rules shall maintain all records required by the act and these rules for not less than 3 years.

(2) A person or individual who prepares a report or plan required by these rules shall maintain the report or plan for not less than 3 years, and shall provide copies of the report or plan not later than 20 business days after completion of the activity for which the report or plan was prepared to both of the following persons:

(a) The building owner.

(b) The person who contracted for the person's or individual's services, if different than the owner.

(3) A training program shall maintain the records required by these rules for not less than 3½ years at the address specified on the training program accreditation application.

R 325.99104 Enforcement actions.

Rule 104. (1) Any person who violates the act or these rules or fails to satisfy agreed upon conditions for settlement of a violation shall be subject to 1 or more of the following enforcement actions, as determined by the department:

(a) Notice of noncompliance.

(b) Citation.

(c) Denial of certification or accreditation.

(d) Suspension of certification or accreditation by cease operations order.

(e) Summary suspension of certification or accreditation.

(f) Revocation of certification or accreditation.

(g) Criminal sanction in accordance with section 5477 of the act.

(h) Administrative fines.

(2) The department shall consider the circumstance,

extent, probability of harm, and repetitive nature of the violation to determine the degree and severity of enforcement actions taken, including administrative fines.

(3) Not later than 15 working days after receipt of a citation issued under section 5476 of the act, a person who is alleged to have violated the act or these rules may appeal the alleged violation by petitioning the department. If the appeal is not resolved as a result of a pre-hearing conference, the person who is alleged to have violated the act or these rules may then petition the department for an administrative hearing not later than 15 working days after completion of the pre-hearing conference. The department shall conduct an administrative hearing in accordance with 1969 PA 306, MCL 24.201. A citation and associated administrative fine become final if the department does not receive a petition for either a pre-hearing conference or an administrative hearing within the time specified in this subrule of this rule.

PART 2. TRAINING PROGRAMS

R 325.99201 Training program accreditation; disciplines; training manager; principal instructor.

Rule 201. (1) A person may seek accreditation for a training program to offer lead-based paint training courses leading to certification of individuals pursuant to requirements in the act and these rules.

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

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

(b) The name of each principal position, partner, shareholder, member, or owner.

(c) The training program's name, address, and telephone number.

(d) A statement signed by the training program manager certifying that the training program meets the requirements established by the act and these rules.

(e) A copy of the quality control plan as defined in R325.99204.

(f) The fee required by the act and these rules.

(g) A sample of the training completion certificate required by R 325.99202.

(3) A training program shall meet all of the following requirements in order to become accredited to offer

courses in lead-based paint activities:

(a) Employ a training manager who has demonstrated experience, education, or training in the construction industry and has at least 1 of the following:

(i) Not less than 2 years of experience, education, or training in teaching workers or adults.

(ii) A bachelor's or graduate degree in any of the following:

(A) Building construction technology.

(B) Engineering.

(C) Industrial hygiene.

(D) Safety.

(E) Public health.

(F) Education.

(G) Business administration or program management.

(H) A field related to any of the areas specified in this paragraph.

(iii) Two years of experience in managing a training program specializing in environmental hazards.

(b) Provide that the training manager described in subdivision (a) of this subrule designate a qualified principal instructor for each course who shall possess all of the following qualifications:

(i) Demonstrated experience, education, or training in teaching workers or adults.

(ii) Successful completion of the training course which has been accredited by EPA or EPA-authorized state or tribe, which they intend to instruct.

(iii) Demonstrated experience, education, or training in any of the following:

(A) Lead or asbestos abatement.

(B) Painting.

(C) Carpentry.

(D) Renovation.

(E) Remodeling.

(F) Occupational safety and health.

(G) Industrial hygiene.

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

(4) The following documents are recognized by the department as evidence that a training manager or a principal instructor has the education, work experience, training requirements, or demonstrated experience specifically listed in these rules, which documentation is not required to be submitted with

the accreditation application but, if not submitted, shall be retained by the training program as required by the recordkeeping requirements of these rules:

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

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

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

(5) A person may seek accreditation for a training program to offer 1 or more of the following courses for lead-based paint activities:

(a) Core lead basics.

(b) Inspector.

(c) Risk assessor.

(d) Supervisor.

(e) Worker.

(f) Project designer.

(g) Clearance technician.

(6) A person may also seek accreditation for a training program to offer refresher courses for each of the lead-based paint training activities described in subrule (5), of this rule except for core lead basics.

(7) A person seeking accreditation for a training course under subrule (5) of this rule shall submit a written application to the department containing all of the following:

(a) The name of the course for which accreditation is being sought.

(b) A copy of the student and instructor manuals, handouts, and other materials to be used for each course.

(c) A copy of the course agenda for each course, including the length of time spent on each topic.

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

(e) A description of the course examination, including blueprint, length, format, and passing score.

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

(g) A course outline describing the location within the course materials of each topic required by these rules.

(h) The fee required by the act.

R 325.99202 Training program requirements; facilities; course test; skills assessment; course certificate; audit by the department.

Rule 202. (1) A training program accredited under section 5462 of the act shall ensure the availability of,

and provide adequate facilities for, the delivery of the lecture, course test, hands-on training and assessment activities including, but not limited to, providing training equipment that reflects current work practices and maintaining or updating the equipment and facilities of the training program, as needed.

(2) For each course offered, except the core lead basics course, the training program shall conduct a course test at the completion of the course and, if applicable, a hands-on skills assessment. Each individual enrolled in the training program shall successfully complete the hands-on skills assessment, if conducted for that course, and receive a passing score on the course test to pass a course.

(3) The training manager shall maintain the validity and integrity of the hands-on skills assessment to ensure that it accurately evaluates the trainees' performance of the work practices and procedures associated with the course topics contained in these rules, and the course test to ensure that it accurately evaluates the trainees' knowledge and retention of the course topics.

(4) The training program's course test shall be developed in accordance with the test blueprint submitted with the training program accreditation application.

(5) The training program shall issue course completion certificates to each individual who passes the training course. The course completion certificate shall include all of the following:

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

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

(c) Dates of course completion and test passage.

(d) Expiration date of course certificate (3 years from course completion).

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

(f) Expiration date of the individual's eligibility to take the third-party examination (6 months from course completion).

(6) The training manager shall allow the department to audit the training program and courses to verify the contents of the application for accreditation.

R 325.99203 Training records.

Rule 203. (1) An accredited training program shall maintain, and make available to the department, upon request, all of the following records:

(a) Each document that demonstrates the qualification of a training manager or a principal

instructor.

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

(c) The course test blueprints.

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

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

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

(iii) A description of the facilities used.

(iv) The pass/fail determination.

(e) The quality control plan.

(f) Any other material that was submitted to the department as part of the program's application for accreditation.

(g) Notifications of course schedules.

(h) Course participant information.

(i) Examination results.

(j) Copies of the certificates issued.

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

R 325.99204 Quality control plan.

Rule 204. The training manager shall develop and implement a quality control plan designed to maintain and improve the quality of the training program. The quality control plan shall contain at least both of the following elements:

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

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

R 325.99205 Core lead basics course requirements.

Rule 205. A training program accredited under section 5462 of the act shall provide a training course that meets all of the following requirements to become accredited for core lead basics:

(a) The training course shall last a minimum of 8 training hours.

(b) The training course shall include, at a minimum, all of the following course topics:

(i) The roles and responsibilities of lead-based paint professionals.

(ii) Background information on the nature of lead, its uses, adverse health effects, exposure monitoring

methods, and sources of exposure to humans.

(iii) Background information on federal and state regulations and guidance that pertain to lead-based paint activities including generally applicable occupational health and safety standards.

(iv) The requirements and procedures for certification under the lead abatement act and these rules.

R 325.99206 Lead abatement worker training course requirements.

Rule 206. A training program accredited under section 5462 of the act shall provide a training course that meets the following requirements in order to become accredited for the discipline of lead worker:

(a) The training course shall last a minimum of 16 training hours, with a minimum of 8 hours devoted to hands-on training activities.

(b) The training course shall include, at a minimum, all of the following course topics:

(i) The role and responsibilities of a lead worker.

(ii) Lead exposure in construction standard, R325.51991 and R325.51992.

(iii) The following topics which have hands-on activities as an integral part of the course:

(A) Lead-based paint hazard control methods, both permanent and temporary, including restricted practices.

(B) Interior dust-lead hazard control methods, both permanent and temporary, and cleanup procedures.

(C) Soil-lead hazard and exterior dust hazard control methods, both permanent and temporary.

(D) Personal protective equipment selection, use, and care.

R 325.99207 Lead abatement supervisor training course requirements.

Rule 207. A training program accredited under section 5462 of the act shall provide a training course that meets the following requirements to become accredited for the discipline of supervisor:

(a) The training course shall last a minimum of 8 training hours, with a minimum of 3 hours devoted to hands-on activities.

(b) The training course shall include, at a minimum, all of the following course topics:

(i) The role and responsibilities of a supervisor.

(ii) Liability and insurance issues relating to lead-based paint hazard control.

(iii) Cleanup and waste disposal.

(vi) Recordkeeping.

(v) The following topics which have hands-on

activities as an integral part of the course:

(A) Risk assessment and inspection report interpretation.

(B) The development and implementation of an occupant protection plan and hazard control report.

(C) Lead-based paint hazard recognition and control.

(D) Clearance standards and testing, including retesting procedures.

R 325.99208 Inspector training course requirements.

Rule 208. A training program accredited under section 5462 of the act shall provide a training course that meets the following requirements to become accredited for the discipline of inspector:

(a) The training course shall last a minimum of 16 training hours, with a minimum of 6 hours devoted to hands-on training activities.

(b) The training course shall include, at a minimum, all of the following course topics:

(i) The role and responsibilities of an inspector.

(ii) Recordkeeping.

(iii) The following topics which also have hands-on activities as an integral part of the course:

(A) Most current lead-based paint inspection methods, including the selection of rooms and components for sampling or testing.

(B) Documented sampling methodologies, including X-ray fluorescence.

(C) Clearance standards and testing, including random selection of sampling sites and retesting.

(D) Preparation of a final inspection report.

R 325.99209 Risk assessor training course requirements.

Rule 209. A training program accredited under section 5462 of the act shall provide a training course that meets all of the following requirements to become accredited for the discipline of risk assessor:

(a) The training course shall last a minimum of 16 training hours, with a minimum of 6 hours devoted to hands-on training activities.

(b) The training course shall include, at a minimum, all the following course topics:

(i) The role and responsibilities of a risk assessor.

(ii) Sources of environmental lead contamination such as paint, surface dust, soil, water, air, packaging, and food.

(iii) The collection of background information to perform a risk assessment.

(iv) Recordkeeping.

(v) The following topics which have hands-on

activities as an integral part of the course:

(A) Visual inspection for the purposes of identifying potential sources of lead-based paint hazards.

(B) Most current sampling methods for other sources of lead exposure.

(C) The interpretation of lead-based paint and other lead sampling results, including applicable state or federal guidance or regulations pertaining to lead-based paint hazards.

(D) The development of lead hazard control options, both permanent and temporary, including operations and maintenance activities.

(E) Preparation of a final risk assessment report.

R 325.99210 Clearance technician training course requirements.

Rule 210. A training program accredited under section 5462 of the act shall provide a training course that meets all of the following requirements become accredited for the discipline of clearance technician:

(a) The training course shall last a minimum of 8 training hours with a minimum of 2 hours devoted to hands-on training activities.

(b) The training course shall include, at a minimum, all of the following course topics:

(i) The role, responsibilities, and limitations of a clearance technician.

(ii) Background information on federal, state, and local regulations and guidance that pertains to non-abatement lead hazard control activities.

(iii) Recordkeeping.

(iv) The following topics which have hands-on activities as an integral part of the course:

(A) Documented lead-based paint clearance sampling methodologies, including visual assessment, and selection of locations and components for sampling.

(B) Clearance standards and testing.

(C) Interpretation of sample results and retesting procedures.

(D) Preparation of the clearance report.

R 325.99211 Project designer training course requirements.

Rule 211. A training program accredited under section 5462 of the act shall provide a training course that meets all of the following requirements to become accredited for the discipline of project designer:

(a) The training course shall last a minimum of 8 training hours.

(b) The training course shall include, at a minimum,

all of the following topics:

(i) The role and responsibilities of a project designer.

(ii) The development and implementation of an occupant protection plan for large-scale lead hazard control projects. Hands-on activities shall be an integral part of this topic.

(iii) Lead-based paint hazard control methods, both permanent and temporary, for large-scale lead hazard control projects, including restricted practices

(iv) Interior dust-lead hazard control methods, both permanent and temporary, and cleanup procedures for large-scale lead hazard control projects.

(v) Clearance standards and testing for large-scale lead hazard control projects.

(vi) Integration of lead-based paint hazard control methods with modernization and rehabilitation projects for large-scale lead hazard control projects.

(vii) Preparation of lead hazard control specifications for multi family housing and child-occupied facilities.

R 325.99212 Requirements for accreditation of refresher training.

Rule 212. (1) To become accredited to offer a refresher training course for the disciplines described in R 325.99201, a training program shall ensure that its course of study includes, at a minimum, all of the following:

(a) A review of the curriculum topics of the initial courses prescribed in these rules or other rules promulgated by the department.

(b) An overview of current safety practices relating to lead-based paint activities in general, as well as specific information pertaining to the appropriate discipline.

(c) Current laws and regulations relating to lead-based paint activities in general, as well as specific information pertaining to the appropriate discipline.

(d) Current technologies relating to lead-based paint activities in general, as well as specific information pertaining to the appropriate discipline.

(2) A training program may apply for accreditation of a refresher course concurrently with its application for accreditation of the corresponding initial training course.

(3) Each refresher course, except for the project designer course, shall last a minimum of 8 training hours. The project designer refresher course shall last a minimum of 4 training hours. The supervisor and project designer refresher courses may be conducted concurrently if the materials for each are

adequately covered.

(4) For each refresher course offered, the training program shall conduct a course test at the completion of the course.

(5) A training program's application for accreditation of the refresher course shall include all of the following information:

(a) A copy of the student and instructor manuals to be used for each course.

(b) A copy of the course agenda for each course.

(c) A description of the facilities and equipment to be used for lectures and hands-on training.

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

(e) A description of the activities and procedures that shall be used for conducting the assessment of hands-on skills for each course, if applicable.

(f) A copy of the quality control plan as described in R 325.99204.

R 325.99213 Reaccreditation of training program.

Rule 213. (1) A training program seeking to maintain accreditation to offer courses in lead-based paint activities shall annually submit to the department both of the following:

(a) An application containing all of the following information:

(i) The training program's name, address, and telephone number.

(ii) A list of courses for which the program is applying for reaccreditation.

(iii) A description of any changes to the training facility, equipment, course materials, or instructors since the program's last application was approved.

(iv) A statement signed by the program manager stating both of the following:

(A) The training program complies at all times with the requirements of the act and these rules.

(B) The recordkeeping and reporting requirements of these rules shall be followed.

(b) The fee or fees specified in the act and these rules.

(2) A training program seeking reaccreditation under subrule (1) of this rule shall submit the application, including the appropriate fees, not less than 45 days before the expiration date of the previous year's accreditation.

(3) The training program's accreditation shall not expire during the department's review or audit of a timely and sufficient reaccreditation application.

PART 3. CERTIFIED INDIVIDUALS AND FIRMS

R325.99301 Lead professional certification; disciplines; third party examination.

Rule 301. (1) An individual may seek certification by the department under section 5468 of the act to engage in lead-based paint activities in the following disciplines:

- (a) Lead worker.
- (b) Lead supervisor.
- (c) Lead inspector.
- (d) Risk assessor.
- (e) Clearance technician.
- (f) Project designer.

(2) A certified risk assessor may seek endorsement by the department to conduct EBL environmental investigations as an EBL investigator. A certified risk assessor seeking endorsement under this subrule shall submit an application to the department demonstrating compliance with the requirements of R 325.99302 for EBL investigator.

(3) An individual seeking certification under subrule (1) of this rule to engage in lead-based paint activities shall pay the appropriate fees required under the act and submit an application to the department demonstrating either of the following:

(a) Compliance with the requirements of R325.99302 for the specific discipline for which certification is sought.

(b) Possession of a valid lead-based paint certification, license, or equivalent, as determined by the department, issued by an EPA lead-based paint training and certification program, or a program that has been authorized by the EPA pursuant to 40 CFR part 745, in the specific discipline for which certification is sought, including successful completion of a third-party examination.

(4) If required by R 325.99302, an individual shall pass an appropriate third-party examination within 6 months after receiving a course completion certificate to be eligible for certification. An individual is not eligible to take the third party exam more than 3 times within the 6 months after receiving a course completion certificate.

(5) The fees for third-party certification exams shall be each of the following:

(a) Inspector/risk assessor combination \$125.00.

(b) All other examinations \$75.00 per discipline.

(6) An individual who fails to pass the third-party examination after 3 attempts within the 6 months after receiving a course completion certificate shall

retake the appropriate initial training course from an accredited training program before reapplying for certification from the department.

(7) An individual who fails to pass the third-party examination within 3 years after completing the initial accredited training course shall retake the appropriate initial course from an accredited training program before applying for certification from the department.

(8) After an individual submits an application demonstrating that he or she meets the appropriate training, education, and experience requirements, and passes the appropriate certification exam, the department shall issue a certification document to the individual in the specific discipline for which certification is sought. To maintain certification, an individual shall be recertified pursuant to R325.99304.

R 325.99302 Lead professional certification requirements; inspector; risk assessor; clearance technician; supervisor; worker; project designer; endorsement as EBL investigator.

Rule 302. (1) Individuals seeking certification as a lead abatement worker under section 5468 of the act shall meet all of the following requirements:

(a) Successfully complete both of the following courses:

(i) An accredited core lead basics course.

(ii) An accredited training course for lead abatement workers.

(b) Pass the third-party examination for lead abatement worker. Additional experience or education is not required.

(2) Individuals seeking certification as a lead abatement supervisor under section 5468 of the act shall meet all of the following requirements:

(a) Successfully complete all of the following courses:

(i) An accredited core lead basics course.

(ii) An accredited training course for workers.

(iii) An accredited training course for supervisors.

(b) Pass the third-party examination for supervisor.

(c) Have either of the following:

(i) Not less than 1 year of experience as a certified lead abatement worker.

(ii) Not less than 2 years of experience in a related field, for example, lead, asbestos, environmental remediation work, building construction, or the building trades.

(3) Individuals seeking certification as a lead inspector under section 5468 of the act shall meet all

of the following requirements:

- (a) Possess a high school diploma, or equivalent.
- (b) Successfully complete both of the following courses:
 - (i) An accredited core lead basics course.
 - (ii) An accredited training course for inspectors.
- (c) Pass the third-party examination for lead inspector. No additional experience is required.
- (4) Individuals seeking certification as a lead risk assessor under section 5468 of the act shall meet all of the following requirements:
 - (a) Successfully complete all of the following:
 - (i) An accredited core lead basics course.
 - (ii) An accredited training course for inspectors.
 - (iii) An accredited training course for risk assessors.
 - (b) Pass the third party examinations for both inspector and risk assessor, or a combination thereof, as determined by the department.
 - (c) Have any 1 of the following:
 - (i) Possess a bachelor's degree, and have not less than 1 year of experience in a related field, for example, lead, asbestos, building construction, or environmental remediation work.
 - (ii) Possess an associate's degree, and have not less than 2 years of experience in a related field, for example, lead, asbestos, building construction, or environmental remediation work.
 - (iii) Possess a high school diploma or equivalent and have not less than 3 years of experience in a related field, for example lead, asbestos, building construction, or environmental remediation work.
 - (iv) Be certified or registered as any 1 or more of the following:
 - (A) Industrial hygienist.
 - (B) Safety professional.
 - (C) Professional engineer.
 - (D) Nurse.
 - (E) Sanitarian.
 - (F) Architect.
 - (G) Other related field, as determined by the department.
- (5) Individuals seeking certification as a lead clearance technician under section 5468 of the act shall meet all of the following requirements:
 - (a) Successfully complete both of the following courses:
 - (i) An accredited core lead basics course.
 - (ii) An accredited training course for clearance technicians.
 - (b) Pass the third-party examination for clearance technician.
 - (c) Possess either of the following:

- (i) A high school diploma, or equivalent.
 - (ii) Not less than 1 year experience in a related field, for example, lead remediation work, building construction, building trades, or structural inspection of residential dwellings.
 - (6) Individuals seeking certification as a lead project designer under section 5468 of the act shall meet all of the following requirements:
 - (a) Possess a current certification from the department for lead supervisor.
 - (b) Successfully complete an accredited training course for project designers.
 - (c) Have either of the following:
 - (i) Not less than 4 years of experience in building construction and design or a related field.
 - (ii) Possess a bachelor's degree in engineering, architecture, or a related profession and not less than 1 year of experience in building construction and design or a related field.
 - (7) Individuals seeking endorsement as EBL investigator shall meet both of the following requirements:
 - (a) Possess a current certification from the department as risk assessor.
 - (b) Pass a written proficiency examination for EBL investigator.
 - (8) The department recognizes the following documents as evidence of meeting the requirements specified in this rule:
 - (a) Official academic transcripts or diploma as evidence of meeting the education requirements.
 - (b) Resumes, letters of reference, or documentation of work experience as evidence of meeting the work experience requirements.
 - (c) Course completion certificates from lead-specific or other related training courses issued by accredited training programs as evidence of meeting the training requirements.
- R 325.99303 Lead abatement firm; certification.**
Rule 303. (1) A person seeking certification by the department under section 5469 of the act to engage in lead abatement activities as a lead hazard control firm shall pay the appropriate application fee and submit an application to the department including all of the following information:
 - (a) Corporate identification number, certificate of sole proprietorship, or other business entity documentation acceptable to the department.
 - (b) Indication of applicant's liability insurance, if any.
 - (c) Proof of Michigan workers' compensation liability insurance.

(d) Proof that each employee or agent involved in lead-based paint activities has received training and certification as required by the act.

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

(2) Not more than 90 days from the date of receipt of the person's completed application, the department shall approve or disapprove the person's request for certification as a lead hazard control firm. Within that time period, the department shall respond with either a certificate of approval or a letter describing the reasons for a disapproval.

R 325.99304 Recertification.

Rule 304. (1) In accordance with the act, a person or firm seeking to maintain certification to engage in lead abatement activities shall annually submit to the department, on forms provided by the department, all required information and pay the appropriate fees.

(2) Individuals seeking to engage in lead-based paint activities shall recertify with the department every 3 years.

(3) Persons seeking recertification under subrule (2) of this rule shall successfully complete an accredited refresher training course for the discipline for which they seek recertification, and successfully pass the third-party examination for that discipline within 6 months after completion of the training course. Individuals seeking to maintain certification as risk assessor must complete both the inspector and risk assessor refresher training courses, and pass both the inspector and risk assessor third-party examinations or a combination thereof.

(4) A person shall not be required to retake the core lead basics course in order to be eligible for recertification.

(5) Persons seeking to maintain endorsement to conduct EBL environmental investigations shall reapply to the department every 3 years.

(6) Person or persons who have failed to satisfy all agreed upon conditions for settlement of violations of the act or these rules may be denied recertification under this part.

PART 4. WORK PRACTICE STANDARDS

R 325.99401 Work practice standards for conducting lead-based paint activities; documented methodologies; *de minimis* levels.

Rule 401. (1) Only a certified individual may perform any of the following lead-based paint activities:

(a) A lead-based paint investigation.

(b) A lead abatement activity.

(c) An EBL environmental investigation.

(d) Clearance procedures.

(2) A certified individual shall perform an activity listed in subrule (1) of this rule in accordance with these rules and 1 or more of the following documented methodologies:

(a) The United States department of housing and urban development (HUD) publication entitled "Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing." A copy of this document may be obtained at no charge as of the date of adoption of these rules from HUD USER, P.O. Box 6091, Rockville, Maryland 20849; or www.hud.gov/offices/lead.

(b) Part 35 of title 24 of the code of federal regulations, entitled "Requirements for Notification, Evaluation and Reduction of Lead-Based Paint Hazards in Federally Owned Residential Property and Housing Receiving Federal Assistance." A copy of this document may be obtained at no charge as of the date of adoption of these rules from HUD USER, P.O. Box 6091, Rockville, Maryland 20849; or www.hud.gov/offices/lead.

(c) The American society for testing and materials' (ASTM) publication entitled "Standard Practices for Field Collection of Soil Samples for Lead Determination by Atomic Spectrometry Techniques," standard number E1727. A copy of this document may be obtained from the American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428. A copyright fee shall be charged by ASTM for this document, as of the date of adoption of these rules.

(d) The ASTM's publication entitled "Standard Practices for Field Collection of Settled Dust Samples Using Wipe Sampling Methods for Lead Determination by Atomic Spectrometry Techniques," standard number E1728. A copy of this document may be obtained from the American society for testing and materials, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428. A copyright fee shall be charged by ASTM for this document, as of the date of adoption of these rules.

(e) Michigan Department of Community Health document, entitled, "Environmental Investigations for Children with Elevated Blood Lead Levels," and herein referred to as the EBL field guide. A copy of this document may be obtained at no charge as of the date of adoption of these rules from the Michigan Department of Community Health, Healthy Homes Section, 201 Townsend Street, Lansing, Michigan 48913, or www.michigan.gov/leadsafe.

(3) Only an appropriate certified lead professional shall conduct any paint, dust, or soil sampling or testing as part of an activity described in subrule(1) of this rule. The certified professional shall use documented methodologies that incorporate adequate quality control procedures.

(4) Analytical procedures and facilities recognized by the EPA as capable of performing analyses for lead compounds in the applicable matrix shall be used to determine if any paint chip, dust, or soil samples collected as part of an activity described in subrule (1) of this rule contain detectable levels of lead that may be quantified numerically.

(5) Composite dust or paint samples shall not be used.

(6) Notification and work practice standards required by the lead abatement act or these rules do not apply when treating any of the following amounts of painted surfaces:

(a) Less than 2 square feet of interior painted surface per room, stairwell, hallway, porch, or room equivalent.

(b) Less than 20 square feet of painted surface on a building exterior.

(c) Less than 10% of the total surface area of painted surface on any type of interior component with a small surface area.

R 325.99402 Hazard and clearance levels.

Rule 402. (1)The department shall publish clearance levels established for the completion of lead hazard control activities as necessary to comply with corresponding levels established by federal regulations.

(2) Dust-lead hazard levels shall be the same levels as the clearance levels published by the department.

(3) The department shall publish soil-lead hazard levels as necessary for compliance with federal requirements.

R 325.99403 Lead inspection.

Rule 403. (1) Only a person certified by the department as an inspector or risk assessor shall conduct an inspection. The inspector or risk assessor shall conduct the inspection according to this rule.

(2) When conducting an inspection, an inspector or risk assessor shall select the following locations according to documented methodologies and shall test the locations for the presence of lead-based paint:

(a) Each interior and exterior component that has a distinct painting history, except for components that the inspector or risk assessor determines have been

replaced after 1978 or do not contain lead-based paint.

(b) In a multifamily dwelling or child-occupied facility, each component that has a distinct painting history, and in every common area, except for components that the inspector or risk assessor determines have been replaced after 1978 or do not contain lead-based paint.

(3) The certified inspector or risk assessor shall prepare an inspection report for each inspection. The report shall be specific to the structure tested and include all of the following information:

(a) Table of contents.

(b) A plain-language conclusions section, designed to provide easy identification of all lead hazards, shall be positioned prominently near the front of the report. Results included in the conclusions section shall not be used to satisfy requirements for presentation of results described elsewhere in this rule. The conclusions section shall contain all of the following information in tabular format:

(i) Results of any environmental sampling that denote a positive indication of lead paint, grouped by sample methodology.

(ii) Applicable comparison standards.

(iii) Units of measurement.

(iv) A stand-alone description of each sampling location and component.

(c) Date of each inspection.

(d) Address of building.

(e) Date of construction.

(f) Apartment numbers, if applicable.

(g) Name, address, and telephone number of the owner or owners.

(h) Name, signature, and certification number of each certified inspector or risk assessor, or both, conducting testing.

(i) Name, address, and telephone number of the certified person employing each inspector or risk assessor, or both, if applicable.

(j) Each testing method and device and sampling procedure employed for paint analysis, including quality control data and, if used, the serial number of any X-ray fluorescence device.

(k) Specific locations of each painted component tested for the presence of lead-based paint.

(l) The results of the inspection expressed in terms appropriate to the sampling method used.

R 325.99404 Risk assessment.

Rule 404. (1) Only a person certified by the department as a risk assessor shall conduct a risk

assessment. A risk assessor shall conduct the risk assessment according to this rule.

(2) The risk assessor shall make a visual inspection for risk assessment of a residential dwelling or child-occupied facility to locate the existence of lead-based paint hazards and assess the extent and causes of the hazards.

(3) The risk assessor shall collect background information regarding the physical characteristics of the residential dwelling or child-occupied facility and occupant use patterns that may cause lead-based paint exposure to 1 or more children age 6 years and under.

(4) The risk assessor shall test, using documented methodologies, each surface that has deteriorated paint for the presence of lead if the surface is determined to be in poor condition and to have a distinct painting history. A risk assessor shall also test, using documented methodologies, any additional surface for the presence of lead if the surface is determined to be a potential lead-based paint hazard and to have a distinct painting history.

(5) In residential dwellings, the risk assessor shall collect the following dust samples in not less than 6 representative rooms, hallways, stairwells, or room equivalents:

(a) One dust sample from the floor of each selected room, hallway, or stairwell.

(b) One dust sample from a window sill or trough, if available, in each selected room, hallway or stairwell. Dust samples from windows shall be collected by alternating the sill and trough in each room to the extent possible.

(c) If there are less than 6 rooms, hallways, stairwells, or room equivalents in the dwelling, then the risk assessor shall sample all rooms, hallways, and stairwells.

(6) For multifamily dwellings and child-occupied facilities, the risk assessor shall collect the dust samples required in subrule (5) of this rule in each selected unit. In addition, a risk assessor shall collect window and floor dust samples in the following locations:

(a) Common areas adjacent to the sampled residential dwelling or child-occupied facility.

(b) Other common areas in the building where the risk assessor determines that 1 or more children, age 6 and under, could reasonably be expected to come into contact with dust, regardless of the current occupancy by children in the dwelling.

(7) For child-occupied facilities, the risk assessor shall collect 1 dust sample from the window sill or

trough and 1 dust sample from the floor in each room, hallway, or stairwell utilized, to the extent defined by a child-occupied facility, by 1 or more children, age 6 and under; and in other common areas in the child-occupied facility where the risk assessor determines that 1 or more children, age 6 and under, could reasonably be expected to come into contact with dust to the extent defined by a child-occupied facility.

(8) The risk assessor shall collect soil samples and have the samples analyzed for lead concentrations in the all of following locations:

(a) Exterior play areas where bare soil is present.

(b) Dripline/foundation areas where bare soil is present

(c) Yard locations in addition to those described in subdivisions (a) and (b) of this subrule where the area of bare soil exceeds 9 square feet.

(9) The risk assessor shall compare the lead levels from each sample, as determined by the approved analysis, with applicable hazard levels for lead in paint, dust and soil established in these rules. The risk assessor shall determine a lead hazard for the area represented by each sample which exceeds the hazard levels.

(10) The certified risk assessor shall prepare a risk assessment report which shall include all of the following information:

(a) Table of contents.

(b) A plain-language conclusions section designed to provide the reader with easy identification of all lead hazards shall be positioned prominently near the front of the report. Results included in the conclusions section shall not be used to satisfy requirements for presentation of results described elsewhere in this rule. The conclusions section shall contain all of the following information in tabular format:

(i) Results of any environmental sampling that denotes a lead hazard, grouped by sample methodology.

(ii) Applicable comparison standards.

(iii) Units of measurement.

(iv) A stand-alone description of each sampling location and component.

(c) Date of assessment.

(d) Address of each building.

(e) Date of construction of buildings.

(f) Apartment number, if applicable.

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

(h) Name, signature, and certification identification of the certified risk assessor conducting the

assessment.

(i) Name, address, and telephone number of the certified person employing each certified risk assessor, if applicable.

(j) Name, address, and telephone number of each recognized laboratory conducting analyses of collected samples.

(k) Results of the visual inspection.

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

(m) Specific location of each painted component tested for the presence of lead.

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

(o) All results of approved analysis on collected paint, soil, and dust samples.

(p) Any other sampling results.

(q) Any background information collected under subrule (3) of this rule.

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

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

(t) A description of lead hazard control options for each identified lead hazard or potential hazard, and a suggested prioritization for addressing each hazard. If the use of an encapsulant or enclosure is recommended, then the report shall recommend a maintenance and monitoring schedule for the encapsulant or enclosure.

(11) A person shall provide a written disclosure to a client of any affiliation between the person who conducts the inspection, risk assessment, or any part thereof, and the person or persons who conduct the abatement of the same property.

R 325.99405 EBL environmental investigation.

Rule 405. (1) Only an individual endorsed by the department as an EBL investigator shall conduct an EBL environmental investigation. The EBL investigator shall conduct the EBL environmental investigation in accordance with the procedures in the Michigan department of community health document entitled, "Environmental Investigations for Children with Elevated Blood Lead Levels".

(2) The EBL investigator shall prepare an EBL environmental investigation report for each investigation in accordance with pertinent parts of the

field guide, and shall include, but is not limited, the following information:

(a) Potential sources of exposure to lead to 1 or more children age 6 years or less.

(b) Methods of minimizing or eliminating exposures to lead to 1 or more children age 6 years or less.

(3) The EBL investigator shall provide the report required by subrule (2) of this rule to both of the following:

(a) The property owner.

(b) The parent or guardian of the child with an elevated blood lead level, if different than the property owner.

R 325.99406 Lead hazard control activities.

Rule 406. (1) Only an individual who has successfully completed either of the following training courses shall conduct non-abatement lead hazard control activities:

(a) A lead-safe work practices training course approved by HUD.

(b) An accredited lead abatement worker course.

(2) Only an individual certified by the department as a lead worker, lead supervisor, or project designer shall conduct lead abatement activities.

(3) Individuals performing lead hazard control activities shall conduct those activities according to this rule.

(4) A certified supervisor is required for each lead hazard control project. The certified supervisor shall be at the site during all lead abatement activities, and during all setup and cleaning activities for non-abatement lead hazard control work mandated by order of local municipality, government, or court.

(5) The certified supervisor shall ensure that all lead hazard control activities are conducted according to this rule and all other federal, state, and local requirements.

(6) A certified supervisor or project designer shall develop a written occupant protection plan for all lead abatement activities and all non-abatement lead hazard control projects specified in subrule (4) of this rule according to the following procedures:

(a) The occupant protection plan shall be specific to each residential dwelling or child-occupied facility and be developed before the lead hazard control activities begin. The certified supervisor shall maintain the occupant protection plan at the work site during all lead hazard control activities.

(b) The occupant protection plan shall describe the measures and management procedures that shall be taken during the lead hazard control project to protect the building occupants from exposure to any lead-

based paint hazards.

(c) The procedures described in the occupant protection plan shall be implemented during the lead hazard control project.

(7) The certified supervisor shall ensure compliance with all of the following restricted work practices during lead hazard control activities:

(a) Open-flame burning or torching of lead-based paint is prohibited.

(b) Machine sanding or grinding or abrasive blasting and sandblasting of lead-based paint is prohibited, unless the sanding, grinding, blasting, or sandblasting is conducted using HEPA exhaust controls.

(c) Dry scraping of lead-based paint is permitted only in conjunction with heat guns or around electrical outlets or when treating defective paint spots totaling not more than 2 square feet in any 1 room, hallway, or stairwell or totaling not more than 20 square feet on exterior surfaces.

(d) Operating a heat gun on lead-based paint is permitted only if the temperature designed to be generated by the heat gun is less than 1100 degrees Fahrenheit.

(8) The certified supervisor shall ensure that all materials used to define containment of work areas remain intact until the successful completion of clearance procedures.

(9) If soil abatement is conducted, the contractor shall perform the abatement in either of the following ways:

(a) If soil is removed, replace the lead-contaminated soil with soil having a lead concentration no greater than the soil-lead hazard levels established by these rules for play areas.

(b) If soil is not removed, the lead abatement firm shall permanently cover, as defined in section 5459 of the act, the soil-lead hazard.

(10) If abatement involves encapsulation, then the lead abatement firm shall perform the encapsulation using an encapsulant approved by the department and shall apply encapsulant in accordance with the manufacturer's instructions.

(11) Immediately following an exterior lead hazard control activity, the certified supervisor shall conduct a visual inspection of all horizontal surfaces in the outdoor living areas near the abated surfaces to ensure that visible dust and debris have been removed. In addition, the supervisor shall conduct a visual inspection to determine the presence of paint chips on the dripline, next to the foundation below any exterior surface abated, or in any areas of bare soil onto which paint chips could reasonably be

expected to have been deposited during lead hazard control activities. If visible dust, debris, or paint chips are present, the lead hazard control firm shall remove the visible dust, debris, or paint chips from the site and properly dispose of them according to applicable federal, state, and local requirements.

(12) A certified supervisor or project designer shall prepare a lead hazard control activity report at the completion of each lead hazard control activity. The report shall include, but is not limited to, all of the following information:

(a) Start and completion dates of lead hazard control project.

(b) The name and address of each person performing lead hazard control work and the name of each certified supervisor assigned to the project.

(c) The occupant protection plan prepared under subrule (6) of this rule.

(d) The name, address, and signature of each certified clearance professional conducting clearance sampling and the date of clearance testing.

(e) The results of clearance testing and all soil analyses, if applicable, and the name of each recognized laboratory that conducted the analyses.

(f) A written description of the lead hazard control project, including all of the following:

(i) Hazard control methods used.

(ii) Locations of rooms and components where lead hazard control activities occurred.

(iii) Reason for selecting particular lead hazard control methods for each component.

(iv) Any suggested monitoring of remaining lead-based paint or enclosed or encapsulated surfaces.

R 325.99407 Clearance procedures.

Rule 407. (1) A clearance examination shall be performed in target housing and child-occupied facilities following all lead hazard control activities.

(2) Only a certified inspector or risk assessor shall perform clearance procedures following abatement.

(3) A certified clearance professional who is completely independent of the lead hazard control firm shall conduct clearance procedures following any lead hazard control activity according to the following procedures:

(a) Conduct a visual inspection for clearance testing to determine if deteriorated painted surfaces described in the scope of hazard control work, or visible amounts of dust, debris, or residue are still present. If deteriorated painted surfaces described in the scope of hazard control work, or visible amounts of dust, debris, or residue are present, then the person conducting the lead hazard control activity

shall eliminate the conditions before continuing the clearance procedures.

(b) After the visual inspection and any post-project cleanup required by subdivision (a) of this subrule, an independent clearance professional shall conduct clearance dust-lead sampling. Clearance sampling shall be conducted as appropriate based upon the extent or manner of lead hazard controls conducted in or to the residential dwelling or child-occupied facility. All of the following provisions apply to lead hazard control clearance sampling:

(i) After conducting lead hazard control activities using containment of work areas, the clearance professional shall take 1 dust sample from 1 window, if available, and 1 dust sample from the floor of not less than 4 rooms, hallways, stairwells, or room equivalents within the containment area. Dust samples from windows shall be collected by alternating the sill and trough in each room, to the extent possible. In addition, the clearance professional shall take 1 dust sample from the floor outside the containment area. If there are less than 4 rooms, hallways, stairwells, or room equivalents within the containment area, then the clearance professional shall sample all rooms, hallways, and stairwells.

(ii) After conducting hazard control activities with no containment, the clearance professional shall take 1 dust sample from 1 window, if available, and 1 dust sample from the floor of not less than 4 rooms, hallways, stairwells, or room equivalents in the residential dwelling or child-occupied facility, to include sleeping areas of 1 or more children, 6 years of age or less. Dust samples from windows shall be collected by alternating the sill and trough in each room, to the extent possible. If there are less than 4 rooms, hallways, stairwells, or room equivalents within the residential dwelling or child-occupied facility, then the clearance professional shall sample all rooms, hallways, and stairwells.

(iii) The clearance professional shall take dust samples for clearance purposes using documented methodologies that incorporate adequate quality control procedures.

(iv) The clearance professional shall take dust samples for clearance purposes not less than 1 hour after completion of final lead hazard control cleanup activities.

(c) The clearance professional shall select the rooms, hallways, stairwells, or room equivalents for sampling according to documented methodologies, as is defined in rule 325.99401(2).

(d) The certified clearance professional shall

compare the residual lead level, as determined by appropriate analysis, from each dust sample with applicable clearance levels for lead in dust. If the residual lead levels in a dust sample exceed the clearance levels, then the person conducting the lead hazard control activity shall reclean, and the clearance professional shall retest all the components represented by the failed sample until clearance levels are met.

(4) For multifamily dwellings and child-occupied facilities, the clearance professional shall collect the dust samples required in subrule (3) of this rule in each selected unit. In a multifamily dwelling that has more than 4 similarly constructed and maintained residential dwelling units, a certified inspector or risk assessor may conduct random sampling, in accordance with documented methodologies, for the purpose of clearance sampling, only if all of the following provisions are satisfied:

(a) The certified individuals who abate or clean the residential dwelling units do not know which residential dwelling will be selected for the random samples.

(b) A sufficient number of residential dwelling units are selected for dust sampling to provide a 95% level of confidence that not more than 5% or 50 of the residential dwelling units, whichever is smaller, in the randomly sampled population exceed the appropriate clearance levels.

(c) The randomly selected residential dwelling units are sampled and evaluated for clearance according to the procedures in this subrule.

(d) The similarly constructed and maintained residential dwelling units from which the sampled units are to be selected may not be re-occupied at any time following the completion of the hazard control activities until the successful completion of clearance procedures.

(5) For clearance sampling in multi-family dwellings and child-occupied facilities, a risk assessor or inspector shall also collect window and floor dust samples in the following locations:

(a) Common areas adjacent to the sampled residential dwelling or child-occupied facility.

(b) Other common areas in the building where the risk assessor determines that 1 or more children, age 6 and under, could reasonably be expected to come into contact with dust, regardless of the current occupancy by children in the dwelling.

(6) Following an exterior lead hazard control activity, the certified clearance professional shall conduct a visual inspection of all horizontal surfaces in the outdoor living area closest to the surfaces disturbed

by the lead hazard control activities to ensure that visible dust and debris have been removed. The certified clearance professional shall also conduct a visual inspection to determine the presence of paint chips on the dripline or next to the foundation below any exterior abated surface. If visible dust, debris, or paint chips are present, then the person conducting the lead hazard control activity shall remove the visible dust, debris, or paint chips from the site and properly dispose of them according to all applicable federal, state, and local requirements.

(7) A certified clearance technician shall not perform any of the following clearance procedures:

(a) Clearance testing following abatement activities.

(b) Clearance testing in multi family dwellings which are comprised of more than 4 units.

(c) Sampling described in subrule (4) of this rule using random selection of units.

(8) Following clearance testing of lead hazard control activities, the clearance professional shall prepare a clearance report. The clearance report shall include all of the following information:

(a) Address of the unit or units where lead hazard control activities were performed.

(b) The name, address, and phone number of the persons performing the lead hazard control activity.

(c) Start and completion dates of the project.

(d) The name, address, and signature of each certified clearance professional conducting clearance sampling and the date of clearance testing.

(e) The results of clearance testing and the name of each recognized laboratory that conducted the analyses, where applicable.

R 325.99408 Notifications.

Rule 408. (1) Not less than 3 business days before commencing a lead hazard control activity, a person who conducts lead abatement activities shall notify the department, on forms provided by the department, regarding information the department considers necessary to conduct an unannounced site inspection, including schedule changes. The department shall approve emergency notification that is less than 3 business days in the following situations:

(a) In the case of court-ordered lead abatement.

(b) In other cases where the department waives the 3-business-day requirement to protect the health and safety of the public.

(c) In the case of an unavoidable change in a lead abatement activity that occurs less than 3 days before the activity begins.

(2) A person who conducts lead abatement activities

shall not provide, in any case, the notification specified in subrule (1) of this rule less than 24 hours before commencing the activities.

(3) A person or individual who provides emergency notification shall receive confirmation of departmental approval of the emergency notification before initiating the activity.

(4) A person or individual who conducts a lead-based paint investigation shall notify the department, on forms provided by the department, regarding information the department considers necessary, by the fifteenth day of the month following the lead-based paint investigation.

(5) A training program that conducts lead training courses in any of the disciplines listed in R 325.99201, whether the courses are initial or refresher, shall notify the department, on forms provided by the department, not less than 7 calendar days before commencing training, regarding information the department considers necessary to conduct an unannounced site inspection. A training program shall also notify the department within 10 calendar days after a course is completed, on forms provided by the department, of the names of course participants and other information the department deems necessary. Training programs shall notify the department not less than 24 hours in advance of a course cancellation.

R 325.99409 Pre-renovation education.

(1) Not more than 60 days before commencing a renovation activity for compensation in target housing or child-occupied facility, the renovator shall do both of the following:

(a) Provide the owner of the dwelling or facility with US EPA pamphlet number EPA 747-K-99-001, entitled "Protect Your Family From Lead in Your Home," or a true reproduction, or an equivalent pamphlet approved by the department. If the owner does not occupy the dwelling unit, then the person performing renovation shall also provide an adult occupant of the housing unit with the pamphlet.

(b) Obtain a written acknowledgment of receipt of the pamphlet from the owner and, if applicable, the adult occupant of the unit or facility.

(2) If the renovator is unsuccessful in obtaining a written acknowledgment from the adult occupant described in subrule (1) of this rule, then the renovator shall certify in writing both of the following:

(a) The address of the dwelling unit described in subrule (1) of this rule.

(b) That the pamphlet was delivered to the dwelling unit, including the date and method of delivery. If the

pamphlet was delivered by mail, then the renovator shall obtain a certificate of mailing not less than 7 days before the renovation.

(3) If the renovator, upon delivery of the pamphlet, is unsuccessful in obtaining a written acknowledgment from the adult occupant, the renovator may self-certify the delivery. The self-certification shall be written and include the reason for lack of success (for example, occupant refuses to sign, no adult occupant available), the method of delivery of the pamphlet, the signature of the renovator, and the date of signature.

(4) Not more than 60 days before commencing renovation activities in common areas of multi-family housing, the renovator shall do all of the following:

(a) Provide the owner with the pamphlet and comply with either of the following:

(i) Obtain, from the owner, a written acknowledgement that the owner has received the pamphlet.

(ii) Obtain a certificate of mailing at least 7 days prior to the renovation.

(b) Notify in writing, or ensure written notification of, each unit of the multifamily housing and make the pamphlet available upon request prior to the start of renovation. Such notification shall be accomplished by distributing written notice to each affected unit. The notice shall describe the general nature and locations of the planned renovation activities; the expected starting and ending dates; and a statement of how the occupant can obtain the pamphlet, at no charge, from the renovator.

(c) Prepare, sign, and date a statement describing the steps performed to notify all occupants of the intended renovation activities and to provide the pamphlet.

(d) If the scope, locations, or expected starting and ending dates of the planned renovation activities change after the initial notification, the renovator shall provide further written notification to the owners and occupants providing revised information on the ongoing or planned activities. This subsequent notification must be provided before the renovator initiates work beyond that which was described in the original notification.

(5) The written acknowledgement required in this rule shall comply with all of the following:

(a) Include a statement recording the owner or occupants name and acknowledging receipt of the pamphlet prior to the start of renovation, the address of the unit undergoing renovation, the signature of the owner or occupant as applicable, and the date of signature.

(b) Be either a separate sheet or part of any written contract or service agreement for the renovation.

(c) Be written in the same language as the contract or agreement for the renovation or, in the case of owner occupied target housing, in the same language as the lease or rental agreement or the pamphlet.

(6) Renovators shall retain, and if requested, make available to the department all records necessary to demonstrate compliance with this rule for a period of 3 years following completion of the renovation activities in target housing or a child-occupied facility.

(7) The following sample language may be used for acknowledgements described in this rule:

(a) I have received a copy of the pamphlet, "*Protect Your Family From Lead In Your Home*", (or equivalent approved by the department) informing me of the potential risk of lead hazard exposure from renovation activity to be performed in my dwelling unit. I received this pamphlet before the work began.

Printed Name and Signature

Date

Unit Address

(b) If an occupant is unavailable for signature or refuses to sign the acknowledgement of receipt of the pamphlet, then the renovator may, under subrule (3) of this rule, self-certify delivery of each instance. The following sample language may be used for self-certification:

(i) Refusal to sign
I certify that I have made a good faith effort to deliver the pamphlet, "*Protect Your Family From Lead In Your Home*," (or approved equivalent) to the unit listed below at the dates and times indicated, and that the occupant refused to sign the acknowledgement. I further certify that I have left a copy of the pamphlet at the unit with the occupant.

Printed Name and Signature

Date

Unit Address

Attempted delivery dates and times:

(ii) Unavailable for signature
I certify that I have made a good faith effort to deliver the pamphlet, "Protect Your Family From Lead In Your Home," (or approved equivalent) to the unit listed below at the dates and times indicated, and that the occupant was unavailable to sign the acknowledgement. I further certify that I have left a copy of the pamphlet at the unit with the occupant.

Printed Name and Signature

Date

Unit Address

Attempted delivery dates and times:

LEAD HAZARD CONTROL DEFINITIONS

Abatement, except as otherwise provided below, means a measure or set of measures designed to permanently eliminate lead-based paint hazards. Abatement includes all of the following:

(a) The removal of lead-based paint and dust lead hazards, the permanent enclosure or encapsulation of lead based paint, the replacement of lead-painted surfaces or fixtures, the removal or covering of soil lead hazards, and all preparation, cleanup, disposal, and post-abatement clearance testing activities associated with such measures.

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

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

(d) A project resulting in the permanent elimination of lead-based paint hazards, conducted by a person who, through their company name or promotional literature, represents, advertises, or holds themselves out to be in the business of performing lead-based paint activities, except a project that is exempt from this part.

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

Abatement does not include any of the following:

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

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

(c) Any lead-based paint activity performed by the owner of an owner-occupied residential dwelling or an owner-occupied multifamily dwelling containing 4 or fewer units, if the activity is performed only in that owner-occupied unit of the multifamily dwelling.

Accredited training program means a training program that has been accredited by the department under this part to provide training for individuals engaged in lead-based paint activities.

Adequate quality control means a plan or design that ensures the authenticity, integrity, and accuracy of a sample including, but not limited to, a dust sample, a soil or paint chip sample, or a paint film sample. Adequate quality control also includes a provision in a plan or design described in this subsection for representative sampling.

Certified abatement worker means an individual who has been trained to perform abatements by an accredited training program and who is certified by the department under this part to perform abatement.

Certified clearance technician means an individual who has completed an approved training course and been certified by the department under this part to conduct clearance testing following interim controls.

Certified firm means a person that performs a lead-based paint activity for which the department has issued a certificate of approval under this part.

Certified inspector means an individual who has been trained by an accredited training program and certified by the department under this part to conduct inspections and take samples for the presence of lead in paint, dust and soil for the purpose of abatement clearance testing.

Certified project designer means an individual who has been trained by an accredited training program and certified by the department under this part to prepare abatement project designs, occupant protection plans, and abatement reports.

Certified risk assessor means an individual who has been trained by an accredited training program and certified by the department under this part to conduct inspections and risk assessments and to take samples for the presence of lead in paint, dust, and soil for the purposes of abatement clearance testing.

Certified supervisor means an individual who has been trained by an accredited training program and certified by the department under this part to supervise and conduct abatements and to prepare occupant protection plans and abatement reports.

Child occupied facility means a building or portion of a building constructed before 1978 that is visited regularly by a child who is 6 years of age or less, on at least 2 different days within a given week, if each day's visit is at least 3 hours and the combined weekly visit is at least 6 hours in length, and the combined annual

visits are at least 60 hours in length. Child occupied facility includes, but is not limited to, a day-care center, a preschool, and a kindergarten classroom.

Clearance levels means the values that indicate the maximum amount of lead permitted in dust on a surface following completion of an abatement activity as listed in rules promulgated by the department.

Clearance professional means 1 or more of the following individuals when performing clearance testing:

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

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

Component or building component means a specific design or structural element or fixture of a building, residential dwelling, or child occupied facility that is distinguished by its form, function, and location. Component or building component includes, but is not limited to, a specific interior or exterior design or structural element or fixture.

Containment means a process to protect workers and the environment by controlling exposure to the dust lead hazard and debris created during abatement.

Course agenda means an outline of the key topics to be covered during an accredited training program, including the time allotted to teach each topic.

Course test means an evaluation of the overall effectiveness of the accredited training program by testing a trainee's knowledge and retention of the topics covered during the accredited training program.

Course test blueprint means written documentation identifying the proportion of course test questions devoted to

each major topic in the accredited training program curriculum.

Department means the department of community health.

Deteriorated paint means paint or other surface coating that is cracking, flaking, chipping, peeling, or otherwise damaged or separating from the substrate of a building component.

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

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

Documented methodology means a method or protocol used to do either or both of the following:

- (a) Sample and test for the presence of lead in paint, dust, and soil.
- (b) Perform related work practices as described in rules promulgated under this part.

Dust lead hazard means surface dust in a residential dwelling or child occupied facility that contains a concentration of lead at or in excess of levels identified by the EPA pursuant to section 403 of title IV of the toxic substances control act, Public Law 94-469, 15 U.S.C. 2683, or as otherwise defined by rule.

EBL environmental investigation means both of the following:

- (a) A study of the living environment of 1 or more children 6 years of age or less with an elevated blood lead level performed by an EBL investigator to identify causative lead exposures.
- (b) The provision of a report by the EBL investigator explaining the results of the study and options for remediation of exposures.

EBL investigator means a certified risk assessor who has been endorsed by the department to conduct EBL environmental investigations.

Elevated blood level or **EBL** means for purposes of lead abatement, an excessive absorption of lead that is a confirmed concentration of lead in whole blood of 20 ug/dl, micrograms of lead per deciliter of whole blood, for a single venous test or of 15-19 ug/dl in 2 consecutive tests taken 3 to 4 months apart. For purposes of case management of children 6 years of age or less, elevated blood level means an excessive absorption of lead that is a confirmed concentration of lead in whole blood of 10 ug/dl.

Encapsulant means a substance that forms a barrier between lead-based paint and the environment using a liquid applied coating, with or without reinforcement materials, or an adhesively bonded covering material.

Encapsulation means the application of an encapsulant.

Enclosure means the use of rigid, durable construction materials that are mechanically fastened to the substrate in order to act as a barrier between lead-based paint and the environment.

EPA or USEPA means the United States Environmental Protection Agency.

Guest instructor means an individual designated by the manager or principal instructor of an accredited training program to provide instruction specific to the lecture, hands-on activities, or work practice components of a course in the accredited training program.

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

Hazardous waste means waste as defined in 40 CFR 261.3.

Inspection means a surface-by-surface investigation to determine the presence of lead-based paint in target housing or child-occupied facility, and the provision of a report explaining the results of the investigation.

Interim controls means a set of measures designed to temporarily reduce human exposure, or likely exposure, to lead-based paint hazards including, but not limited to, specialized cleaning, repairs, maintenance, painting, temporary containment, ongoing monitoring of lead-based paint hazards or potential hazards, and the establishment and operation of management and resident education programs.

Lead-based paint means paint or other surface coatings that contain lead equal to or in excess of 1.0 milligrams per square centimeter or more than 0.5% by weight.

Lead-based paint activity means inspection, risk assessment, and abatement in target housing and child occupied facilities, or in any part thereof.

Lead-based paint hazard means any of the following conditions:

(a) Any lead-based paint on a friction surface that is subject to abrasion and where the lead dust levels on the nearest horizontal surface are equal to or greater than the dust lead hazard levels identified in rules promulgated under this part.

(b) Any damaged or otherwise deteriorated lead-based paint on an impact surface that is caused by impact from a related building component.

(c) Any chewable lead-based painted surface on which there is evidence of teeth marks.

(d) Any other deteriorated lead-based paint in or on any residential building or child occupied facility.

(e) Surface dust in a residential dwelling or child occupied facility that contains lead in a mass-per-area concentration equal to or exceeding the levels established by rules promulgated under this part.

(f) Bare soil on residential real property or property of a child occupied facility that contains lead equal to or exceeding levels established by rules promulgated under this part.

Lead-based paint investigation means an activity designed to determine the presence of lead-based paint or lead-based paint hazards in target housing and child occupied facilities.

Lead hazard control activity means a measure or set of measures which are designed or performed specifically to reduce or eliminate lead-based paint hazards in target housing and child-occupied facilities. Lead hazard control activity includes, but is not limited to, abatement, interim controls and clearance examinations.

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

Multifamily dwelling means a structure that contains more than 1 separate residential dwelling unit and that is used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of 1 or more persons.

Paint in poor condition means 1 or more of the following:

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

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

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

Permanently covered soil means soil that has been separated from human contact by the placement of a barrier consisting of solid, relatively impermeable materials including, but not limited to, pavement or concrete, but not including grass, mulch, or other landscaping materials.

Person means an individual, partnership, cooperative, association, private corporation, personal representative, receiver, trustee, assignee, or other legal entity or a governmental entity. (*per Sec. 1106 of the Public Health Code*)

Principal instructor means the individual who has the primary responsibility for organizing and teaching a particular course in an accredited training program.

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

Reduction means a measure designed to reduce or eliminate human exposure to a lead-based paint hazard

through methods including, but not limited to, interim controls and abatement.

Renovation means the modification of an existing residential dwelling, or portion thereof, that results in the disturbance of painted surfaces, unless the activity is performed as part of an abatement as defined in the lead abatement act. Renovation includes, but is not limited to, the removal or modification of building components, surface preparation of painted surfaces, and window or door replacement to improve structural or operational integrity.

Residential dwelling means either of the following:

- (a) A detached single family dwelling unit, including, but not limited to, attached structures such as porches and stoops and accessory structures such as garages, fences, and nonagricultural or noncommercial outbuildings.
- (b) A building structure that contains more than 1 separate residential dwelling unit that is used or occupied, in whole or in part, as the home or residence of 1 or more persons.

Risk assessment means both of the following:

- (a) An on-site investigation in target housing or a child occupied facility to determine the existence, nature, severity, and location of a lead-based paint hazard.
- (b) The provision of a report by the person conducting the risk assessment explaining the results of the investigation and options for reducing the lead-based paint hazard.

Soil lead hazard means bare soil on a residential dwelling or on the property of a child occupied facility that contains lead at or in excess of levels identified by the EPA pursuant to section 403 of title IV of the toxic substances control act, Public Law 94-469, 15 U.S.C. 2683, or as otherwise defined by rule.

Target housing means housing constructed before 1978, except any of the following:

- (a) Housing for the elderly or persons with disabilities, unless any 1 or more children age 6 years or less resides or is expected to reside in that housing.
- (b) A zero-bedroom dwelling.
- (c) An unoccupied dwelling unit pending demolition, provided the dwelling unit remains unoccupied until demolition.

Third party examination means the examination for certification under this part in the disciplines of clearance technician, inspector, risk assessor, worker, and supervisor offered and administered by a party other than an accredited training program.

Training curriculum means an established set of course topics for instruction in an accredited training program for a particular discipline designed to provide specialized knowledge and skills.

Training hour means not less than 50 minutes of actual learning, including, but not limited to, time devoted to lecture, learning activities, small group activities, demonstrations, evaluations, or hands-on experience or a combination of those activities.

Training manager means the individual responsible for administering an accredited training program and monitoring the performance of principal instructors and guest instructors.

Visual inspection for clearance testing means the visual examination of a residential dwelling or a child occupied facility following an abatement procedure designed to determine whether the abatement has been successfully completed and cleaned.

Visual inspection for risk assessment means the visual examination of a residential dwelling or a child occupied facility to determine the existence of deteriorated paint or other potential sources of lead-based paint hazards.