CHAPTER 4761
DEPARTMENT OF HEALTH
RESIDENTIAL LEAD ABATEMENT

LEAD POISONING PREVENTION

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LEAD POISONING PREVENTION

4761.2000 DEFINITIONS.

Subpart 1. **Scope.** The terms used in parts 4761.2000 to 4761.2700 have the meanings given them in this part and in Minnesota Statutes, section 144.9501.

Subp. 2. **Abatement.** "Abatement" has the meaning given in Minnesota Statutes, section 144.9501, subdivision 3.

Subp. 3. **Abrasive blasting.** "Abrasive blasting" has the meaning given in part 7025.0020, subpart 2.

Subp. 4. **Affected property.** "Affected property" means a:

A. residence;

B. school;

C. child-occupied facility; or

D. play area as defined in Minnesota Statutes, section 144.9501, subdivision 25a.

Subp. 5. **Assessing agency.** "Assessing agency" has the meaning given in Minnesota Statutes, section 144.9501, subdivision 4a.

Subp. 6. **Building component.** "Building component" means a specific design or structural element or fixture of a building that is distinguished from other elements or fixtures by form, function, and location, including, but not limited to, a bedroom wall, an exterior window sill, a baseboard in a living room, a kitchen floor, an interior bathroom window sill, a porch floor, stair treads on a stairwell, or an exterior wall.

Subp. 7. **Certified lead firm.** "Certified lead firm" has the meaning given in Minnesota Statutes, section 144.9501, subdivision 6d.

Subp. 8. **Child.** "Child" has the meaning given in Minnesota Statutes, section 144.9501, subdivision 6a.

Subp. 9. **Child-occupied facility.** "Child-occupied facility" means a building, or portion of a building, that is visited by the same child for at least two days a week for at least three hours each day and:

A. the combined weekly visits last at least six hours; and

B. the combined annual visits last at least 60 hours.

Child-occupied facility includes the indoor and outdoor spaces that are used to provide a child care program, as defined in part 9503.0005, subpart 7; exterior structures; and ground surfaces.

Subp. 10. **Clearance inspection.** "Clearance inspection" means a visual identification of deteriorated paint and bare soil and the sampling and analyses of interior dust and exterior soil lead concentrations in an affected property to ensure that the lead standards under part 4761.2510, subparts 2 and 3, are not exceeded.

Subp. 11. **Common area.** "Common area" means a portion of a building that is generally accessible to all residential occupants, including, but not limited to, a hallway, stairway, laundry or recreational room, play area, community center, on-site day care facility, garage, or boundary fence.

Subp. 12. **Composite sample.** "Composite sample" means collection of more than one sample of the same medium, such as dust, soil, or paint, from the same type of surface, such as a floor, interior window sill, or window trough. A composite sample allows multiple samples to be analyzed as a single sample.

Subp. 13. **Containment.** "Containment" means the area that is prepared according to part 4761.2645, subparts 3 and 4, to isolate the area where lead hazard reduction activities will occur.

Subp. 14. **Deteriorated paint.** "Deteriorated paint" has the meaning given in Minnesota Statutes, section 144.9501, subdivision 8.

Subp. 15. **Documented methodologies.** "Documented methodologies" means the following written protocols, standards, or methods that are generally used and accepted for conducting regulated lead work:

A. Soil Testing and Research Analytical Laboratories, Department of Soil Science, Agricultural Experiment Station, University of Minnesota, Determination of Lead in Soil (July 1990);

B. American Society for Testing and Materials, Standard Practice for Field Collection of Settled Dust Samples Using Wipe Sampling Methods for Lead Determination by Atomic Spectrometry Techniques (E 1728-99) (March 2000);

C. American Society for Testing and Materials, Standard Specification for Wipe Sampling Materials for Lead in Surface Dust (E 1792-01) (March 2002);

D. American Society for Testing and Materials, Standard Practice for Collection of Floor Dust for Chemical Analysis (D 5438-00) (June 2000);

E. American Society for Testing and Materials, Standard Specification for Non-Reinforced Liquid Coating Encapsulation Products for Leaded Paint in Buildings (E 1795-00) (August 2000);

F. American Society for Testing and Materials, Standard Specification for Reinforced Liquid Coating Encapsulation Products for Leaded Paint in Buildings (E 1797-00) (August 2000);

G. American Society for Testing and Materials, Standard Guide for Selection and Use of Liquid Coating Encapsulation Products for Leaded Paint in Buildings (E 1796-97) (May 1998);

H. United States Department of Housing and Urban Development, Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing (June 1995), including the 1997 edition of Chapter 7. The guidelines are available on the Internet at: www.hud.gov/offices/lead/guidelines/hudguidelines/index.cfm

I. Code of Federal Regulations, title 40, section 141.86, paragraph (b), clause (2), for water sampling methodology to determine lead content;

J. United States Environmental Protection Agency, Residential Sampling for Lead: Protocols for Dust and Soil Sampling (EPA 747-R-95-001) (March 1995); and

K. any other protocol or method referenced in the EPA regulation for lead-based paint activities, Code of Federal Regulations, title 40, section 745.227, paragraph (a), or any future documented protocol or method adopted or accepted by the EPA.

The publications listed in items A to J are incorporated by reference. The publications are not subject to frequent change and, unless otherwise noted, are available through the Minitex interlibrary loan system.

Subp. 16. **Dry sanding.** "Dry sanding" means sanding without moisture and includes both hand and machine sanding.

Subp. 17. **Dry scraping.** "Dry scraping" means scraping without moisture and includes both hand and machine scraping.

Subp. 18. **Dust sampling.** "Dust sampling" means collecting dust samples, either from single surfaces or as a composite sample, according to documented methodologies.

Subp. 19. **Emergency project.** "Emergency project" means a project that is not planned but results from a sudden, unexpected event the consequences of which, if not immediately attended to, present a safety or public health hazard or would damage a building or building components. Emergency project includes work required by nonroutine failures of equipment.

Subp. 20. **Encapsulation.** "Encapsulation" means application of a covering or coating that acts as a barrier between the lead-based painted surface and the environment.

Subp. 21. **Enclosure.** "Enclosure" means the use of rigid, durable construction materials that are mechanically fastened to the substrate to act as a barrier between the lead-based painted surface and the environment and to prevent the escape of lead dust and debris to the environment.

Subp. 22. **EPA.** "EPA" means the United States Environmental Protection Agency.

Subp. 23. **Expected to reside.** "Expected to reside" means there is actual knowledge of an intention that a child will reside in a residence. If a female resident is known to be pregnant, there is actual knowledge that a child will reside in the residence.

Subp. 24. **Ground surface.** "Ground surface" means any horizontal surface at or near ground level, including, but not limited to, bare soil, grass, sidewalks, and driveways.

Subp. 25. **High-efficiency particulate air filter or HEPA filter.** "High-efficiency particulate air filter" or "HEPA filter" means a filter capable of trapping and retaining at least 99.97 percent of all monodispersed particles 0.3 microns in diameter or larger.

Subp. 26. **Housing for the elderly.** "Housing for the elderly" means retirement communities or similar types of housing reserved for households composed of one or more persons 62 years of age or older or another age if recognized as elderly by a specific federal housing assistance program.

Subp. 27. **HUD.** "HUD" means the United States Department of Housing and Urban Development.

Subp. 28. **Lead-based or lead-contaminated.** "Lead-based" or "lead-contaminated" means containing lead at or in excess of the lead levels under part 4761.2510, subparts 1, 2, 3, and 4.

Subp. 29. **Lead hazard reduction.** "Lead hazard reduction" has the meaning given in Minnesota Statutes, section 144.9501, subdivision 17.

Subp. 30. **Modified-wet abrasive blasting.** "Modified-wet abrasive blasting" has the meaning given in part 7025.0020, subpart 8.

Subp. 31. **Occupant.** "Occupant" means a person who lives or resides in a residence.

Subp. 32. **Paint.** "Paint" means any coating applied to cover a surface. Surface coatings include, but are not limited to, latex and oil-based paints, varnishes, and sealants.

Subp. 33. **Person.** "Person" has the meaning given in Minnesota Statutes, section 326.71, subdivision 8.

Subp. 34. **Project.** "Project" means the area preparation, paint stabilization, enclosure, replacement, removal, or encapsulation operations and clearance inspection, which includes dust and soil sampling, for lead hazard reduction in a quantity that exceeds 20 square feet on exterior surfaces, two square feet in an interior room, or ten percent of the total surface area on an interior or exterior type of component with a small surface area. Project includes paint stabilization, enclosure, replacement, removal, or encapsulation operations when work is subdivided into quantities less than those specified in this subpart, if the total area affected by the lead hazard reduction exceeds the specified quantities.

Subp. 35. **Regulated lead work.** "Regulated lead work" has the meaning given in Minnesota Statutes, section 144.9501, subdivision 26a.

Subp. 36. **Residence.** "Residence" means:

A. a building used or intended for use as single-family habitation, including attached structures such as porches and stoops. Residence includes ground surfaces and all other structures located within the same lot; or

B. a dwelling unit within a building used or intended for use as multifamily habitation, including common areas located within the same building, exterior structures, and ground surfaces. Residence does not include other dwelling units within the same building.

Subp. 37. **School.** "School" means an elementary school, as defined in Minnesota Statutes, section 120A.05, subdivision 9, or a nonpublic school, as defined in Minnesota Statutes, section 123B.41, subdivision 9, that ordinarily enrolls pupils in prekindergarten through grade 6, or any portion thereof. School includes the exterior structures and ground surfaces.

Subp. 38. **Substrate.** "Substrate" means the building material directly beneath the painted surface out of which the building components are constructed, including, but not limited to, wood, drywall, plaster, concrete, brick, or metal.

Subp. 39. **Vacuum blasting.** "Vacuum blasting" has the meaning given in part 7025.0020, subpart 14.

Subp. 40. **Water blasting.** "Water blasting" means using pressurized water to remove a surface coating.

Subp. 41. **Wet wipe.** "Wet wipe" means to clean surfaces within a work area by first wiping with detergent water and then with clean rinse water.

Subp. 42. **Window sill.** "Window sill" means the interior horizontal ledge at the base of a window opening.

Subp. 43. **Window trough.** "Window trough" means the horizontal surface on which the sash of a window sits when the window is closed.

Subp. 44. **Work area.** "Work area" means an area established by the person performing lead hazard reduction that is restricted, by barrier tapes, fences, doors, or walls of plastic sheeting, to anyone who is not directly involved in the lead hazard reduction. There may be more than one work area in an affected property.

Subp. 45. **X-ray fluorescence analyzer.** "X-ray fluorescence analyzer" means a device that uses gamma ray-induced fluorescence of lead atoms to measure a material's lead content.

Subp. 46. **Zero-bedroom residence.** "Zero-bedroom residence"means a residential dwelling unit in which the living area is not separated from the sleeping area. Zero-bedroom residence includes efficiencies, studio apartments, dormitory housing, military barracks, and rental of individual rooms in a residential dwelling.

Statutory Authority: *MS s 144.9508*

History: *29 SR 531*

4761.2100 APPLICABILITY.

Subpart 1. **Persons affected.** Parts 4761.2000 to 4761.2700 apply to persons, including assessing agencies, that do regulated lead work in or for an affected property.

Subp. 2. **Exceptions.** Parts 4761.2000 to 4761.2700 do not apply to:

A. work that is performed for any purpose other than the express purpose of regulated lead work as defined in Minnesota Statutes, section 144.9501, subdivision 26a;

B. an emergency shelter home or emergency shelter service;

C. housing for the elderly or persons with disabilities unless at least one child resides or is expected to reside in the residence;

D. a zero-bedroom residence, unless occupied by a child with an elevated blood lead level for which a lead risk assessment is required;

E. a foster home occupied by a child for 90 days or less if an individual who is related, as defined in Minnesota Statutes, section 245A.02, subdivision 13, provides the foster care;

F. a foster home occupied by a child for 30 days or less if the foster care is not provided by an individual who is related, as defined in Minnesota Statutes, section 245A.02, subdivision 13;

G. a structure that is totally vacated within 30 days of the issuance of lead orders and that remains unoccupied until the structure is totally demolished. Demolition must be completed within two years of the date of the order; or

H. chemical testing with a kit for the on-site, qualitative detection of lead.

Statutory Authority: *MS s 144.9508*

History: *29 SR 531*

CERTIFICATION, LICENSURE, REGISTRATION

4761.2200 CERTIFIED LEAD FIRMS.

Subpart 1. **General requirements.**

A. A person who employs individuals to perform regulated lead work outside of the person's property must obtain certification as a lead firm according to Minnesota Statutes, section 144.9505, subdivisions 1 and 1g.

B. Persons exempt from certification, as specified in Minnesota Statutes, section 144.9505, subdivision 1, paragraph (d), must comply with parts 4761.2000 to 4761.2700.

C. A firm that is certified under this part and employs a subcontractor to perform regulated lead work must ensure that the subcontractor is licensed, certified, or registered under this chapter.

Subp. 2. **Application.** An applicant for certification as a lead firm must submit to the commissioner:

A. a completed application on a form provided by the commissioner;

B. evidence of workers' compensation insurance as required by Minnesota Statutes, section 176.182, unless the applicant is not liable to pay workers' compensation under Minnesota Statutes, chapter 176. If the applicant is not liable to pay workers' compensation under Minnesota Statutes, chapter 176, the applicant must submit a letter to the commissioner, signed and dated, stating why the applicant is not liable. The Department of Health must be listed on the certificate of workers' compensation insurance as a certificate holder; and

C. a $100 nonrefundable fee payable to the Minnesota Department of Health.

Subp. 3. **Expiration.** A certificate issued under this part is valid for 12 months. A lead firm's certificate must be current for the firm to continue conducting regulated lead work.

Subp. 4. **Renewal.** A certified lead firm must renew its certification annually. Certification may be renewed by submitting the information required under subpart 2.

Subp. 5. **Denial; conditions.** The commissioner shall deny an application for certification if the applicant fails to comply with all applicable requirements in this part. The commissioner may also deny an application or set conditions on a certification according to Minnesota Statutes, section 144.99, subdivision 8. If a certification application is denied, the applicant:

A. must be notified in writing of the denied certification application and the reasons for the denial; and

B. is not required to pay a second fee if the applicant submits a second application according to subpart 2 within 30 days of receiving the notice that the application was denied. Fees are required for all subsequent applications.

Statutory Authority: *MS s 144.9508*

History: *29 SR 531*

4761.2220 QUALIFIED INDIVIDUALS; REQUIRED METHODS AND SUPERVISION.

A. Individuals exempt from licensing requirements as provided under Minnesota Statutes, section 144.9505, subdivision 1, paragraph (d), must complete lead hazard awareness and lead safe work practices training. Otherwise, only individuals who are licensed, registered, or trained according to this chapter may perform regulated lead work.

B. Individuals who are exempt from the licensing requirements are not exempt from parts 4761.2580 to 4761.2680 and must perform lead hazard reduction according to the methods in parts 4761.2620 to 4761.2670.

C. An individual licensed as a lead worker or lead supervisor may perform all types of lead hazard reduction.

D. To conduct regulated lead work, a certified lead firm must employ:

(1) lead workers, lead supervisors, lead inspectors, lead risk assessors, lead project designers, or lead sampling technicians with current licenses and registrations; or

(2) interim controls workers.

E. A person that is licensed or registered under this chapter and employs a subcontractor to perform regulated lead work must ensure that the subcontractor is licensed, certified, or registered.

F. A licensed individual or certified lead firm must ensure that current lead licenses, registrations, or training diplomas are readily available at the work site for review by the commissioner's representative and the assessing agency with jurisdiction over the work site. Lead training course diplomas may be used in lieu of lead licenses only as provided in parts 4761.2240, subpart 5, item B; 4761.2260, subpart 6, item B; 4761.2280, subpart 5, item B; 4761.2300, subpart 6, item B; and 4761.2320, subpart 6, item B, for individuals engaged in regulated lead work.

G. A lead supervisor must be assigned to each lead hazard reduction project and must be present during work area preparation and final cleanup. At least one lead worker at the site must be able to immediately contact the lead supervisor. The lead supervisor must be present at the work site within two hours after being contacted.

Statutory Authority: *MS s 144.9508*

History: *29 SR 531*

4761.2240 LEAD WORKER LICENSE.

Subpart 1. **General requirements.**

A. An individual who performs lead hazard reduction must be licensed as a lead worker under this part, unless the individual is licensed as a lead supervisor.

B. A lead worker must perform regulated lead work under the supervision of a lead supervisor.

C. A lead worker license is not transferable.

Subp. 2. **Training requirements; initial license.** To be eligible for an initial license as a lead worker, an applicant must complete:

A. an initial lead worker training course for which the commissioner has issued a permit under part 4761.2370; or

B. an initial lead worker training course approved by the EPA or by a state or tribal lead training program authorized by the EPA and a lead worker refresher training course for which the commissioner has issued a permit under part 4761.2370.

Subp. 3. **Expiration; renewal; retraining.**

A. A lead worker license is valid for 12 months after the completion date on the training course diploma for the most recently completed training course. Regulated lead work may not be conducted after the license expires.

B. A lead worker license may be renewed upon completing a lead worker refresher training course for which a permit has been issued under part 4761.2370.

C. A lead worker refresher training course must be completed within 36 months after the date on the last issued training course diploma. A refresher training course taken more than 36 months after the date on the last issued training course diploma does not qualify the individual for a renewed license.

D. An individual who fails to take a refresher training course within 36 months after the date on the last issued training course diploma may not renew the license. The individual must successfully complete an initial lead worker training course to qualify for a new license.

Subp. 4. **Application.**

A. To apply for an initial license as a lead worker, an applicant must submit to the commissioner:

(1) a completed application on a form provided by the commissioner;

(2) a $50 nonrefundable application fee payable to the Minnesota Department of Health; and

(3) a copy of the applicant's original diploma for the initial lead worker training course.

B. If applying from out of state, an applicant must submit:

(1) a completed application on a form provided by the commissioner;

(2) a $50 nonrefundable application fee payable to the Minnesota Department of Health;

(3) a copy of the applicant's original diploma for the initial lead worker training course or a copy of the current lead worker license from the state that the applicant is licensed in; and

(4) a copy of the applicant's original diploma from the Minnesota lead worker refresher training course.

Subp. 5. **Renewal application.**

A. An individual licensed as a lead worker must renew the license annually by submitting to the commissioner:

(1) a completed application on a form provided by the commissioner;

(2) a $50 nonrefundable renewal application fee payable to the Minnesota Department of Health; and

(3) a copy of the training course diploma from the most recent lead worker refresher training course as required under subpart 3.

B. Until the commissioner issues the renewed license, the lead worker may continue to perform lead hazard reduction for up to 30 calendar days from the date of completing the lead worker refresher training course, provided the lead worker:

(1) has submitted the renewal application to the commissioner; and

(2) has a copy of the diploma that is issued after completing the lead worker refresher training course. The diploma must be on site and available for review where the regulated lead work is being conducted.

Subp. 6. **Denial; conditions.** The commissioner shall deny an application for a lead worker license if the applicant fails to comply with all applicable requirements in this part. The commissioner may also deny an application or set conditions on a license according to Minnesota Statutes, section 144.99, subdivision 8. If a license application is denied, the applicant:

A. must be notified in writing of the denied license application and the reasons for the denial; and

B. is not required to pay a second fee if the applicant submits a second application according to subpart 4 or 5 within 30 days of receiving the notice that the application was denied. Fees are required for all subsequent applications.

Subp. 7. **Duplicate license.** To replace a lost, destroyed, or mutilated lead worker license, the licensed lead worker must submit a completed application for a duplicate lead worker license.

Statutory Authority: *MS s 144.9508*

History: *29 SR 531*

4761.2260 LEAD SUPERVISOR LICENSE.

Subpart 1. **General requirements.** The individual who is responsible for supervising licensed lead workers on a lead hazard reduction project must be licensed as a lead supervisor under this part. A lead supervisor license is not transferable.

Subp. 2. **Experience requirements.** To be eligible for a lead supervisor license, an applicant must have:

A. at least one year of experience as a licensed lead worker;

B. at least one year of experience in the childhood lead poisoning prevention program of a government agency; or

C. at least two years of experience in other environmental remediation or general commercial construction trades.

Subp. 3. **Training requirements; initial license.** To be eligible for an initial license as a lead supervisor, an applicant must:

A. complete:

(1) an initial lead supervisor training course for which the commissioner has issued a permit under part 4761.2370; or

(2) an initial lead supervisor training course that is approved by the EPA or by a state or tribal lead training program authorized by the EPA and a lead supervisor refresher training course for which the commissioner has issued a permit under part 4761.2370; and

B. take an independent examination and have a passing score of 70 percent or better.

Subp. 4. **Expiration; renewal; retraining.**

A. A lead supervisor license is valid for 12 months after completing the lead supervisor independent examination or for 12 months after the completion date on the training course diploma for the most recently completed refresher training course. Regulated lead work may not be conducted after the license expires.

B. A lead supervisor license may be renewed upon completing a lead supervisor refresher training course for which a permit has been issued under part 4761.2370.

C. A lead supervisor refresher training course must be completed within 36 months after the date on the last issued training course diploma. A refresher training course taken more than 36 months after the date on the last issued training course diploma does not qualify the individual for a renewed license.

D. An individual who fails to take a refresher training course within 36 months after the date on the last issued training course diploma may not renew the license. The individual must successfully complete an initial lead supervisor training course and pass an independent examination as specified in subpart 3 to qualify for a new license.

Subp. 5. **Application.**

A. To apply for an initial license as a lead supervisor, an applicant must submit to the commissioner:

(1) a completed application on a form provided by the commissioner;

(2) a $50 nonrefundable application fee payable to the Minnesota Department of Health;

(3) a copy of the applicant's original diploma for the initial lead supervisor training course; and

(4) documentation that the applicant passed an independent examination.

B. If applying from out of state, an applicant must submit:

(1) a completed application on a form provided by the commissioner;

(2) a $50 nonrefundable application fee payable to the Minnesota Department of Health;

(3) a copy of the applicant's original diploma for the initial lead supervisor training course or a copy of the current lead supervisor license from the state that the applicant is licensed in;

(4) documentation that the applicant passed an independent examination; and

(5) a copy of the applicant's original diploma from the Minnesota lead supervisor refresher training course.

Subp. 6. **Renewal application.**

A. An individual licensed as a lead supervisor must renew the license annually by submitting to the commissioner:

(1) a completed application on a form provided by the commissioner;

(2) a $50 nonrefundable renewal application fee payable to the Minnesota Department of Health; and

(3) a copy of the training course diploma from the most recent lead supervisor refresher training course as required under subpart 4.

B. Until the commissioner issues the renewed license, the lead supervisor may continue to perform lead hazard reduction for up to 30 calendar days from the date of completing the lead supervisor refresher training course, provided the lead supervisor:

(1) has submitted the renewal application to the commissioner; and

(2) has a copy of the diploma that is issued after completing the lead supervisor refresher training course. The diploma must be on site and available for review where the regulated lead work is being conducted.

Subp. 7. **Denial; conditions.** The commissioner shall deny an application for a lead supervisor license if the applicant fails to comply with all applicable requirements in this part. The commissioner may also deny an application or set conditions on a license according to Minnesota Statutes, section 144.99, subdivision 8. If a license application is denied, the applicant:

A. must be notified in writing of the denied license application and the reasons for the denial; and

B. is not required to pay a second fee if the applicant submits a second application according to subpart 5 or 6 within 30 days of receiving the notice that the application was denied. Fees are required for all subsequent applications.

Subp. 8. **Duplicate license.** To replace a lost, destroyed, or mutilated lead supervisor license, the licensed lead supervisor must submit a completed application for a duplicate lead supervisor license.

Statutory Authority: *MS s 144.9508*

History: *29 SR 531*

4761.2280 LEAD INSPECTOR LICENSE.

Subpart 1. **General requirements.** An individual who performs a lead inspection, as defined in Minnesota Statutes, section 144.9501, subdivision 18, must be licensed by the commissioner as a lead inspector or lead risk assessor. A lead inspector license is not transferable.

Subp. 2. **Training requirements; initial license.** To be eligible for an initial license as a lead inspector, an applicant must:

A. complete:

(1) an initial lead inspector training course for which the commissioner has issued a permit under part 4761.2370; or

(2) an initial lead inspector training course that is approved by the EPA or by a state or tribal lead training program authorized by the EPA and a lead inspector refresher training course for which the commissioner has issued a permit under part 4761.2370; and

B. take an independent examination and have a passing score of 70 percent or better.

Subp. 3. **Expiration; renewal; retraining.**

A. A lead inspector license is valid for 12 months after completing the lead inspector independent examination or for 12 months after the completion date on the training course diploma for the most recently completed refresher training course. Regulated lead work may not be conducted after the license expires.

B. A lead inspector license may be renewed upon completing a lead inspector refresher training course for which a permit has been issued under part 4761.2370.

C. A lead inspector refresher training course must be completed within 36 months after the date on the last issued training course diploma. A refresher training course taken more than 36 months after the date on the last issued training course diploma does not qualify the individual for a renewed license.

D. An individual who fails to take a refresher training course within 36 months after the date on the last issued training course diploma may not renew the license. The individual must successfully complete an initial lead inspector training course and pass an independent examination as specified in subpart 2 to qualify for a new license.

Subp. 4. **Application.**

A. To apply for an initial license as a lead inspector, an applicant must submit to the commissioner:

(1) a completed application on a form provided by the commissioner;

(2) a $50 nonrefundable application fee payable to the Minnesota Department of Health;

(3) a copy of the applicant's original diploma for the initial lead inspector training course; and

(4) documentation that the applicant passed an independent examination.

B. If applying from out of state, an applicant must submit:

(1) a completed application on a form provided by the commissioner;

(2) a $50 nonrefundable application fee payable to the Minnesota Department of Health;

(3) a copy of the applicant's original diploma for the initial lead inspector training course or a copy of the current lead inspector license from the state that the applicant is licensed in;

(4) documentation that the applicant passed an independent examination; and

(5) a copy of the applicant's original diploma from the Minnesota lead inspector refresher training course.

Subp. 5. **Renewal application.**

A. An individual licensed as a lead inspector must renew the license annually by submitting to the commissioner:

(1) a completed application on a form provided by the commissioner;

(2) a $50 nonrefundable renewal application fee payable to the Minnesota Department of Health; and

(3) a copy of the training course diploma from the most recent lead inspector refresher training course as required under subpart 3.

B. Until the commissioner issues the renewed license, the lead inspector may continue performing regulated lead work for up to 30 calendar days from the date of completing the lead inspector refresher training course, provided the lead inspector:

(1) has submitted the renewal application to the commissioner; and

(2) has a copy of the diploma that is issued after completing the lead inspector refresher training course. The diploma must be on site and available for review where the regulated lead work is being conducted.

Subp. 6. **Denial; conditions.** The commissioner shall deny an application for a lead inspector license if the applicant fails to comply with all applicable requirements in this part. The commissioner may also deny an application or set conditions on a license according to Minnesota Statutes, section 144.99, subdivision 8. If a license application is denied, the applicant:

A. must be notified in writing of the denied license application and the reasons for the denial; and

B. is not required to pay a second fee if the applicant submits a second application according to subpart 4 or 5 within 30 days of receiving the notice that the application was denied. Fees are required for all subsequent applications.

Subp. 7. **Duplicate license.** To replace a lost, destroyed, or mutilated lead inspector license, the licensed lead inspector must submit a completed application for a duplicate lead inspector license.

Statutory Authority: *MS s 144.9508*

History: *29 SR 531*

4761.2300 LEAD RISK ASSESSOR LICENSE.

Subpart 1. **General requirements.** An individual performing a lead risk assessment, as defined in Minnesota Statutes, section 144.9501, subdivision 20b, must be licensed by the commissioner as a lead risk assessor. A lead risk assessor license is not transferable.

Subp. 2. **Education and experience requirements.** To be eligible for a lead risk assessor license, an applicant must:

A. have a high school diploma and at least three years of experience in regulated lead work, asbestos abatement, environmental remediation, general construction, or a childhood lead poisoning prevention program of a government agency;

B. have an associate's degree and two years of experience in regulated lead work, asbestos abatement, environmental remediation, general construction, or a childhood lead poisoning prevention program of a government agency;

C. have a bachelor's degree and one year of experience in regulated lead work, asbestos abatement, environmental remediation, general construction, or a childhood lead poisoning prevention program of a government agency; or

D. be a certified industrial hygienist, registered professional engineer, registered architect, certified safety professional, or registered public health sanitarian.

Subp. 3. **Training requirements; initial license.** To be eligible for an initial license as a lead risk assessor, an applicant must:

A. complete:

(1) the initial lead inspector and lead risk assessor training courses for which the commissioner has issued permits under part 4761.2370; or

(2) the initial lead inspector and lead risk assessor training courses that are authorized by the EPA or by a state or tribal training program authorized by the EPA and a lead risk assessor refresher training course for which the commissioner has issued a permit under part 4761.2370; and

B. take the lead risk assessor independent examination and have a passing score of 70 percent or better.

Subp. 4. **Expiration; renewal; retraining.**

A. A lead risk assessor license is valid for 12 months after completing the lead risk assessor independent examination or 12 months after the completion date on the training course diploma for the most recently completed refresher training course. Regulated lead work may not be conducted after the license expires.

B. A lead risk assessor license may be renewed upon completing a lead risk assessor refresher training course for which a permit has been issued under part 4761.2370.

C. A lead risk assessor refresher training course must be completed within 36 months after the date on the last issued training course diploma. A refresher training course taken more than 36 months after the date on the last issued training course diploma does not qualify the individual for a renewed license.

D. An individual who fails to take a refresher training course within 36 months after the date on the last issued training course diploma may not renew the license. The individual must successfully complete initial lead inspector and lead risk assessor training courses and pass an independent examination as specified in subpart 3 to qualify for a new license.

Subp. 5. **Application.**

A. To apply for an initial license as a lead risk assessor, an applicant must submit to the commissioner:

(1) a completed application on a form provided by the commissioner;

(2) a $100 nonrefundable application fee payable to the Minnesota Department of Health;

(3) a copy of the applicant's original diploma for the lead risk assessor training course; and

(4) documentation that the applicant passed an independent examination.

B. If applying from out of state, an applicant must submit:

(1) a completed application on a form provided by the commissioner;

(2) a $100 nonrefundable application fee payable to the Minnesota Department of Health;

(3) a copy of the applicant's original diploma for the lead risk assessor training course or a copy of the current lead risk assessor license from the state that the applicant is licensed in;

(4) documentation that the applicant passed an independent examination; and

(5) a copy of the applicant's original diploma from the Minnesota lead risk assessor refresher training course.

Subp. 6. **Renewal application.**

A. An individual licensed as a lead risk assessor must renew the license annually by submitting to the commissioner:

(1) a completed application on a form provided by the commissioner;

(2) a $100 nonrefundable renewal application fee payable to the Minnesota Department of Health; and

(3) a copy of the training course diploma from the most recent lead risk assessor refresher training course as required under subpart 4.

B. Until the commissioner issues the renewed license, the lead risk assessor may continue to perform regulated lead work for up to 30 calendar days from the date of completing the lead risk assessor refresher training course, provided the lead risk assessor:

(1) has submitted the renewal application to the commissioner; and

(2) has a copy of the diploma that is issued after completing a lead risk assessor refresher training course. The diploma must be on site and available for review where the regulated lead work is being conducted.

Subp. 7. **Denial; conditions.** The commissioner shall deny an application for a lead risk assessor license if the applicant fails to comply with all applicable requirements in this part. The commissioner may also deny an application or set conditions on a license according to Minnesota Statutes, section 144.99, subdivision 8. If a license application is denied, the applicant:

A. must be notified in writing of the denied license application and the reasons for the denial; and

B. is not required to pay a second fee if the applicant submits a second application according to subpart 5 or 6 within 30 days of receiving the notice that the application was denied. Fees are required for all subsequent applications.

Subp. 8. **Duplicate license.** To replace a lost, destroyed, or mutilated lead risk assessor license, the licensed lead risk assessor must submit a completed application for a duplicate lead risk assessor license.

Statutory Authority: *MS s 144.9508*

History: *29 SR 531*

4761.2320 LEAD PROJECT DESIGNER LICENSE.

Subpart 1. **General requirements.** An individual preparing a lead project design, as defined in Minnesota Statutes, section 144.9501, subdivision 19a, must be licensed by the commissioner as a lead project designer. A lead project designer license is not transferable.

Subp. 2. **Education and experience requirements.** To be eligible for a lead project designer license, an applicant must:

A. have a bachelor's degree in engineering, architecture, or an environmental or safety discipline and one year of experience in building construction, design, or a related field;

B. be a registered architect, registered professional engineer, certified industrial hygienist, certified safety professional, or a certified asbestos project designer;

C. have two years of experience in regulated lead work, asbestos-related work, asbestos management activities, or other environmental remediation; or

D. have four years of experience in building construction, design, or a related field.

Subp. 3. **Training requirements; initial license.** To be eligible for an initial license as a lead project designer, an applicant must complete:

A. the initial lead supervisor and lead project designer training courses for which the commissioner has issued permits under part 4761.2370; or

B. the initial lead supervisor and lead project designer training courses that are approved by the EPA or by a state or tribal lead training program authorized by the EPA and a lead project designer refresher training course for which the commissioner has issued a permit under part 4761.2370.

Subp. 4. **Expiration; renewal; retraining.**

A. A lead project designer license is valid for 12 months after the completion date on the training course diploma for the most recently completed training course. Regulated lead work may not be conducted after the license expires.

B. A lead project designer license may be renewed upon completing a lead project designer refresher training course for which a permit has been issued under part 4761.2370.

C. A lead project designer refresher training course must be completed within 36 months after the date on the last issued training course diploma. A refresher training course taken more than 36 months after the date on the last issued training course diploma does not qualify the individual for a renewed license.

D. An individual who fails to take a refresher training course within 36 months after the date on the last issued training course diploma may not renew the license. The individual must successfully complete initial lead supervisor and lead project designer training courses to qualify for a new license.

Subp. 5. **Application.**

A. To apply for an initial license as a lead project designer, the applicant must submit to the commissioner:

(1) a completed application on a form provided by the commissioner;

(2) a $100 nonrefundable application fee payable to the Minnesota Department of Health; and

(3) a copy of the applicant's original diploma for the initial lead project designer training course.

B. If applying from out of state, an applicant must submit:

(1) a completed application on a form provided by the commissioner;

(2) a $100 nonrefundable application fee payable to the Minnesota Department of Health;

(3) a copy of the applicant's original diploma for the initial lead project designer training course or a copy of the current lead project designer license from the state that the applicant is licensed in; and

(4) a copy of the applicant's original diploma from the Minnesota lead project designer refresher training course.

Subp. 6. **Renewal application.**

A. An individual licensed as a lead project designer must renew the license annually by submitting to the commissioner:

(1) a completed application on a form provided by the commissioner;

(2) a $100 nonrefundable renewal application fee payable to the Minnesota Department of Health; and

(3) a copy of the training course diploma from the most recent lead project designer refresher training course as required under subpart 4.

B. Until the commissioner issues the renewed license, the lead project designer may continue to perform regulated lead work for up to 30 calendar days from the date of completing the lead project designer refresher training course, provided the lead project designer:

(1) has submitted the renewal application to the commissioner; and

(2) has a copy of the diploma that is issued after completing a lead project designer refresher training course. The diploma must be on site and available for review where the regulated lead work is being conducted.

Subp. 7. **Denial; conditions.** The commissioner shall deny an application for a lead project designer license if the applicant fails to comply with all applicable requirements in this part. The commissioner may also deny an application or set conditions on a license according to Minnesota Statutes, section 144.99, subdivision 8. If a license application is denied, the applicant:

A. must be notified in writing of the denied license application and the reasons for the denial; and

B. is not required to pay a second fee if the applicant submits a second application according to subpart 5 or 6 within 30 days of receiving the notice that the application was denied. Fees are required for all subsequent applications.

Subp. 8. **Duplicate license.** To replace a lost, destroyed, or mutilated lead project designer license, the licensed lead project designer must submit a completed application for a duplicate lead project designer license.

Statutory Authority: *MS s 144.9508*

History: *29 SR 531*

TRAINING COURSES; EXAMINATIONS

4761.2370 TRAINING COURSE PERMITS.

Subpart 1. **General requirements.**

A. This part applies to all training courses that are intended to qualify trainees for licensure under parts 4761.2240 to 4761.2320.

B. A training course provider must obtain a permit under this part before presenting a lead training course to qualify trainees for licensure.

C. An application must be submitted at least 60 days before the first course is presented.

D. A training course provider must employ a training manager who meets the requirements in part 4761.2380, subpart 2.

E. A training course provider must employ at least one principal instructor for each training course. The principal instructor must meet the requirements in part 4761.2380, subpart 4.

Subp. 2. **Permit application.**

A. To apply for a permit for either an initial or refresher training course, the training course provider must submit to the commissioner:

(1) a completed application on a form provided by the commissioner;

(2) a nonrefundable application fee as follows:

(a) $500 for an initial training course; or

(b) $250 for a refresher training course;

(3) a copy of the following:

(a) the course agenda;

(b) a sample sign-in sheet;

(c) the instructor manual;

(d) the trainee manual;

(e) any paper prints of transparencies or slides used in training;

(f) any videotapes used for training;

(g) any audiotapes used for training;

(h) any other instructional materials provided to the trainee;

(i) a sample diploma;

(j) all questions that might be used in the course examination with the correct answers identified and a description of the proportion of course examination questions devoted to each major topic in the course;

(k) a description of the hands-on evaluation of a trainee's ability to do work practices for courses that include hands-on training;

(l) a description of the training manager's qualifications under part 4761.2380, subpart 2;

(m) a description of the principal instructor's qualifications under part 4761.2380, subpart 4;

(n) a description of all other instructors' qualifications under part 4761.2380, subpart 6;

(o) the location and description of the facilities in which the training course will be presented; and

(p) a copy of any enforcement actions taken against the provider by the EPA or any state or tribal lead program.

B. The commissioner shall review and approve an application or notify the applicant of any deficiencies. The commissioner shall reject a deficient application after 60 days unless the applicant corrects the deficiencies.

Subp. 3. **Expiration; transfer.** A permit is valid for two years and is not transferable.

Subp. 4. **Renewal application.** A renewal application must include:

A. a completed application on a form provided by the commissioner; and

B. a nonrefundable application fee as follows:

(1) $250 for renewal of an initial training course; or

(2) $125 for renewal of a refresher training course.

Subp. 5. **Denial; conditions.** The commissioner shall deny an application for a training course permit if the applicant fails to comply with all applicable requirements in this part. The commissioner may also deny an application or set conditions on the permit according to Minnesota Statutes, section 144.99, subdivision 8. If a permit application is denied, the applicant:

A. must be notified in writing of the denied permit application and reasons for the denial; and

B. is not required to pay a second fee if the applicant submits a second application according to subpart 2 within 30 days of receiving the notice that the application was denied. Fees are required for all subsequent applications.

Statutory Authority: *MS s 144.9508*

History: *29 SR 531*

4761.2380 REQUIRED TRAINING COURSE PERSONNEL; DUTIES.

Subpart 1. **General requirements.** This part applies to all training courses for which the commissioner issues permits and the personnel who conduct training to qualify trainees for licensure under parts 4761.2240 to 4761.2320.

Subp. 2. **Training manager.** A training course provider must designate a training manager who has experience, education, or training in the construction industry, including regulated lead work, asbestos-related work, asbestos management activities, painting, carpentry, renovation, remodeling, occupational safety and health, or industrial hygiene, and one of the following:

A. at least two years of experience, education, or training in teaching adults;

B. a bachelor's or graduate degree in building construction technology, engineering, industrial hygiene, safety, public health, education, business administration, program management, or a related field; or

C. at least two years of experience in managing a training program in environmental hazards.

Subp. 3. **Training manager duties.** A training manager is responsible for ensuring that:

A. each training course is presented in the manner described in the application for which a permit was granted;

B. a quality control plan is developed and implemented for each training course. The plan is to maintain and improve the quality of the course by revising materials to include:

(1) amendments to relevant law or to other government documents used in the course; and

(2) advances in technology that affect lead measurement or lead hazard reduction;

C. the competency, performance, and effectiveness of principal instructors are reviewed annually;

D. properly identified Department of Health staff is allowed to audit the course, including the testing and evaluation of trainees;

E. training in the use of an x-ray fluorescence analyzer complies with chapter 4730; and

F. a notice is submitted to the commissioner of any change in the course curriculum or course materials required under part 4761.2370, subpart 2, item A, subitem (3). The commissioner shall provide the notice form. The notice form and copies of the changed materials must be received by the commissioner at least 30 calendar days before the training course is conducted.

Subp. 4. **Principal instructor.** A training course provider must designate a principal instructor for each training course. The principal instructor must:

A. have experience, education, or training in teaching adults, including using methods of evaluation to continually monitor the participants' progress;

B. successfully complete a Minnesota-permitted training course or any other lead-based paint activities training course approved by the EPA or by an EPA-authorized state or tribal program:

(1) for lead supervisors, if instructing courses for lead workers, lead supervisors, or lead project designers; or

(2) for lead risk assessors, if instructing courses for lead inspectors or lead risk assessors;

C. have experience, education, or training in lead or asbestos abatement, painting, carpentry, renovation, remodeling, occupational safety and health, or industrial hygiene; and

D. apply the methods of evaluation described in item A.

Subp. 5. **Principal instructor duties.** The principal instructor is responsible for the organization of the course and the oversight of the teaching of all course materials. The principal instructor must:

A. be responsible for supervising the other instructors for the course;

B. ensure that each trainee is in attendance for the full duration of the course; and

C. ensure that the course examination and hands-on skills evaluation accurately reflect a trainee's understanding of the course material.

Subp. 6. **Other training course instructors.** The commissioner shall approve all other instructors as part of any permit issued for the training course if the instructors:

A. have experience, education, or training in teaching adults, including using methods of evaluation to continually monitor the participants' progress;

B. have experience, education, or training in lead or asbestos abatement, painting, carpentry, renovation, remodeling, occupational safety and health, or industrial hygiene; and

C. apply the methods of evaluation described in item A.

Statutory Authority: *MS s 144.9508*

History: *29 SR 531*

4761.2400 TRAINING COURSE PROVIDER REQUIREMENTS AND DUTIES.

Subpart 1. **Instructor as trainee.** A training course provider may not allow an instructor to present information at a training course that the instructor intends to complete as a trainee to obtain or renew a license under parts 4761.2240 to 4761.2320.

Subp. 2. **Diplomas.** If a training course is issued a permit under part 4761.2370, the training course provider must ensure that each trainee who successfully completes a training course, by passing the course examination, receives an original diploma. A diploma must include:

A. the name of the individual;

B. a unique identification number for the individual;

C. the name of the training course that the individual completed;

D. the location of the training course;

E. the course completion date;

F. the name, address, and telephone number of the training course provider; and

G. the following statement: "Approved by the State of Minnesota under Minnesota Rules, parts 4761.2000 to 4761.2700."

Subp. 3. **Training course notification.** A training course provider must notify the commissioner before offering a training course. The provider must submit a completed notification on a form provided by the commissioner. The notification form must be:

A. received at least five calendar days before the training course begins; and

B. mailed, faxed, delivered, or submitted electronically to the commissioner.

Subp. 4. **Amending notifications.**

A. A training course provider must notify the commissioner according to this subpart of any change in the information on the notice required under subpart 3.

B. The commissioner must receive an amended notice at least three calendar days before the training course begins if the beginning date of the training course is made earlier.

C. The commissioner must receive an amended notice before a training course begins for any other change in the information contained in the original notice.

Subp. 5. **Attendance requirements.**

A. A training course provider must document that participants attended the entire training course as a condition of successfully completing the training course. A training course provider must:

(1) maintain a daily sign-in log as documentation of attendance for each training course; and

(2) submit a copy of the daily sign-in log to the commissioner within five calendar days of completing the training course.

B. The daily sign-in log must include:

(1) each trainee's name, printed and signed;

(2) the name of the course;

(3) the name of the training course provider;

(4) the date of the course; and

(5) the location at which the course was presented.

Statutory Authority: *MS s 144.9508*

History: *29 SR 531*

4761.2420 TRAINING COURSE REQUIREMENTS.

Subpart 1. **Applicability.** This part applies to all lead training courses issued permits under part 4761.2370.

Subp. 2. **Separation of training courses.** Training courses for lead workers, lead supervisors, lead inspectors, lead risk assessors, and lead project designers must be taught separately.

Subp. 3. **Written examinations.**

A. A training course must include a written examination according to this subpart.

B. Each training course must include a written examination that is given only at the end of the training course.

C. The training course provider must administer training course examinations unless other arrangements are reported in advance to the commissioner.

D. When the training course provider or an approved alternate administers the examination, the training course provider must:

(1) not reveal any portion of the examination contents to any participant before administering the examination;

(2) ensure the security of the examination;

(3) ensure that no written material other than the examination materials are allowed within the participant's view; and

(4) ensure that any participant who passes the examination does so on the participant's own merit.

E. Written examinations for initial and refresher training courses must incorporate questions about Minnesota statutes and rules related to lead and must comply with the requirements of Code of Federal Regulations, title 40, part 745, subpart L.

F. A score of at least 70 percent is required to pass an initial or refresher training course written examination.

G. The initial and refresher training course written examinations must consist of:

(1) at least 50 multiple-choice questions for a lead worker training course;

(2) at least 100 multiple-choice questions for a lead supervisor training course;

(3) at least 50 multiple-choice questions for a lead inspector training course;

(4) at least 100 multiple-choice questions for a lead risk assessor training course; and

(5) at least 50 multiple-choice questions for a lead project designer training course.

H. If a participant in a lead worker training course is unable to read the written examination, the training course provider may arrange to administer the examination in an alternative manner to the participant.

Subp. 4. **Initial training course completion.** To successfully complete an initial training course, a participant must:

A. attend the entire training course;

B. demonstrate to the instructor the participant's proficiency during the hands-on portion of the course; and

C. pass a closed-book written examination that complies with subpart 3.

Subp. 5. **Refresher training course completion.** To complete a refresher training course, a participant must:

A. attend the entire training course; and

B. pass a closed-book written examination that complies with subpart 3.

Subp. 6. **Record retention and reporting.**

A. For each training course, the training course provider must keep, at the address specified on the permit application, the following documentation for three years:

(1) all documents that demonstrate the qualifications of all training instructors, including the training manager and principal instructors according to part 4761.2380, subparts 2, 4, and 6;

(2) annual performance evaluations of all principal instructors as specified in part 4761.2380, subpart 3, item C;

(3) current curriculum and course materials according to part 4761.2370, subpart 2, item A, subitem (3);

(4) all questions that might be used in the course examination, the correct answers to the questions, and a description of the proportion of test questions devoted to each major topic in the course;

(5) information regarding how the hands-on assessment is conducted, including:

(a) who conducts the assessment;

(b) how the skills are graded;

(c) what facilities are used; and

(d) the pass and fail rate;

(6) the quality control plan required under part 4761.2380, subpart 3, item B;

(7) results of each trainee's hands-on skills assessments and course examinations;

(8) a record of each trainee's course diploma according to part 4761.2400, subpart 2; and

(9) a record of each trainee's attendance as recorded on sign-in forms according to part 4761.2400, subpart 5.

B. If the commissioner requests information regarding a training course from a training course provider, copies of the requested information must be made available at no charge to the commissioner.

C. A training course provider must notify the commissioner in writing within 30 days after changing the address specified on the provider's permit application under part 4761.2370, subpart 2, or after transferring records from that address. Before a training course provider ceases operations, the provider must deposit the provider's training records with a person who will maintain the records for the required time. The training course provider must provide the name and address of the person to the commissioner.

Statutory Authority: *MS s 144.9508*

History: *29 SR 531*

4761.2440 COURSE CONTENT AND LENGTH.

Subpart 1. **General requirements.** For purposes of this part, a training hour equals 50 minutes of instruction. A training course must be completed within 30 calendar days.

Subp. 2. **Lead workers.**

A. An initial training course for lead workers must be at least 16 training hours in length, including at least eight training hours of hands-on instruction.

B. The initial training course for lead workers must cover:

(1) the role and responsibilities of a lead worker;

(2) background information on lead used in consumer products;

(3) the adverse health effects of lead on children, pregnant women, and adults;

(4) background information on federal and state regulations and local ordinances that govern regulated lead work, including the requirements of Code of Federal Regulations, title 29, section 1926.62, for the use of personal protective clothing and respiratory protection;

(5) recognizing and controlling lead hazards;

(6) interior and exterior lead-based paint abatement, in-place abatement, and other lead hazard reduction methods, including prohibited practices;

(7) interior and exterior dust abatement methods;

(8) bare soil abatement methods;

(9) daily and final cleanup methods; and

(10) clearance inspections.

C. Hands-on instruction must be provided for the topics under item B, subitems (5) to (9). The student-to-instructor ratio must not exceed eight-to-one for hands-on instruction.

D. A refresher training course for lead workers must be at least eight training hours in length.

E. A refresher training course for lead workers must review the topics of the corresponding initial training course and cover current and new:

(1) safety practices;

(2) federal and state regulations regarding regulated lead work; and

(3) technologies for regulated lead work.

Subp. 3. **Lead supervisors.**

A. An initial training course for lead supervisors must be at least 32 training hours in length, including at least eight training hours of hands-on instruction.

B. The initial training course for lead supervisors must cover:

(1) the role and responsibilities of a lead supervisor;

(2) background information on lead used in consumer products;

(3) the adverse health effects of lead on children, pregnant women, and adults;

(4) background information on federal and state regulations and local ordinances that govern regulated lead work, including the requirements of Code of Federal Regulations, title 29, section 1926.62, for the use of personal protective clothing and respiratory protection;

(5) liability and insurance issues related to lead hazard reduction;

(6) developing and implementing an occupant protection plan;

(7) interpreting lead risk assessment and inspection reports;

(8) developing and implementing an abatement report;

(9) recognizing and controlling lead hazards;

(10) interior and exterior abatement, in-place management, and other lead hazard reduction methods, including prohibited practices;

(11) interior and exterior dust abatement methods;

(12) bare soil abatement methods;

(13) daily and final cleanup methods;

(14) clearance standards, inspections, and testing;

(15) waste disposal; and

(16) record keeping.

C. Hands-on instruction must be provided for the topics under item B, subitems (6) to (13). The student-to-instructor ratio must not exceed eight-to-one for hands-on instruction under item B, subitems (9) to (13).

D. A refresher training course for lead supervisors must be at least eight training hours in length.

E. A refresher training course for lead supervisors must review the topics of the corresponding initial training course and cover current and new:

(1) safety practices;

(2) federal and state regulations regarding regulated lead work; and

(3) technologies for regulated lead work.

Subp. 4. **Lead inspectors.**

A. An initial training course for lead inspectors must be at least 24 training hours in length, including at least eight training hours of hands-on instruction.

B. An initial training course for lead inspectors must cover:

(1) the role and responsibilities of a lead inspector;

(2) background information on lead used in consumer products;

(3) the adverse health effects of lead on children, pregnant women, and adults;

(4) background information on federal and state regulations and local ordinances that govern regulated lead work, including the requirements under part 4730.0400 for registration of x-ray fluorescence analyzers;

(5) inspection methods for lead-based paint, including selecting rooms and building components for sampling or testing;

(6) sampling methods for paint, dust, bare soil, and drinking water;

(7) clearance standards and inspections, including random sampling;

(8) report writing; and

(9) record keeping.

C. Hands-on instruction must be provided for topics under item B, subitems (5) to (8). The student-to-instructor ratio must not exceed eight-to-one for hands-on instruction under item B, subitems (5) and (6).

D. A refresher training course for lead inspectors must be at least eight training hours in length.

E. A refresher training course for lead inspectors must review the topics of the corresponding initial training course and cover current and new:

(1) safety practices;

(2) federal and state regulations regarding regulated lead work; and

(3) technologies for regulated lead work.

Subp. 5. **Lead risk assessors.**

A. An initial training course for lead risk assessors must be at least 16 training hours in length, including at least four training hours of hands-on instruction.

B. The initial training course for lead risk assessors must cover:

(1) the role and responsibilities of a lead risk assessor;

(2) collecting background information to perform a lead risk assessment;

(3) sources of environmental lead contamination, including paint, dust, bare soil, drinking water, air, packaging, and food;

(4) lead hazard screening protocol;

(5) visually inspecting and identifying potential sources of lead-based paint hazards;

(6) sampling methods for paint, dust, bare soil, drinking water, and other potential sources of lead exposure;

(7) interpreting lead inspection sample results, including the application of clearance standards and inspections;

(8) developing lead hazard control options, including lead hazard reduction, and operations and maintenance activities that reduce lead hazards; and

(9) report writing.

C. Hands-on instruction must be provided for the topics under item B, subitems (5) to (9). The student-to-instructor ratio must not exceed eight-to-one for hands-on instruction under item B, subitem (6).

D. A refresher training course for lead risk assessors must be at least eight training hours in length.

E. A refresher training course for lead risk assessors must review the topics of the corresponding initial training course and cover current and new:

(1) safety practices;

(2) federal and state regulations regarding regulated lead work; and

(3) technologies for regulated lead work.

Subp. 6. **Lead project designers.**

A. An initial training course for lead project designers must be at least eight training hours in length.

B. The initial training course for lead project designers must cover:

(1) the role and responsibilities of a lead project designer;

(2) developing and implementing an occupant protection plan for a lead hazard reduction project;

(3) lead-based paint abatement, in-place management, and lead-based paint hazard reduction methods, including prohibited practices;

(4) internal and external dust abatement and cleanup for a lead hazard reduction project;

(5) clearance standards and testing; and

(6) integrating regulated lead work with modernization and rehabilitation projects.

C. A refresher training course for lead project designers must be at least four training hours in length.

D. A refresher training course for lead project designers must review the topics of the corresponding initial training course and cover current and new:

(1) safety practices;

(2) federal and state regulations regarding regulated lead work; and

(3) technologies for regulated lead work.

Statutory Authority: *MS s 144.9508*

History: *29 SR 531*

4761.2460 INDEPENDENT TESTING ORGANIZATIONS; PERMITS.

Subpart 1. **Applicability.** This part applies to a person who seeks a permit to administer examinations that are independent of a training course as required under parts 4761.2260, subpart 3, item B; 4761.2280, subpart 2, item B; and 4761.2300, subpart 3, item B, and that are intended to qualify individuals to be licensed as lead supervisors, lead inspectors, or lead risk assessors.

Subp. 2. **Application.** A permit application must be submitted on a form provided by the commissioner. The application must:

A. be submitted at least 60 days before a scheduled examination;

B. include all of the questions that may be used on the examination with the correct answer indicated for each question and with possible answers for multiple-choice questions. The questions must address the topics listed in part 4761.2440, subpart 3, 4, or 5, as applicable. The application must indicate the proportion of questions that will address each topic;

C. include documentation that the examination meets the validity standards for educational and psychological testing specified in American Psychological Association (APA), Standards for Educational and Psychological Testing (1999). This document is not required for an examination that was developed by or for the EPA. The APA standards are incorporated by reference, are not subject to frequent change, and are available through the Minitex interlibrary loan system through a local library;

D. include an assurance that each examination will consist of at least 75 questions and that a passing score will be at least 70 percent correct answers. An application must include documentation that the examination evaluates an individual's understanding of the topics in part 4761.2440, subpart 3, 4, or 5, as appropriate to each examination; and

E. describe how the security of the examination questions and answers will be maintained.

Subp. 3. **Expiration; transfer.** A permit issued under this part is valid for two years and is not transferable.

Subp. 4. **Renewal application.** A renewal application form, provided by the commissioner, must be completed and submitted to the commissioner.

Subp. 5. **Approval; rejection.** The commissioner shall review and approve an application or notify the applicant of any deficiencies. The commissioner shall reject a deficient application after 60 days unless the applicant corrects the application.

Statutory Authority: *MS s 144.9508*

History: *29 SR 531*

4761.2480 INDEPENDENT TESTING ORGANIZATION REQUIREMENTS.

Subpart 1. **Examination notification.**

A. An independent testing organization must notify the commissioner before administering an approved examination by submitting a completed notification on a form provided by the commissioner. If the examination is administered by the Department of Health, the notification requirement does not apply.

B. The commissioner must receive the notice at least five calendar days before the examination is administered.

C. Notices must be mailed, faxed, delivered, or submitted electronically to the commissioner.

Subp. 2. **Amending notifications.**

A. An independent testing organization must notify the commissioner according to this subpart of any change in the information required on the notice in subpart 1.

B. The commissioner must receive an amended notice at least three calendar days before the examination is administered if the date of the examination is made earlier.

C. The commissioner must receive an amended notice before the examination is administered for any other change in the information contained in the original notice.

Subp. 3. **Examination administration.** An independent testing organization that has received a permit under part 4761.2460 must:

A. allow access to the commissioner to monitor an examination;

B. verify the identity of each individual by requiring picture identification at the time the individual takes the examination; and

C. verify that each individual has an original training course diploma for the course appropriate to the examination being taken.

Subp. 4. **Record retention and reporting.** An independent testing organization that has received a permit under part 4761.2460 must:

A. report the following information to the commissioner, on a form provided by the commissioner, within five calendar days after completing the examination:

(1) the date of the examination;

(2) the name of the independent testing organization;

(3) the location where the examination was administered;

(4) the name and current address of each individual who completed the examination; and

(5) the name of the examination completed and the score received by each individual;

B. retain the information under item A for at least three years;

C. provide a report to the commissioner for the examinations that were not developed or approved by the EPA. The report must statistically evaluate the validity of the examinations administered during each calendar year; and

D. notify the commissioner in writing within 30 days after changing the address specified on its most recent permit application. Before an independent testing organization ceases operations, the records required in this subpart must be deposited with a person who will maintain the records for the required time. The independent testing organization must provide the name and address of the person to the commissioner.

Statutory Authority: *MS s 144.9508*

History: *29 SR 531*

LEAD STANDARDS; METHODS

4761.2510 STANDARDS FOR LEAD IN PAINT, DUST, BARE SOIL, DRINKING WATER.

Subpart 1. **Paint.** Paint is lead-based if it:

A. contains lead in a concentration of at least one-half of one percent (5,000 parts per million) or more by dry weight as measured by atomic absorption spectrophotometry or by quantitative chemical analyses; or

B. registers at least one milligram of lead per square centimeter or more as measured by an x-ray fluorescence analyzer, unless atomic absorption spectrophotome-

try or quantitative chemical analyses shows that the lead content is less than one-half of one percent by dry weight.

Subp. 2. **Dust.** Dust is lead-contaminated if atomic absorption spectrophotometry or quantitative chemical analyses determines that it contains at least:

A. 40 micrograms of lead per square foot on an interior hard-surfaced floor or carpet;

B. 250 micrograms of lead per square foot on an interior window sill; or

C. 400 micrograms of lead per square foot in a window trough.

Subp. 3. **Bare soil.** Bare soil on an affected property or on a play area is lead-contaminated if it contains lead in a concentration of at least 1/100 of one percent (100 parts per million) by weight.

Subp. 4. **Drinking water.** Drinking water is lead-contaminated if it contains at least 15 micrograms of lead per liter of water.

Statutory Authority: *MS s 144.9508*

History: *29 SR 531*

4761.2540 BARE SOIL ANALYSES WITHIN AN URBAN CENSUS TRACT.

Subpart 1. **Multisite soil sampling.** An assessing agency may collect and analyze bare soil samples in an urbanized area to determine lead contamination. If performed according to the criteria in subpart 2, and if at least 25 percent of the soil samples have lead concentrations that exceed the standard in part 4761.2510, subpart 3, the assessing agency may issue lead orders for bare soil for any subsequent lead risk assessments in the area without further sampling and analyses of soil. If a property owner requests that soil sampling be performed before the issuance of a lead order, the assessing agency must comply with that request.

Subp. 2. **Sampling criteria.**

A. An assessing agency must collect and analyze bare soil samples for purposes of subpart 1 according to this subpart.

B. The area sampled must be in a standard metropolitan statistical area and must be no greater than a census tract.

C. A map of the area must be prepared that shows the location of residences, boulevards, streets, alleys, schools, play areas, and all areas of bare soil.

D. Twelve samples must be collected from within three feet of foundations. Separate composite samples must be collected from areas in residential yards in which children play.

E. A soil sample must be collected according to documented methodologies.

F. A standard soil sampling tube or a putty knife is an acceptable sampling tool. The sampling tool must be cleaned before each use.

G. Soil samples must be labeled so that the following information is provided for each sample:

(1) a sample identification number;

(2) the sampling date;

(3) the street address, including city or township and county, where the sample was collected;

(4) the census tract number;

(5) the name of the individual doing the sampling; and

(6) the soil sample location.

H. An assessing agency must notify the commissioner within 30 days after determining an urban census tract meets the criteria in subpart 1.

I. An assessing agency must prepare a report describing how and where the samples were collected. The assessing agency must provide a copy of the report at no

cost to the commissioner upon request. The assessing agency must retain the report for as long as it is the basis for issuing lead orders without additional soil sampling.

Statutory Authority: *MS s 144.9508*

History: *29 SR 531*

4761.2550 LEAD HAZARD SCREEN.

Subpart 1. **General requirements.**

A. A person must allow the commissioner to have access to a work site, according to Minnesota Statutes, section 144.99, subdivision 2, while the person performs a lead hazard screen.

B. An individual conducting a lead hazard screen must be a lead risk assessor licensed under part 4761.2300 and must use the methods described in this part.

C. If a lead hazard screen identifies lead dust levels that exceed 20 micrograms per square foot for floors or 125 micrograms per square foot for window sills, the lead risk assessor must inform the property owner that a lead risk assessment is recommended by the commissioner of health.

D. Sodium rhodizonate and sodium sulfide must not be used to inspect paint for the presence of lead.

Subp. 2. **Methodologies.**

A. A lead hazard screen must be performed according to one of the documented methodologies that corresponds to the type of sampling and analysis that will be used to determine lead concentration.

B. To the extent that the documented methodologies contain numerical standards for the lead content of paint, dust, or drinking water that differ from the standards in part 4761.2510, the more stringent standard applies.

C. X-ray fluorescence analyzers, laboratory sample analyses, or a combination of both, may be used for on-site measurements of lead.

Subp. 3. **Lead hazard screen requirements.** A lead hazard screen for an affected property must:

A. include background information regarding the physical characteristics of the affected property;

B. include background information regarding the occupant use patterns that may cause lead-based paint exposure to one or more children;

C. visually identify the location of any deteriorated paint;

D. test each surface with deteriorated paint that has a distinct painting history for the presence of lead. A surface with deteriorated paint must be determined using HUD's Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing, chapter 5 (1995). The guidelines are incorporated by reference under part 4761.2000, subpart 15, item H. Surfaces do not need to be tested if the lead risk assessor determines the building component was replaced after 1978 or does not contain lead-based paint. In lieu of testing under this item, the deteriorated paint may be assumed to be lead-based paint;

E. determine at least two dust sampling locations or assume the floor and window sill surfaces have lead-contaminated dust on them. If conducting dust sampling:

(1) in a residence, at least two composite dust samples must be collected and analyzed. One sample must be from floors and the other from window sills. The floors and window sills tested must be in rooms, hallways, or stairwells where one or more children are most likely to come into contact with dust; or

(2) in a multifamily residence, school, or child-occupied facility, at least two composite samples from common areas must be collected and analyzed in addition to the samples required under subitem (1). One sample must be from floors and the other from window sills. These composite samples shall be collected from surfaces where one or more children are most likely to come into contact with dust; and

F. visually identify the presence and location of bare soil if the ground is not covered by snow at the time of the lead hazard screen.

Subp. 4. **Reports.** Within 30 days of completing a lead hazard screen, the lead risk assessor must write a report containing the information described in part 4761.2680, subpart 1.

Statutory Authority: *MS s 144.9508*

History: *29 SR 531*

4761.2560 LEAD INSPECTION.

Subpart 1. **General requirements.**

A. A person must allow the commissioner to have access to a work site, according to Minnesota Statutes, section 144.99, subdivision 2, while the person performs a lead inspection.

B. An individual conducting a lead inspection must be licensed according to part 4761.2280 or 4761.2300 and must use the methods described in this part.

C. Sodium rhodizonate and sodium sulfide must not be used to inspect paint for the presence of lead.

Subp. 2. **Methodologies.**

A. A lead inspection must be performed according to one of the documented methodologies that corresponds to the type of sampling and analysis that will be used to determine lead concentration.

B. To the extent that the documented methodologies contain numerical standards for the lead content of paint, dust, or drinking water that differ from the standards in part 4761.2510, the more stringent standard applies.

C. X-ray fluorescence analyzers, laboratory sample analyses, or a combination of both, may be used for on-site measurements of lead.

Subp. 3. **Lead inspection requirements.**

A. A lead inspection for an affected property must:

(1) in a residence, school, or child-occupied facility, test each interior and exterior building component with a distinct painting history for lead-based paint. Surfaces do not need to be tested if the lead inspector or lead risk assessor determines the building component was replaced after 1978 or does not contain lead-based paint;

(2) in a multifamily residence, school, or child-occupied facility, test each building component with a distinct painting history in every common area for lead-based paint. Surfaces do not need to be tested if the lead inspector or lead risk assessor determines the building component was replaced after 1978 or does not contain lead-based paint; and

(3) visually identify the presence and location of bare soil if the ground is not covered by snow at the time of the inspection.

B. Collecting and analyzing drinking water is not required but may be performed as part of a lead inspection.

Subp. 4. **Reports.** Within 30 days of completing a lead inspection, the lead inspector or lead risk assessor must write a report containing the information described in part 4761.2680, subpart 1.

Statutory Authority: *MS s 144.9508*

History: *29 SR 531*

4761.2570 LEAD RISK ASSESSMENT.

Subpart 1. **General requirements.**

A. A person must allow the commissioner to have access to a work site, according to Minnesota Statutes, section 144.99, subdivision 2, while the person performs a lead risk assessment.

B. An individual conducting a lead risk assessment must be licensed according to part 4761.2300 and must use the methods described in this part.

C. An assessing agency that is required by Minnesota Statutes, section 144.9504, subdivision 2, to respond to reports of elevated blood lead levels in children and pregnant women must:

(1) use the methods in this part to conduct a lead risk assessment; and

(2) issue lead orders to the property owner based on the agency's findings.

D. Sampling and analyzing building component paint in an affected property built after 1978 is not required during a lead risk assessment.

E. Sodium rhodizonate and sodium sulfide must not be used to inspect paint for the presence of lead.

Subp. 2. **Methodologies.**

A. A lead risk assessment must be performed according to one of the documented methodologies that corresponds to the type of sampling and analysis that will be used to determine lead concentration.

B. To the extent that the documented methodologies contain numerical standards for the lead content of paint, dust, bare soil, or drinking water that differ from the standards in part 4761.2510, the more stringent standard applies.

C. X-ray fluorescence analyzers, laboratory sample analyses, or a combination of both, may be used for on-site measurements of lead.

Subp. 3. **Lead risk assessment requirements.**

A. A lead risk assessment for an affected property must:

(1) include background information regarding the physical characteristics of the affected property;

(2) include background information regarding the occupant use patterns that may cause lead-based paint exposure to one or more children;

(3) visually identify the location of any deteriorated paint, assess the extent and causes of the deterioration, and locate other potential lead-based paint hazards;

(4) test each surface with deteriorated paint and each surface that has a distinct painting history for the presence of lead. A surface with deteriorated paint must be determined using HUD's Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing, chapter 5 (1995). The guidelines are incorporated by reference under part 4761.2000, subpart 15, item H. Surfaces do not need to be tested if the lead risk assessor determines the building component was replaced after 1978 or does not contain lead-based paint. In lieu of the testing under this item, the deteriorated paint may be assumed to be lead-based paint;

(5) collect and analyze at least one composite bare soil sample within three feet of the foundation for lead concentration. Separate composite samples must be collected from areas where children play, if bare soil is present. Collecting and analyzing bare soil samples may be delayed if the ground is covered by snow during the original lead risk assessment. In lieu of the collection and analyses under this subitem, bare soil may be assumed to be lead-contaminated;

(6) in a residence, collect and analyze composite or single-surface dust samples from interior window sills, window troughs, and floors for lead concentration in all living areas where one or more children are most likely to come into contact with dust. In lieu of collection and analyses under this item, the floor, window sill, and window trough surfaces may be assumed to have lead-contaminated dust on them;

(7) in a multifamily residence, collect and analyze composite or single-surface dust samples from interior window sills, window troughs, and floors for lead concentration in:

(a) common areas adjacent to the sampled residential dwelling unit; and

(b) other common areas in the building where the lead risk assessor determines that one or more children are likely to come into contact with dust. Collection and analyses under this subitem are in addition to the requirements of subitem (6). In lieu of the collection and analyses under this subitem, interior window sills, window troughs, and floors may be assumed to have lead-contaminated dust on them; and

(8) in a school or child-occupied facility, collect and analyze composite or single-surface dust samples from interior window sills, window troughs, and floors for lead concentration:

(a) in each room, hallway, or stairwell utilized by one or more children; and

(b) in other common areas in the facility where one or more children are likely to come into contact with dust. In lieu of the collection and analyses under this subitem, interior window sills, window troughs, and floors may be assumed to have lead-contaminated dust on them.

B. Except as provided in item C, collecting and analyzing drinking water is not required but may be performed as part of a lead risk assessment.

C. If the lead risk assessment fails to identify a source of lead exposure from the paint, dust, bare soil, or other sources for an elevated blood lead level case, water sampling must confirm that the drinking water does not exceed the standard in part 4761.2510, subpart 4. Water sampling must be conducted using documented methodologies.

Subp. 4. **Reports.** Within 30 days of completing the lead risk assessment, the lead risk assessor must write a report containing the information described in part 4761.2680, subparts 1 and 2.

Statutory Authority: *MS s 144.9508*

History: *29 SR 531*

4761.2580 LEAD HAZARD REDUCTION NOTIFICATION.

Subpart 1. **General requirements.** The certified lead firm or lead supervisor conducting lead hazard reduction, or a property owner who will personally perform lead hazard reduction in or on the owner's property, must notify the commissioner of each project to be performed in whole or in part by the certified lead firm, lead supervisor, or property owner.

Subp. 2. **Notification requirements.**

A. The commissioner must receive from the certified lead firm, lead supervisor, or property owner a completed notification on a form provided by the commissioner.

B. The notice must be received by the commissioner at least five calendar days before the beginning of a project, except as provided in part 4761.2600.

C. The notice must be mailed, faxed, delivered, or electronically submitted to the commissioner.

D. The notice must also be provided to the assessing agency if lead hazard reduction was ordered by an assessing agency other than the Department of Health.

Subp. 3. **Work schedule.** A certified lead firm, lead supervisor, or property owner performing lead hazard reduction must ensure that work is performed only during dates and work shifts for which the commissioner was notified.

Statutory Authority: *MS s 144.9508*

History: *29 SR 531*

4761.2590 AMENDING NOTIFICATIONS.

A. A certified lead firm, lead supervisor, or property owner performing lead hazard reduction must submit to the commissioner an amendment, on a form provided by the commissioner, for any change in the information reported to the commissioner

on the original notice under part 4761.2580 or any subsequent amendment received after the original notice.

B. All amendments, except for changes in work shift times and dates, must be in writing, via mail, delivery, facsimile, or on an electronic format provided by the commissioner, with the changes clearly indicated.

C. Amendments to the work dates and shift times must be telephoned, faxed, mailed, delivered, or electronically submitted to the commissioner.

D. The commissioner must receive all amendments at the time it is determined the information on the notification will change.

Statutory Authority: *MS s 144.9508*

History: *29 SR 531*

4761.2600 EMERGENCY PROJECT NOTICE.

Subpart 1. **Notice requirement.**

A. Except as otherwise provided in this part, an emergency project must be reported to the commissioner according to part 4761.2580.

B. For an emergency project that begins between 8:00 a.m. and 4:30 p.m. on the days the Department of Health is open, the commissioner must receive from the certified lead firm, lead supervisor, or property owner a completed notice before the project begins. The notice must be mailed, faxed, delivered, or submitted electronically.

C. For an emergency project that begins at a time other than that specified in item B, the commissioner must receive from the certified lead firm, lead supervisor, or property owner a completed notice as soon as possible, but no later than 4:30 p.m. the next day that the department is open. The notice must be mailed, faxed, delivered, or submitted electronically.

Subp. 2. **Amending emergency project notices.** Amendments to an emergency project notice must be made according to part 4761.2590, items B to D.

Statutory Authority: *MS s 144.9508*

History: *29 SR 531*

4761.2610 PROJECT RECORDS.

Subpart 1. **On-site records.** A certified lead firm, lead supervisor, or property owner performing lead hazard reduction must ensure that the following records are readily available for review by the commissioner or the assessing agency with jurisdiction at the work site during the entire period of the project:

A. a daily sign-in and sign-out log that identifies individuals performing lead hazard reduction by name, license number, if applicable, and the time on and off site; and

B. a copy of the occupant protection plan as developed according to part 4761.2615.

Subp. 2. **Record retention.** A certified lead firm, lead supervisor, or property owner must retain the records in subpart 1 for three years after completing the project.

Statutory Authority: *MS s 144.9508*

History: *29 SR 531*

4761.2615 OCCUPANT PROTECTION PLAN AND WARNING SIGNS.

A. A lead supervisor, lead project designer, or property owner performing lead hazard reduction must prepare an occupant protection plan to protect the building occupants from exposure to any lead-based paint hazards. The plan must be specific to the affected property where the project is occurring. An occupant protection plan is not required if an affected property is completely unoccupied while regulated lead work is performed.

B. The plan must include:

(1) the name, if any, and address of the affected property;

(2) the name of the certified lead firm, lead supervisor, or property owner conducting the lead hazard reduction;

(3) a list of the work areas;

(4) a description of the lead hazard reduction methods used in each work area; and

(5) a description of the measures to be taken to protect the occupants from lead exposure during the lead hazard reduction.

C. The lead supervisor or property owner must:

(1) inform the lead workers, or any adult relatives of the property owner, of the occupant protection plan;

(2) make the occupant protection plan available according to part 4761.2610, subpart 1, item B; and

(3) give a copy of the occupant protection plan to an adult currently residing in the residence to inform the adult of the work areas that will not be accessible to occupants until lead clearance sample results are achieved.

D. If any information changes during the project, the new information must be added to the occupant protection plan, as it becomes known.

E. The certified lead firm or the lead supervisor must provide copies of the plan to the person who contracted for the services.

F. Warning signs must plainly warn individuals that lead hazard reduction is in progress and not to enter. Signs must comply with Code of Federal Regulations, title 29, section 1926.62, paragraph (m).

Statutory Authority: *MS s 144.9508*

History: *29 SR 531*

4761.2620 PROHIBITED PRACTICES FOR LEAD HAZARD REDUCTION.

The following work practices are prohibited during any lead hazard reduction:

A. open-flame burning or torching;

B. heat guns operating at more than 700 degrees Fahrenheit;

C. chemical strippers containing methylene chloride;

D. all powered-machine methods unless the resulting dust is immediately captured by HEPA filters;

E. dry scraping, dry sanding, and dry wire brushing, except for removing deteriorated paint around electrical outlets, electrical fixtures, or other areas totaling no more than:

(1) two square feet in any one room;

(2) 20 square feet on exterior surfaces; or

(3) ten percent of the surface area on trim around doors and windows or other small building components;

F. dry sweeping;

G. dry vacuuming, unless a vacuum cleaner with a HEPA filter that is specifically designated for hazardous materials is used; and

H. wet/dry vacuum cleaners used for any purpose other than to collect wash and rinse water during lead hazard reduction within a containment.

Statutory Authority: *MS s 144.9508*

History: *29 SR 531*

4761.2625 ABRASIVE AND WATER BLASTING METHODS FOR LEAD HAZARD REDUCTION.

A. Abrasive blasting and water blasting are prohibited except as provided in items B and C.

B. Exterior water blasting, abrasive blasting, wet abrasive blasting, modified-wet abrasive blasting, and vacuum blasting must be performed:

(1) in compliance with parts 4761.2650 and 7025.0010 to 7025.0080; and

(2) in a manner that prevents water and debris from leaving the property and that provides for filtration of dust and debris from any water.

C. Interior abrasive blasting and modified-wet abrasive blasting are allowed only:

(1) on radiators and other metal building components if the work area is totally enclosed during the blasting according to part 4761.2645; and

(2) in masonry or stone basements if the work is conducted according to part 4761.2645.

Statutory Authority: *MS s 144.9508*

History: *29 SR 531*

4761.2630 METHODS FOR REMOVING INTACT BUILDING COMPONENTS.

Subpart 1. **Applicability; general requirements.** The methods in this part must be used when performing lead hazard reduction to remove intact building components with intact lead-based paint. The removal methods must not disturb the paint or create paint chips or dust. Removing intact building components includes, but is not limited to, removing only a door or window sash from a door or window frame. All work must be completed in one working day.

Subp. 2. **Access required.** A person must allow the commissioner to have access to a work site, according to Minnesota Statutes, section 144.99, subdivision 2, while the person performs regulated lead work.

Subp. 3. **Work area preparation.** Before lead hazard reduction begins, the floor or ground surface must be cleaned using a vacuum with a HEPA filter to remove all visible paint chips that are present beneath the affected work surface and extending at least five feet beyond the affected surface in all directions.

Subp. 4. **Residents.** If residents remain in the residence while work is ongoing, the residents must be provided with lead-safe passage to a bathroom, at least one living area, and an entry and egress route. Unless actually performing lead hazard reduction, residents must not be allowed in the work area until all work is completed, no visible dust or debris remains in the work area, the clearance inspection is passed, and clearance dust samples are collected. The residents must be informed to avoid the work area until clearance results are below the standards under part 4761.2510, subpart 2.

Subp. 5. **Warning signs and barriers.**

A. Warning signs as required under part 4761.2615, item F, must be placed at the entry to the rooms or work areas where lead hazard reduction is actually occurring.

B. Temporary fencing or barrier tape must be erected at a ten-foot perimeter around an exterior work area to keep out unauthorized persons. The barrier distance may be less if the distance to an adjacent building or sidewalk is less than ten feet.

Subp. 6. **Decontamination procedures.**

A. The certified lead firm, lead supervisor, or property owner performing lead hazard reduction must provide proper washing facilities for workers to thoroughly wash hands, face, and other exposed body surfaces.

B. If existing facilities are used at the work site to decontaminate, the certified lead firm, lead supervisor, or property owner must:

(1) provide workers with soap and disposable towels; and

(2) clean the existing facility until no visible dust, dirt, or debris remains each day before leaving the site.

Subp. 7. **Cleaning procedures and inspection.** When lead hazard reduction is completed, the certified lead firm, lead supervisor, or property owner must:

A. inspect all work surfaces where lead hazard reduction was conducted and visually determine that no suspect lead dust or debris remains in the work area;

B. clean all surfaces within the work area using a vacuum with a HEPA filter or using any other EPA-documented methodology under part 4761.2000, subpart 15, item K, and extend the cleaning beyond the perimeter of the work area if visible dust and debris exists from the lead hazard reduction;

C. clean all floors and ground surfaces in adjacent areas that were used for pathways to the work area and any areas used to store equipment and waste materials using a vacuum with a HEPA filter;

D. visually reinspect all areas referenced in items A to C. If visible dust or debris remains, the cleaning procedures required under items B and C must be repeated; and

E. conduct clearance inspections according to part 4761.2670.

Statutory Authority: *MS s 144.9508*

History: *29 SR 531*

4761.2640 METHODS FOR REMOVING INTERIOR BUILDING COMPONENTS AND SMALL AREAS OF DETERIORATED PAINT.

Subpart 1. **Applicability.** The methods in this part must be used when all work is completed in one working day and when:

A. an assessing agency issues lead hazard reduction orders for an affected property for painted surfaces or for removing lead-contaminated dust on surfaces where the affected surfaces are no more than:

(1) two square feet per room;

(2) 20 square feet on an exterior surface; or

(3) ten percent of the surface area on trim around doors, windows, or other small building components; or

B. removing entire building components. Removing entire building components includes, but is not limited to, removing windows and doors and associated components.

Subp. 2. **Access required.** A person must allow the commissioner to have access to a work site, according to Minnesota Statutes, section 144.99, subdivision 2, while the person performs regulated lead work.

Subp. 3. **Work area preparation.**

A. A work area must be prepared according to items B to E before lead hazard reduction begins.

B. The heating, ventilating, and air conditioning systems to an interior work area must be restricted.

C. All objects that are contaminated or suspected of being contaminated with lead-based paint chips or lead-contaminated dust must be either:

(1) vacuumed with a HEPA-filtered vacuum;

(2) wet wiped; or

(3) disposed of as lead-contaminated waste.

D. All movable objects that are within five feet of the affected work surface must be removed.

E. The floor or ground surface must first be cleaned using a vacuum with a HEPA filter to remove all visible paint chips that are present beneath the affected work surface. The cleaning of the floor or ground surface must extend at least five feet beyond the affected surface in all directions.

Subp. 4. **Installing work area barriers.**

A. Objects that cannot be removed from the work area and remain within five feet of the work area must be covered and secured with at least one layer of one-mil plastic sheeting.

B. Any air ducts or other openings within five feet of the work area must be sealed with at least one layer of one-mil plastic sheeting and secured to achieve an airtight seal.

C. At least one single layer of six-mil plastic sheeting must be placed beneath the affected work surface and extend at least five feet beyond the affected surface in all directions. The plastic sheeting must be secured to prevent movement.

D. If exterior windows or doors or associated components are to be treated or replaced from the interior, at least two layers of plastic sheeting must be attached to the exterior wall to cover the window or door opening. If the window or door being treated has an intact and operational storm window or door that will not be disturbed during the window or door treatment, no exterior plastic sheeting is required.

E. Temporary fencing or barrier tape must be erected at a ten-foot perimeter around an exterior work area to keep out unauthorized persons. The barrier distance may be less if the distance to an adjacent building or sidewalk is less than ten feet.

Subp. 5. **Warning signs.** Warning signs as required under part 4761.2615, item F, must be placed at the entry to the rooms or work areas where lead hazard reduction is actually occurring.

Subp. 6. **Residents.** If residents remain in the residence while work is ongoing, the residents must be provided with lead-safe passage to a bathroom, at least one living area, and an entry and egress route. Unless actually performing lead hazard reduction, residents must not be allowed in the work area until all work is completed, no visible dust or debris remains in the work area, the clearance inspection is passed, and clearance dust samples are collected. The residents must be informed to avoid the work area until clearance results are below the standards under part 4761.2510, subpart 2.

Subp. 7. **Decontamination procedures.**

A. The certified lead firm, lead supervisor, or property owner performing lead hazard reduction must provide proper washing facilities for workers to thoroughly wash hands, face, and other exposed body surfaces.

B. If existing facilities are used at the work site to decontaminate, the certified lead firm, lead supervisor, or property owner must:

(1) provide workers with soap and disposable towels; and

(2) clean the existing facility until no visible dust, dirt, or debris remains each day before leaving the site.

Subp. 8. **Cleaning procedures and inspection.** When lead hazard reduction is completed, the certified lead firm, lead supervisor, or property owner must:

A. inspect all work surfaces where lead hazard reduction was conducted and visually determine that no dust, debris, or deteriorated paint remains;

B. remove plastic sheeting beneath the work area and dispose of the plastic sheeting as lead-contaminated waste;

C. clean all interior surfaces within the work area using a vacuum with a HEPA filter, then wet wipe and clean a second time using a vacuum with a HEPA filter or clean using any other EPA-documented methodology under part 4761.2000, subpart 15, item K, and extend the cleaning beyond the perimeter of the work area if visible dust and debris exists from the lead hazard reduction;

D. clean all floors in adjacent areas used as pathways to the work area and any areas used to store equipment and waste materials. Cleaning must be conducted using a vacuum with a HEPA filter and wet wiping, or using any other EPA-documented methodology under part 4761.2000, subpart 15, item K;

E. clean all exterior surfaces within the work area using a vacuum with a HEPA filter and extend the cleaning beyond the perimeter of the work area in all directions in which visible dust and debris exists from the lead hazard reduction;

F. clean all exterior ground surfaces that were used for pathways to the work area and any areas used to store equipment and waste materials using a vacuum with a HEPA filter, if visible paint chips are observed;

G. reinspect all areas referenced in items A to F. If visible dust or debris remains, the cleaning procedures under items C to F must be repeated;

H. if surface coatings were removed from building components, paint or seal the surfaces;

I. remove plastic sheeting from vents, other openings, and immovable objects, dispose of the plastic sheeting as lead-contaminated waste, inspect the areas and items for dust and debris, and if dust or debris is observed, clean surfaces using a vacuum with a HEPA filter; and

J. conduct clearance inspections according to part 4761.2670.

Statutory Authority: *MS s 144.9508*

History: *29 SR 531*

4761.2645 METHODS FOR REMOVING LARGE AREAS OF INTERIOR PAINT.

Subpart 1. **Applicability.** The methods in this part must be used when performing lead hazard reduction of interior painted surfaces greater than ten percent of the surface area when working on trim around doors, windows, or other small building components, or greater than two square feet per room when working on other surfaces.

Subp. 2. **Access required.** A person must allow the commissioner to have access to a work site, according to Minnesota Statutes, section 144.99, subdivision 2, while the person performs regulated lead work.

Subp. 3. **Containment preparation.**

A. A containment must be prepared according to this subpart before lead hazard reduction begins.

B. The heating, ventilating, and air conditioning systems to the containment must be restricted.

C. All objects that are contaminated or suspected of being contaminated with lead-based paint chips or lead-contaminated dust must be:

(1) vacuumed with a HEPA-filtered vacuum;

(2) wet wiped; or

(3) disposed of as lead-contaminated waste.

D. All movable objects must be removed from the containment.

E. The floor of the containment must be cleaned using a vacuum with a HEPA filter to remove all visible paint chips.

Subp. 4. **Installing containment barriers.**

A. Objects that cannot be removed from the containment must be covered and secured with at least one layer of one-mil plastic sheeting.

B. At least one layer of six-mil plastic sheeting must be placed over the entire floor of the containment. Plastic sheeting must be sealed to the perimeter of the containment where the walls and floors meet to prevent lead contamination of the floor surface.

C. Temporary barriers of no less than six-mil plastic sheeting may divide a room to restrict the size of the room.

D. Any openings to the containment must be covered with at least one-mil plastic sheeting to prevent the escape of dust and debris unless the opening can be secured from inside the containment.

E. All heating, ventilating, and air conditioning vents within the containment must be sealed with an airtight seal of at least one-mil plastic sheeting.

F. If exterior windows, doors, or associated components are to be treated or replaced from the interior, two layers of plastic sheeting must be attached to the exterior wall to cover the window or door opening. If the window or door being treated

has an intact and operational storm window or door that will not be disturbed during the window or door treatment, no exterior plastic is required.

Subp. 5. **Residents.**

A. Residents who are not personally performing lead hazard reduction must not be present in the residence while work is ongoing.

B. Residents may return to the residence for overnight occupancy when lead hazard reduction ceases for the day and cleanup is completed in the containment.

C. Returning residents must be provided with lead-safe passage to a bathroom, at least one living area, and an entry and egress route.

D. Residents must be restricted from gaining access to the containment until all work is completed, the clearance inspection is conducted according to part 4761.2670, and clearance dust sample results meet the standards under part 4761.2510, subpart 2.

Subp. 6. **Warning signs.** Warning signs as required in part 4761.2615, item F, must be placed at all entries to the residence and all entries to containments within the residence. Signs must remain posted overnight if work is to continue the following day.

Subp. 7. **Decontamination procedures.**

A. The certified lead firm, lead supervisor, or property owner performing the lead hazard reduction must provide proper washing facilities for workers to thoroughly wash hands, face, and other exposed body surfaces.

B. If existing facilities are used at the work site to decontaminate, the certified lead firm, lead supervisor, or property owner must:

(1) provide workers with soap and disposable towels; and

(2) clean the existing facility until no visible dust, dirt, or debris remains each day before leaving the site.

Subp. 8. **Daily cleaning procedures.**

A. This subpart applies if work is to resume the next day.

B. If plastic floor sheeting is left in place for the next day, it must be cleaned of visible dust and debris using a vacuum with a HEPA filter or using any other EPA-documented methodology under part 4761.2000, subpart 15, item K. Holes in the plastic must be sealed.

C. If plastic floor sheeting is removed, it must be removed in a way to contain all lead-contaminated dust and debris and discarded as lead-contaminated. The exposed floor surface must be cleaned using a vacuum with a HEPA filter or using any other EPA-documented methodology under part 4761.2000, subpart 15, item K.

D. All floors in adjacent areas, areas used as pathways to the containment, and any areas used to store equipment and waste materials must be cleaned using a vacuum with a HEPA filter and wet wiped or cleaned using any other EPA-documented methodology under part 4761.2000, subpart 15, item K.

Subp. 9. **Final cleaning procedures and inspection.**

A. When lead hazard reduction is completed, the certified lead firm, lead supervisor, or property owner must:

(1) inspect all work surfaces where lead hazard reduction was conducted and visually determine that no dust, debris, or deteriorated paint remains;

(2) remove all plastic sheeting from the floor and window and door openings and dispose of plastic sheeting as lead-contaminated waste;

(3) clean all surfaces in the containment using a vacuum with a HEPA filter and wet wipe and clean a second time using a vacuum with a HEPA filter or clean using any other EPA-documented methodology under part 4761.2000, subpart 15, item K;

(4) clean all floors in adjacent areas used as pathways to the containment and any areas used to store equipment and waste materials. Cleaning must be

conducted using a vacuum with a HEPA filter and wet wipe or using any other EPA-documented methodology under part 4761.2000, subpart 15, item K;

(5) if windows or doors were treated or replaced and the plastic sheeting on the exterior was breached, wet wipe that side of the window or door or clean using any other EPA-documented methodology under part 4761.2000, subpart 15, item K;

(6) reinspect all areas referenced in subitems (1)to (5). If visible dust or debris is observed, the cleaning procedures under subitems (3) to (5) must be repeated until no visible dust or debris remains;

(7) if paint was removed from building components, paint or seal the surfaces;

(8) remove all remaining plastic sheeting and dispose of it as lead-contaminated waste and inspect the areas and items for dust and debris. If dust or debris is observed, surfaces must be cleaned using a vacuum with a HEPA filter; and

(9) conduct clearance inspections according to part 4761.2670.

B. A wet/dry vacuum may be used instead of a vacuum with a HEPA filter under this subpart, but must be used only to collect wash and rinse water from hard-surface floors. A wet/dry vacuum may not be used to vacuum a dry floor surface, ground surface, or carpeting.

Statutory Authority: *MS s 144.9508*

History: *29 SR 531*

4761.2650 METHODS FOR REMOVING LARGE AREAS OF EXTERIOR PAINT.

Subpart 1. **Applicability.** The methods in this part must be used when performing lead hazard reduction on exterior painted surfaces of greater than 20 square feet or greater than ten percent of the surface area on exterior trim around doors, windows, or other small building components.

Subp. 2. **Access required.** A person must allow the commissioner to have access to a work site, according to Minnesota Statutes, section 144.99, subdivision 2, while the person performs regulated lead work.

Subp. 3. **Work area preparation.**

A. The work area must be prepared according to this subpart before lead hazard reduction begins.

B. If paint chips are present on the ground surface beneath the affected work surface, the ground surface must be cleaned using a vacuum with a HEPA filter to remove all visible paint chips. The cleaning of the ground surface must extend at least ten feet beyond the affected work surface in all directions.

C. All windows and doors in the affected property must be kept closed on the side where work is occurring until the final cleaning under subpart 9 is completed.

D. Residents of adjacent buildings that are within 20 feet of the work area must be notified of the lead hazard reduction to be done. Doors and windows of the adjacent buildings must be kept closed on the side that is adjacent to where the lead hazard reduction is occurring.

E. All movable objects that are within 20 feet of the work area must be moved.

Subp. 4. **Installing work area barriers.**

A. Objects that cannot be removed from the work area must be covered and secured with at least one-mil plastic sheeting.

B. At least one layer of six-mil plastic sheeting must be spread on the ground to extend at least ten feet in all directions from the surface being disturbed or extend at least 20 feet if the structure is more than one story in height, unless an adjacent building or other obstacle interferes. The plastic sheeting must be attached to the side of the building so that no gaps exist between the plastic and the building. The plastic sheeting must be secured in place. The edges of the plastic sheeting must be raised to form a catch basin to protect the ground surface from runoff in the event of

precipitation. Ladder feet must not puncture the plastic sheeting unless it is necessary to ensure that the ladder is safely placed in a stable position.

C. If windows, doors, or associated components are to be treated or replaced from the outside, one layer of six-mil plastic sheeting must be attached to the interior wall to cover the window or door opening.

D. All bushes, shrubs, and other vegetation that are four feet tall or less and that are within 20 feet of the work area must be covered with at least one-mil plastic sheeting that is secured in place.

E. Temporary fencing or barrier tape must be erected at a 20-foot perimeter around the work area to keep out unauthorized persons. The barrier distance may be less if the distance to an adjacent building or other obstacle is less than 20 feet.

Subp. 5. **Residents.** Residents must not be present in the work area. Residents may return to the work area after daily cleanup is completed.

Subp. 6. **Warning signs.** Warning signs as specified in part 4761.2615, item F, must be posted on the building and at the 20-foot perimeter around the work area. The distance may be less if the distance to an adjacent building or other obstacle is less than 20 feet.

Subp. 7. **Decontamination procedures.**

A. The certified lead firm, lead supervisor, or property owner performing the lead hazard work must provide proper washing facilities for workers to thoroughly wash hands, face, and other exposed body surfaces.

B. If existing facilities are used at the work site to decontaminate, the certified lead firm, lead supervisor, or property owner must:

(1) provide workers with soap and disposable towels; and

(2) clean the existing facility until no visible dust, dirt, or debris remains each day before leaving the site.

Subp. 8. **Work condition restrictions.**

A. Work may not start if wind speeds exceed 20 miles per hour or if it is raining.

B. Work must be discontinued and the work area cleaned according to subpart 9 if wind speeds start to exceed 20 miles per hour or when rain begins.

Subp. 9. **Daily and final cleaning procedures.** At the end of each workday and when lead hazard reduction is completed, the certified lead firm, lead supervisor, or property owner must:

A. inspect all work surfaces where lead hazard reduction was conducted and visually determine that no deteriorated paint remains;

B. remove all plastic sheeting on the ground and covering immovable objects and bushes in such a manner as to contain all debris and dispose of the plastic sheeting as lead-contaminated waste. Plastic sheeting may not be reused or left out overnight;

C. if windows, doors, or associated components are treated or replaced and the interior plastic sheeting was breached, clean the interior side of the window or door and floor area using a vacuum with a HEPA filter and wet wipe, or clean using any other EPA-documented methodology under part 4761.2000, subpart 15, item K;

D. if the plastic sheeting on the ground is punctured or otherwise breached, clean the ground of all visible paint debris;

E. inspect all exterior building components with horizontal surfaces that may have been exposed to dust and debris from the lead hazard reduction and clean the surfaces of visible dust and debris using a vacuum with a HEPA filter and wet wipe or clean using any other EPA-documented methodology under part 4761.2000, subpart 15, item K;

F. inspect all ground surfaces on the property, the neighboring property, and any areas used to store equipment and waste materials for visible dust and debris

generated by the lead hazard reduction and, if suspect dust and debris is observed, clean the ground surfaces; and

G. conduct clearance inspections according to part 4761.2670.

Statutory Authority: *MS s 144.9508*

History: *29 SR 531*

4761.2655 ENCAPSULATION OF LEAD-BASED PAINT.

A. Materials to be used for encapsulation of lead-based paint must meet all documented methodologies and have from the manufacturer of the encapsulant material:

(1) a written, 20-year warranty for any defects in the encapsulant material;

(2) a recommended maintenance plan for the encapsulant; and

(3) documentation that the material has been determined by an independent laboratory to meet the criteria of the American Society for Testing and Materials for the specified type of encapsulant.

B. Encapsulants must be applied as specified in documented methodologies.

C. A lead risk assessor or lead supervisor must verify that the surface to be encapsulated will successfully pass the patch and adhesion tests described in HUD's Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing (1995). The guidelines are incorporated by reference under part 4761.2000, subpart 15, item H. Preparation of a surface for the patch and adhesion tests does not constitute lead hazard reduction.

D. The property owner or lead supervisor is responsible for determining that the surface to be encapsulated:

(1) is structurally sound;

(2) is not an impact surface or a friction surface in normal usage; and

(3) will support the application of an encapsulant.

Statutory Authority: *MS s 144.9508*

History: *29 SR 531*

4761.2660 METHODS FOR LEAD HAZARD REDUCTION FOR SOIL.

A. Bare soil that contains lead in a concentration of at least 100 parts per million but less than 5,000 parts per million must be removed or covered as follows:

(1) if soil is to be covered with concrete, asphalt, or other similar impervious material, the soil must first be compacted before covering;

(2) if soil is to be covered with sod or other living material:

(a) the soil must be removed to a depth that eliminates visible paint chips and debris; and

(b) the soil must be tilled and raked before covering with sod or other living material; and

(3) if soil is to be covered with sand, wood chips, or other nonliving, permeable material, the soil must be removed to a depth that eliminates visible paint chips and debris.

B. Bare soil that contains lead in a concentration of at least 5,000 parts per million must be:

(1) removed; or

(2) compacted and then covered with concrete, asphalt, or other impervious material.

C. The lead concentration in any replacement soil must not exceed 25 parts per million according to Minnesota Statutes, section 144.9508, subdivision 2, paragraph (c).

D. Erosion control methods must be used during all lead hazard reduction. The final surface must provide erosion control.

E. If soil is removed and left uncovered, the newly exposed soil must be sampled according to documented methodologies to determine that the lead concentration is below the soil standard under part 4761.2510, subpart 3.

Statutory Authority: *MS s 144.9508*

History: *29 SR 531*

4761.2665 STORAGE OF LEAD-CONTAMINATED DEBRIS.

All lead-contaminated debris generated by regulated lead work must be stored as it is generated in a closed container or in sealed plastic bags or sheeting of at least six-mil or equivalent thickness. Containers for lead-contaminated debris that are left on site overnight may not be stored in the residence if occupied. Debris must be stored in a locked and covered dumpster where the cover is securely fastened or stored in a secure area at the end of each working day.

Statutory Authority: *MS s 144.9508*

History: *29 SR 531*

4761.2670 CLEARANCE INSPECTIONS.

Subpart 1. **General requirements.**

A. If lead hazard reduction was ordered by an assessing agency, the assessing agency's lead inspector or lead risk assessor must perform the final clearance inspection.

B. A lead inspector or lead risk assessor who is not directly involved with the lead hazard reduction must conduct all nonordered clearance inspections.

C. A lead sampling technician may do clearance inspections only as specified in Minnesota Statutes, section 144.9501, subdivision 22b.

D. The lead hazard reduction is successfully completed when a clearance inspection is performed according to subparts 2 and 3 and analyses of samples according to subpart 4 demonstrates that the lead levels in part 4761.2510 are not exceeded.

E. A clearance inspection consists of a visual inspection according to subpart 2 and clearance sampling according to subpart 3.

Subp. 2. **Visual inspection.**

A. A visual determination must be made to determine that no deteriorated paint remains in areas where interior or exterior lead hazard reduction was conducted.

B. After interior lead hazard reduction is complete, all surfaces within the work area, the containment, adjacent areas, areas used as pathways, areas used to store equipment and waste materials, and any area within the affected property that was used for worker decontamination must be free of visible dust, paint chips, and debris. If visible dust and debris is observed, the person performing the lead hazard reduction must be notified that surfaces must be recleaned according to part 4761.2630, subpart 7, items B and C; 4761.2640, subpart 8, items C to F; or 4761.2645, subpart 9. Cleaning must be conducted until no visible dust or debris remains in work areas, containments, adjacent areas, pathways, storage areas, or worker decontamination areas.

C. After exterior lead hazard reduction, the ground surface must be free of visible paint chips. All other above-grade horizontal building surfaces and any area within the affected property that was used for worker decontamination must also be free of visible dust and paint chips. If visible dust, paint chips, or debris is observed, the person performing the lead hazard reduction must be notified that surfaces must be recleaned as specified in part 4761.2650, subpart 9, items E and F.

Subp. 3. **Clearance sampling.**

A. All dust sampling for clearance purposes must follow documented methodologies.

B. Interior clearance samples must be collected at least one hour after the cleaning procedures in part 4761.2630, subpart 7; 4761.2640, subpart 8; or 4761.2645, subpart 9, are completed.

C. To perform clearance sampling in an affected property where work was conducted as specified in parts 4761.2630 and 4761.2640, dust samples must be collected in the following areas:

(1) at least one dust sample must be collected from an interior window sill or window trough within five feet of where lead hazard reduction was conducted, if present. If the lead hazard reduction was conducted in more than one room, the sampling of sills and troughs must be alternated between rooms. Additional samples may be collected as single or composite samples;

(2) at least one dust sample must be collected from the floor within five feet of where lead hazard reduction was conducted. Additional samples may be collected as single or composite samples; and

(3) at least one dust sample must be collected from the floor immediately outside the entrance to the work area.

D. To perform clearance sampling in a residence where the work was conducted according to part 4761.2645, the dust samples must be collected in the following areas:

(1) one dust sample must be collected from one window sill, if present. Additional samples may be collected as single or composite samples;

(2) one dust sample must be collected from one window trough, if present. Additional samples may be collected as single or composite samples;

(3) single dust samples or a composite dust sample must be collected from the floors of at least four distinct rooms, which may include hallways and stairwells. If less than four rooms exist, single dust samples or a composite sample must be collected from all of the rooms, which may include hallways or stairwells; and

(4) at least one dust sample must be collected from the floor immediately outside the entrance to the containment.

E. To perform clearance sampling in a multifamily residence, school, or child-occupied facility where the work was conducted according to part 4761.2630, 4761.2640, or 4761.2645, the dust samples must be collected:

(1) in the same locations described in item C or D, as appropriate;

(2) from floors of pathways used by the lead hazard reduction workers; and

(3) in areas used for waste or equipment storage or decontamination.

F. To perform clearance sampling after exterior lead hazard reduction was conducted, a composite soil sample must be collected and analyzed from each area of bare soil:

(1) if work was conducted according to part 4761.2650; or

(2) within five feet of the affected work surface if work was conducted according to part 4761.2640.

Subp. 4. **Clearance results.**

A. Soil and single-surface dust sample results must be no greater than the lead levels for soil and dust under part 4761.2510, subparts 2 and 3.

B. Composite dust sample results must be no greater than the dust lead level under part 4761.2510, subpart 2, which is divided by one-half of the number of subsamples that make up the composite sample.

C. If sample results do not meet the standards according to items A and B, the building components or bare soil represented by the failed sample must be recleaned or additional soil removed and retested until clearance levels are met.

Statutory Authority: *MS s 144.9508*

History: *29 SR 531*

4761.2680 CONTENT OF REPORTS.

Subpart 1. **General requirements.** Lead inspection reports, lead hazard screen reports, lead risk assessment reports, and clearance inspection reports must contain the following information for the affected property:

A. the date that the lead inspection, lead hazard screen, lead risk assessment, or clearance inspection was performed;

B. the address of the affected property;

C. the date that the affected property was constructed;

D. the apartment or room numbers, if applicable;

E. the name, address, and telephone number of the owner of the affected property;

F. the name, signature, and license number, if applicable, of each lead inspector, lead risk assessor, or lead sampling technician who conducted the lead inspection, lead hazard screen, lead risk assessment, or clearance inspection;

G. if applicable, the name, address, telephone number, and certification number of the certified lead firm, agency, or company employing each lead inspector, lead risk assessor, or lead sampling technician;

H. a statement of the presence and location of any visible or assumed lead-contaminated dust and debris;

I. the testing methods and devices or sampling procedures employed for analyses of lead content, including quality control data and the brand, model, and serial number of the x-ray fluorescence analyzer, if used;

J. identify and specify the locations of each building component, dust, bare soil, and any other material tested for or assumed to contain lead in amounts equal to or greater than the amounts specified in part 4761.2510, subparts 1, 2, and 3;

K. all analytical results including the units of measurement;

L. the name, address, telephone number, and EPA identification number of each laboratory that conducted lead sample analyses;

M. the results of any other inspections or analyses that were used to determine the presence of lead hazards in the affected property and a description of the methods used; and

N. a statement that requires that the actual report or a summary of the report be provided to new purchasers and lessees or tenants as required in Code of Federal Regulations, title 24, section 35.88, and title 40, section 745.107.

Subp. 2. **Lead risk assessment reports.** In addition to the information required under subpart 1, lead risk assessment reports must also contain:

A. a description of the location, type, and severity of actual or potential lead hazards;

B. a description of interim controls or abatement options for each actual or potential lead hazard with recommendations for prioritizing reduction of each lead hazard; and

C. a recommended schedule for maintenance and monitoring if using an encapsulant or enclosure. If the manufacturer of the encapsulant or enclosure provides a recommended schedule for maintenance and monitoring, a copy must be included with the report.

Subp. 3. **Lead hazard reduction reports.** A lead supervisor or lead project designer, or a property owner who will personally perform lead hazard reduction in or on the owner's property, must prepare a written report for each lead hazard reduction project that includes:

A. the address of the affected property;

B. the start and completion dates of the lead hazard reduction;

C. the name, address, telephone number, and Minnesota certification number of the certified lead firm that participated in the lead hazard reduction project, if applicable;

D. the name of each lead supervisor assigned to the project or the name of the property owner, or adult relative, who performed lead hazard reduction in or on the owner's property;

E. the occupant protection plan;

F. a description of the lead hazard reduction methods used;

G. the location of the rooms or building components where lead hazard reduction occurred;

H. the reasons for selecting particular lead hazard reduction methods for each building component;

I. any suggested monitoring of encapsulants or enclosures;

J. a copy of the clearance inspection report;

K. the date and the signature of the lead supervisor, lead project designer, or property owner who completed the report; and

L. a photocopy of the lead license if a licensed lead supervisor or project designer completed the report.

Subp. 4. **Report retention.**

A. Reports required under this part must be retained for three years by the person completing the report.

B. The person must notify the commissioner in writing before ceasing operations. The notice must indicate where the reports will be maintained for the required retention time.

Statutory Authority: *MS s 144.9508*

History: *29 SR 531*

4761.2690 ENFORCEMENT.

A. Property owners shall comply with lead orders issued under Minnesota Statutes, section 144.9504, subdivision 5, within 60 days of when the order is issued or within 60 days of when weather permits for exterior work. Property owners are subject to enforcement actions if compliance is not met.

B. Parts 4761.2000 to 4761.2700 are subject to the Health Enforcement Consolidation Act, Minnesota Statutes, sections 144.989 to 144.993.

Statutory Authority: *MS s 144.9508*

History: *29 SR 531*

4761.2700 VARIANCES.

The commissioner shall not grant a variance to parts 4761.2000, 4761.2100, 4761.2200, 4761.2220, and 4761.2510. Variances for the remaining rule parts shall be considered only according to the procedures and criteria in parts 4717.7000 to 4717.7050.

Statutory Authority: *MS s 144.9508*

History: *29 SR 531*