

CHAPTER 213—S.F.No. 801

An act relating to health; recodifying and modifying provisions relating to lead abatement law; amending Minnesota Statutes 1994, sections 16B.61, subdivision 3; 116.87, subdivision 2; 144.99, subdivision 1; 268.92, subdivisions 1, 2, 3, 4, 5, 6, 7, 8, 10, and by adding a subdivision; and 462A.05, subdivision 15c; proposing coding for new law in Minnesota Statutes, chapter 144; repealing Minnesota Statutes 1994, sections 115C.082, subdivision 2; 144.871; 144.872; 144.873; 144.874; 144.876; 144.877; 144.8771; 144.878; 144.8781; 144.8782; and 144.879.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

ARTICLE 1**LEAD HAZARD REDUCTION PROGRAM**

Section 1. Minnesota Statutes 1994, section 16B.61, subdivision 3, is amended to read:

Subd. 3. **SPECIAL REQUIREMENTS.** (a) **SPACE FOR COMMUTER VANS.** The code must require that any parking ramp or other parking facility constructed in accordance with the code include an appropriate number of spaces suitable for the parking of motor vehicles having a capacity of seven to 16 persons and which are principally used to provide prearranged commuter transportation of employees to or from their place of employment or to or from a transit stop authorized by a local transit authority.

(b) **SMOKE DETECTION DEVICES.** The code must require that all dwellings, lodging houses, apartment houses, and hotels as defined in section 299F.362 comply with the provisions of section 299F.362.

(c) **DOORS IN NURSING HOMES AND HOSPITALS.** The state building code may not require that each door entering a sleeping or patient's room from a corridor in a nursing home or hospital with an approved complete standard automatic fire extinguishing system be constructed or maintained as self-closing or automatically closing.

(d) **CHILD CARE FACILITIES IN CHURCHES; GROUND LEVEL EXIT.** A licensed day care center serving fewer than 30 preschool age persons and which is located in a below ground space in a church building is exempt from the state building code requirement for a ground level exit when the center has more than two stairways to the ground level and its exit.

(e) **CHILD CARE FACILITIES IN CHURCHES; VERTICAL ACCESS.** Until August 1, 1996, an organization providing child care in an existing church building which is exempt from taxation under section 272.02, subdivision 1, clause (5), shall have five years from the date of initial licensure under chapter

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245A to provide interior vertical access, such as an elevator, to persons with disabilities as required by the state building code. To obtain the extension, the organization providing child care must secure a \$2,500 performance bond with the commissioner of human services to ensure that interior vertical access is achieved by the agreed upon date.

(f) **FAMILY AND GROUP FAMILY DAY CARE.** Until the legislature enacts legislation specifying appropriate standards, the definition of Group R-3 occupancies in the state building code applies to family and group family day care homes licensed by the department of human services under Minnesota Rules, chapter 9502.

(g) **MINED UNDERGROUND SPACE.** Nothing in the state building codes shall prevent cities from adopting rules governing the excavation, construction, reconstruction, alteration, and repair of mined underground space pursuant to sections 469.135 to 469.141, or of associated facilities in the space once the space has been created, provided the intent of the building code to establish reasonable safeguards for health, safety, welfare, comfort, and security is maintained.

(h) **ENCLOSED STAIRWAYS.** No provision of the code or any appendix chapter of the code may require stairways of existing multiple dwelling buildings of two stories or less to be enclosed.

(i) **DOUBLE CYLINDER DEAD BOLT LOCKS.** No provision of the code or appendix chapter of the code may prohibit double cylinder dead bolt locks in existing single-family homes, townhouses, and first floor duplexes used exclusively as a residential dwelling. Any recommendation or promotion of double cylinder dead bolt locks must include a warning about their potential fire danger and procedures to minimize the danger.

(j) **RELOCATED RESIDENTIAL BUILDINGS.** A residential building relocated within or into a political subdivision of the state need not comply with the state energy code or section 326.371 provided that, where available, an energy audit is conducted on the relocated building.

(k) **AUTOMATIC GARAGE DOOR OPENING SYSTEMS.** The code must require all residential buildings as defined in section 325F.82 to comply with the provisions of sections 325F.82 and 325F.83.

(l) **EXIT SIGN ILLUMINATION.** For a new building on which construction is begun on or after October 1, 1993, or an existing building on which remodeling affecting 50 percent or more of the enclosed space is begun on or after October 1, 1993, the code must prohibit the use of internally illuminated exit signs whose electrical consumption during nonemergency operation exceeds 20 watts of resistive power. All other requirements in the code for exit signs must be complied with.

(m) **RESIDENTIAL WORK.** ~~By January 1, 1996, the commissioner of administration shall develop building code provisions in accordance with the directives and provisions developed under section 144.874, subdivision 11a.~~

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Sec. 2. Minnesota Statutes 1994, section 116.87, subdivision 2, is amended to read:

Subd. 2. **RESIDENCE.** The term "residence" has the meaning given in rules adopted under sections ~~+44.87+~~ 144.9501 to 144.879 144.9509.

Sec. 3. **[144.9501] DEFINITIONS.**

Subdivision 1. CITATION. Sections 144.9501 to 144.9509 may be cited as the "childhood lead poisoning act."

Subd. 2. APPLICABILITY. The definitions in this section apply to sections 144.9501 to 144.9509.

Subd. 3. ABATEMENT. (a) "Abatement" means any set of measures designed to permanently eliminate lead-based paint hazards, defined in United States Code, title 42, section 4851, of the federal Housing and Community Development Act of 1992, and that exceed the standards adopted under section 144.9508. Abatement includes:

(1) the removal of lead-based paint and lead-contaminated dust, the permanent containment or encapsulation of lead-based paint, the replacement of lead-painted surfaces or fixtures, and the removal or covering of lead-contaminated soil; and

(2) all preparation, cleanup, disposal, and postabatement clearance testing activities associated with these measures.

(b) Abatement does not include:

(1) activities such as remodeling, renovation, installation, rehabilitation, or landscaping activities whose primary intent is to remodel, repair, or restore a given structure or dwelling, rather than to permanently eliminate lead-based paint hazards, even though these activities may incidentally result in a reduction in lead-based paint hazards; and

(2) interim controls for the temporary reduction of exposure to lead hazards such as lead-specific cleaning, repairs, maintenance, painting, and temporary containment.

Subd. 4. AREAS AT HIGH RISK FOR TOXIC LEAD EXPOSURE. "Areas at high risk for toxic lead exposure" means a census tract which meets one or more of the following criteria:

(1) elevated blood lead levels have been diagnosed in a population of children or pregnant females;

(2) many residential structures that are known to have or suspected of having deteriorated lead-based paint; or

(3) median soil lead concentrations are greater than 100 parts per million for samples collected according to rules adopted under section 144.9508.

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Subd. 5. BARE SOIL. "Bare soil" means any visible soil that is at least an area of 36 contiguous square inches.

Subd. 6. BOARD OF HEALTH. "Board of health" means an administrative authority established under section 145A.03.

Subd. 7. COMMISSIONER. "Commissioner" means the commissioner of the Minnesota department of health.

Subd. 8. DETERIORATED PAINT. "Deteriorated paint" means paint that is chipped, peeled, or otherwise separated from its substrate or that is attached to damaged substrate.

Subd. 9. ELEVATED BLOOD LEAD LEVEL. "Elevated blood lead level" means a diagnostic blood lead test with a result that is equal to or greater than ten micrograms of lead per deciliter of whole blood in any person, unless the commissioner finds that a lower concentration is necessary to protect public health.

Subd. 10. ENCAPSULATION. "Encapsulation" means covering a surface coated with paint that exceeds the standards under section 144.9508 with a liquid or solid material, approved by the commissioner, that adheres to the surface, rather than mechanically attaches to it; or covering bare soil that exceeds the standards under section 144.9508 with a permeable material such as vegetation, mulch, or soil that meets the standards under section 144.9508.

Subd. 11. ENCLOSURE. "Enclosure" means covering a surface coated with paint that exceeds the standards under section 144.9508 by mechanically fastening to the surface a durable, solid material approved by the commissioner; or covering bare soil that exceeds the standards under section 144.9508 with an impermeable material, such as asphalt or concrete.

Subd. 12. INSPECTING AGENCY. "Inspecting agency" means the commissioner or a board of health.

Subd. 13. INTACT PAINT. "Intact paint" means paint that is not chipped, peeled, or otherwise separated from its substrate or attached to damaged substrate. Painted surfaces which may generate dust but are not chipped, peeled, or otherwise separated from their substrate or attached to damaged substrate are considered to be intact paint.

Subd. 14. LEAD CONTRACTOR. "Lead contractor" means any person who is licensed by the commissioner under section 144.9505.

Subd. 15. LEAD HAZARD. "Lead hazard" means a condition that causes exposure to lead from dust, bare soil, drinking water, or deteriorated paint that exceeds the standards adopted under section 144.9508.

Subd. 16. LEAD HAZARD MANAGEMENT. "Lead hazard management" means a process by which a residence is made lead-safe through the use of lead-safe directives provided for under section 144.9503.

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Subd. 17. LEAD HAZARD REDUCTION. “Lead hazard reduction” means action undertaken in response to a lead order to make a residence, child care facility, school, or playground lead-safe by complying with the lead standards and methods adopted under section 144.9508, by:

(1) a property owner or lead contractor complying with a lead order issued under section 144.9504; or

(2) a swab team service provided in response to a lead order issued under section 144.9504.

Subd. 18. LEAD INSPECTION. “Lead inspection” means a qualitative or quantitative analytical inspection of a residence for deteriorated paint or bare soil and the collection of samples of deteriorated paint, bare soil, dust, or drinking water for analysis to determine if the lead concentrations in the samples exceed standards adopted under section 144.9508. Lead inspection includes the clearance inspection after the completion of a lead order.

Subd. 19. LEAD INSPECTOR. “Lead inspector” means a person who is licensed by the commissioner to perform a lead inspection under section 144.9506.

Subd. 20. LEAD ORDER. “Lead order” means a legal instrument to compel a property owner to engage in lead hazard reduction according to the specifications given by the inspecting agency.

Subd. 21. LEAD-SAFE. “Lead-safe” means a condition in which lead may be present at the residence, child care facility, school, or playground, if the lead concentration in the dust, paint, soil, and water of a residence does not exceed the standards adopted under section 144.9508, or, if the lead concentrations in the paint or soil do exceed the standards, the paint is intact and the soil is not bare.

Subd. 22. LEAD-SAFE DIRECTIVES. “Lead-safe directives” means methods for construction, renovation, remodeling, or maintenance activities that are not regulated as abatement or lead hazard reduction and that are performed so that they do not:

(1) violate the standards under section 144.9508;

(2) create lead dust through the use of prohibited practices;

(3) leave debris or a lead residue that can form a dust;

(4) provide a readily accessible source of lead dust, lead paint, lead paint chips, or lead contaminated soil, after the use of containment methods; and

(5) result in improper disposal of lead contaminated debris, dust, or soil.

Subd. 23. LEAD WORKER. “Lead worker” means any person who is certified by the commissioner under section 144.9505.

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Subd. 24. PERSON. "Person" has the meaning given in section 326.71, subdivision 8.

Subd. 25. PERSONS AT HIGH RISK FOR ELEVATED BLOOD LEAD LEVEL. "Persons at high risk for elevated blood lead level" means:

(1) a child between six and 72 months of age:

(a) who lives in or visits, at least weekly, a residence, child care facility, or school built before 1978 which has peeling or chipping paint, ongoing remodeling or renovation, or bare soil; or

(b) who has a sibling, housemate, or playmate who has been diagnosed with an elevated blood lead level in the last 12 months; and

(2) a pregnant female or a child between six and 72 months of age:

(a) who lives in a census tract found to have a median foundation soil lead value exceeding 100 parts per million of lead;

(b) who lives near an industrial point source that emits lead;

(c) who lives near a road with an average daily traffic which exceeded 5,000 vehicles per day in 1986 or earlier; or

(d) who lives with a person whose occupation or hobby involves exposure to lead.

Subd. 26. PRIMARY PREVENTION. "Primary prevention" means preventing toxic lead exposure before blood levels become elevated.

Subd. 27. SAFE HOUSING. "Safe housing" means a residence that is lead-safe.

Subd. 28. SECONDARY PREVENTION. "Secondary prevention" means intervention to mitigate health effects on people with elevated blood lead levels.

Subd. 29. SWAB TEAM SERVICES. "Swab team services" means activities that provide protection from lead hazards such as:

(1) removing lead dust by washing, vacuuming with high efficiency particle accumulator (HEPA) or wet vacuum cleaners, and cleaning the interior of residential property;

(2) removing loose paint and paint chips and reporting or installing guards to protect intact paint;

(3) covering or replacing bare soil that has a lead concentration of 100 parts per million or more;

(4) health education;

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(5) advice and assistance to help residents locate and move to a temporary hazard while lead hazard reduction is being completed; or

(6) any other assistance necessary to meet the resident's immediate needs as a result of the relocation.

Subd. 30. SWAB TEAM WORKER. "Swab team worker" means a person who is certified under section 144.9505.

Subd. 31. VENOUS BLOOD SAMPLE. "Venous blood sample" means a quantity of blood drawn from a vein.

Subd. 32. VOLUNTARY LEAD HAZARD REDUCTION. "Voluntary lead hazard reduction" means action undertaken by a property owner with the intention to engage in lead hazard reduction or abatement, but not in response to the issuance of a lead order.

Sec. 4. [144.9502] LEAD SURVEILLANCE AND THE OCCURRENCE OF LEAD IN THE ENVIRONMENT.

Subdivision 1. SURVEILLANCE. The commissioner of health shall establish a statewide lead surveillance system. The purpose of this system is to:

(a) monitor blood lead levels in children and adults to identify trends and populations at high risk for elevated blood lead levels;

(b) ensure that screening services are provided to populations at high risk for elevated blood lead levels;

(c) ensure that medical and environmental follow-up services for children with elevated blood lead levels are provided; and

(d) provide accurate and complete data for planning and implementing primary prevention programs that focus on the populations at high risk for elevated blood lead levels.

Subd. 2. STUDIES AND SURVEYS. The commissioner of health shall collect blood lead level and exposure information, analyze the information, and conduct studies designed to determine the potential for high risk for elevated blood lead levels among children and adults.

Subd. 3. REPORTS OF BLOOD LEAD ANALYSIS REQUIRED. Every hospital, medical clinic, medical laboratory, or other facility performing blood lead analysis shall report the results after the analysis of each specimen analyzed, for both capillary and venous specimens, and epidemiologic information required in this section to the commissioner of health, within the time frames set forth in clauses (1) and (2):

(1) within two working days by telephone, fax, or electronic transmission, with written or electronic confirmation within one month, for a venous blood

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lead level equal to or greater than 15 micrograms of lead per deciliter of whole blood; or

(2) within one month in writing or by electronic transmission, for a capillary or venous blood lead level less than 15 micrograms of lead per deciliter of whole blood.

The commissioner shall coordinate with hospitals, medical clinics, medical laboratories, and other facilities performing blood lead analysis to develop a universal reporting form and mechanism.

The reporting requirements of this subdivision shall expire on December 31, 1997. Beginning January 1, 1998, every hospital, medical clinic, medical laboratory, or other facility performing blood lead analysis shall report the results within two working days by telephone, fax, or electronic transmission, with written or electronic confirmation within one month, for capillary or venous blood lead level equal to the level for which reporting is recommended by the Center for Disease Control.

Subd. 4. BLOOD LEAD ANALYSES AND EPIDEMIOLOGIC INFORMATION. The blood lead analysis reports required in this section must specify:

(1) whether the specimen was collected as a capillary or venous sample;

(2) the date the sample was collected;

(3) the results of the blood lead analysis;

(4) the date the sample was analyzed;

(5) the method of analysis used;

(6) the full name, address, and phone number of the laboratory performing the analysis;

(7) the full name, address, and phone number of the physician or facility requesting the analysis;

(8) the full name, address, and phone number of the person with the elevated blood lead level, and the person's birthdate, gender, and race.

Subd. 5. FOLLOW-UP EPIDEMIOLOGIC INFORMATION. The follow-up epidemiologic information required in this section must specify:

(1) the name, address, and phone number of the agency or individual contacted to investigate the environment of the person with the elevated blood lead level to determine the sources of lead exposure; and

(2) the name, address, and phone number of all agencies or individuals to whom the person or the person's guardian was referred for education about the sources, effects, and prevention of lead exposure.

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Subd. 6. PAINT, SOIL, DUST, AND DRINKING WATER LEAD ANALYSIS. Every laboratory or other institution performing lead analysis on paint, soil, dust, or drinking water shall report the results to the commissioner of each specimen analysis and epidemiologic information required in this section. The paint, soil, dust, and drinking water analysis report must specify:

(1) the date the sample was collected;

(2) the type of sample tested;

(3) the results of the lead sample analysis;

(4) the method of analysis used;

(5) the date the sample was analyzed;

(6) the full name, address, and phone number of the laboratory performing the analysis;

(7) the full name, address, and phone number of the individual or agency requesting the analysis; and

(8) the address of the property and the owner of the property where the sample was collected.

Subd. 7. REPORTING WITHOUT LIABILITY. The furnishing of the information required under this section shall not subject the person, laboratory, or other facility furnishing the information to any action for damages or relief.

Subd. 8. LABORATORY STANDARDS. (a) A laboratory performing blood lead analysis shall use methods that:

(1) meet or exceed the proficiency standards established in the federal Clinical Laboratory Improvement Regulations, Code of Federal Regulations, title 42, section 493, promulgated in accordance with the Clinical Laboratory Improvement Act amendments of 1988, Public Law Number 100-578; or

(2) meet or exceed the Occupational Safety and Health Standards for Lead in General Industries, Code of Federal Regulations, section 1910.1025, and Occupational Safety and Health Standards for Lead in Construction, Code of Federal Regulations, section 1926.62.

(b) A laboratory performing lead analysis of paint, soil, dust, or drinking water shall use methods that meet or exceed the proficiency standards established in the National Lead Accreditation Program pursuant to United States Code, title 42, section 4851, of the federal Housing and Community Development Act.

Subd. 9. CLASSIFICATION OF DATA. Notwithstanding any law to the contrary, including section 13.05, subdivision 9, data collected by the commissioner of health about persons with elevated blood lead levels, including analytic

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results from samples of paint, soil, dust, and drinking water taken from the individual's home and immediate property, shall be private and may only be used by the commissioner of health and authorized employees of local boards of health for the purposes set forth in this section.

Sec. 5. [144.9503] PRIMARY PREVENTION.

Subdivision 1. PRIMARY PREVENTION PROGRAM. The commissioner shall develop a primary prevention program to reduce lead exposure in young children and pregnant women. The commissioner shall develop a priority list for high risk census tracts, provide primary prevention lead education, promote primary prevention swab team services in cooperation with the commissioner of economic security or housing finance, provide lead cleanup equipment and material grants, monitor voluntary lead hazard reduction or abatement, and develop lead-safe directives in cooperation with the commissioner of administration.

Subd. 2. PRIORITIES FOR PRIMARY PREVENTION. The commissioner of health shall publish in the State Register a priority list of census tracts at high risk for toxic lead exposure. All local governmental units and boards of health shall follow the priorities published in the State Register. In establishing the list, the commissioner shall use the surveillance data collected under section 144.9502 and other information as appropriate or specified in this section and shall award points to each census tract on which information is available. The priority for primary prevention in census tracts at high risk for toxic lead exposure shall be based on the cumulative points awarded to each census tract. A greater number of points means a higher priority. If a tie occurs in the number of points, priority shall be given to the census tract with the higher percentage of population with blood lead levels greater than ten micrograms of lead per deciliter of whole blood. The commissioner shall revise and update the priority list at least every five years. Points shall be awarded as specified in paragraphs (a) to (c).

(a) In a census tract where at least 20 children have been screened in the last five years, one point shall be awarded for each ten percent of children who were under six years old at the time they were screened for lead in blood and whose blood lead level exceeds ten micrograms of lead per deciliter of whole blood. An additional point shall be awarded if one percent of the children had blood lead levels greater than 20 micrograms of lead per deciliter of blood. Two points shall be awarded to a census tract, where the blood lead screening has been inadequate, that is contiguous with a census tract where more than ten percent of the children under six years of age have blood lead levels exceeding ten micrograms of lead per deciliter of whole blood.

(b) One point shall be awarded for every five percent of housing that is defined as dilapidated or deteriorated by the planning department or similar agency of the city in which the housing is located. Where data is available by neighborhood or section within a city, the percent of dilapidated or deteriorated

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housing shall apply equally to each census tract within the neighborhood or section.

(c) One point shall be awarded for every 100 parts per million of lead soil, based on the median soil lead values of foundation soil samples, calculated on 100 parts per million intervals, or fraction thereof. For the cities of St. Paul and Minneapolis, the commissioner shall use the June 1988 census tract version of the houseside map titled "Distribution of Houseside Lead Content of Soil-Dust in the Twin Cities," prepared by the Center for Urban and Regional Affairs, Humphrey Institute, University of Minnesota, Publication 1989, Center for Urban and Regional Affairs 89-4. Where the map displays a census tract that is crossed by two or more intervals, the commissioner shall make a reasoned determination of the median foundation soil lead value for that census tract. Values for census tracts may be updated by surveying the census tract according to the procedures adopted under this section.

Subd. 3. PRIMARY PREVENTION LEAD EDUCATION STRATEGY. The commissioner of health shall develop a primary prevention lead education strategy to prevent lead exposure. The strategy shall specify:

(1) the development of lead education materials that describe the health effects of lead exposure, safety measures, and methods to be used in the lead hazard reduction process;

(2) the provision of lead education materials to the general public;

(3) the provision of lead education materials to property owners, landlords, and tenants by swab team workers and public health professionals, such as nurses, sanitarians, health educators, other public health professionals in areas at high risk for toxic lead exposure; and

(4) the promotion of awareness of community, legal, and housing resources.

Subd. 4. SWAB TEAM SERVICES. Primary prevention must include the use of swab team services in census tracts identified at high risk for toxic lead exposure as identified by the commissioner under this section. The swab team services may be provided based on visual inspections whenever possible and must at least include lead hazard management for deteriorated interior lead-based paint, bare soil, and dust.

Subd. 5. LEAD CLEANUP EQUIPMENT AND MATERIAL GRANTS.

(a) Nonprofit community-based organizations in areas at high risk for toxic lead exposure, as determined by the commissioner under this section, may apply for grants from the commissioner to purchase lead cleanup equipment and materials and to pay for training for staff and volunteers for lead certification.

(b) For the purposes of this section, lead cleanup equipment and materials means high efficiency particle accumulator (HEPA) and wet vacuum cleaners, wash water filters, mops, buckets, hoses, sponges, protective clothing, drop

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cloths, wet scraping equipment, secure containers, dust and particle containment material, and other cleanup and containment materials to remove loose paint and plaster, patch plaster, control household dust, wax floors, clean carpets and sidewalks, and cover bare soil.

(c) The grantee's staff and volunteers may make lead cleanup equipment and materials available to residents and property owners and instruct them on the proper use of the equipment. Lead cleanup equipment and materials must be made available to low-income households, as defined by federal guidelines, on a priority basis at no fee, and other households on a sliding fee scale.

(d) The grantee shall not charge a fee for services performed using the equipment or materials.

Subd. 6. VOLUNTARY LEAD HAZARD REDUCTION. The commissioner shall monitor the lead hazard reduction methods adopted under section 144.9508 in cases of voluntary lead hazard reduction. All contractors hired to do voluntary lead hazard reduction must be licensed lead contractors. If a property owner does not use a lead contractor for voluntary lead hazard reduction, the property owner shall provide the commissioner with a plan for lead hazard reduction at least ten working days before beginning the lead hazard reduction. The plan must include the details required in section 144.9505, and notice as to when lead hazard reduction activities will begin. No penalty shall be assessed against a property owner for discontinuing voluntary lead hazard reduction before completion of the plan, provided that the property owner discontinues the plan in a manner that leaves the property in a condition no more hazardous than its condition before the plan implementation.

Subd. 7. LEAD-SAFE DIRECTIVES. By July 1, 1995, and amended and updated as necessary, the commissioner shall develop in cooperation with the commissioner of administration provisions and procedures to define lead-safe directives for residential remodeling, renovation, installation, and rehabilitation activities that are not lead hazard reduction, but may disrupt lead-based paint surfaces. The provisions and procedures shall define lead-safe directives for non-lead hazard reduction activities including preparation, cleanup, and disposal procedures. The directives shall be based on the different levels and types of work involved and the potential for lead hazards. The directives shall address activities including painting; remodeling; weatherization; installation of cable, wire, plumbing, and gas; and replacement of doors and windows. The commissioners of health and administration shall consult with representatives of builders, weatherization providers, nonprofit rehabilitation organizations, each of the affected trades, and housing and redevelopment authorities in developing the directives and procedures. This group shall also make recommendations for consumer and contractor education and training. The commissioner of health shall report to the legislature by February 15, 1996, regarding development of the provisions required under this subdivision.

Subd. 8. CERTIFICATION FOR LEAD SAFE HOUSING. The commis-

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sioner shall propose to the legislature a program to certify residences as lead safe by February 15, 1996.

Subd. 9. LANDLORD TENANT STUDY. The commissioner of health shall conduct or contract for a study of the legal responsibilities of tenants and landlords in the prevention of lead hazards, and shall report the findings to the legislature, along with recommendations as to any changes needed to clarify or modify current law by January 15, 1996. In conducting the study, the commissioner shall convene any public meetings necessary to hear the testimony and recommendations of interested parties, and shall invite and consider written public comments.

Sec. 6. [144.9504] SECONDARY PREVENTION.

Subdivision 1. JURISDICTION. (a) A board of health serving cities of the first class must conduct lead inspections for purposes of secondary prevention, according to the provisions of this section. A board of health not serving cities of the first class must conduct lead inspections for the purposes of secondary prevention, unless they certify in writing to the commissioner by January 1, 1996, that they desire to relinquish these duties back to the commissioner. At the discretion of the commissioner, a board of health may, upon written request to the commissioner, resume these duties.

(b) Inspections must be conducted by a board of health serving a city of the first class. The commissioner must conduct lead inspections in any area not including cities of the first class where a board of health has relinquished to the commissioner the responsibility for lead inspections. The commissioner shall coordinate with the board of health to ensure that the requirements of this section are met.

(c) The commissioner may assist boards of health by providing technical expertise, equipment, and personnel to boards of health. The commissioner may provide laboratory or field lead-testing equipment to a board of health or may reimburse a board of health for direct costs associated with lead inspections.

(d) The commissioner shall enforce the rules under section 144.9508 in cases of voluntary lead hazard reduction.

Subd. 2. LEAD INSPECTION. (a) An inspecting agency shall conduct a lead inspection of a residence according to the venous blood lead level and time frame set forth in clauses (1) to (4) for purposes of secondary prevention:

(1) within 48 hours of a child or pregnant female in the residence being identified to the agency as having a venous blood lead level equal to or greater than 70 micrograms of lead per deciliter of whole blood;

(2) within five working days of a child or pregnant female in the residence being identified to the agency as having a venous blood lead level equal to or greater than 45 micrograms of lead per deciliter of whole blood;

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(3) within ten working days of a child or pregnant female in the residence being identified to the agency as having a venous blood lead level equal to or greater than 20 micrograms of lead per deciliter of whole blood; or

(4) within ten working days of a child or pregnant female in the residence being identified to the agency as having a venous blood lead level that persists in the range of 15 to 19 micrograms of lead per deciliter of whole blood for 90 days after initial identification.

(b) Within the limits of available state and federal appropriations, an inspecting agency may also conduct a lead inspection for children with any elevated blood lead level.

(c) In a building with two or more dwelling units, an inspecting agency shall inspect the individual unit in which the conditions of this section are met and shall also inspect all common areas. If a child visits one or more other sites such as another residence, or a residential or commercial child care facility, playground, or school, the inspecting agency shall also inspect the other sites. The inspecting agency shall have one additional day added to the time frame set forth in this subdivision to complete the lead inspection for each additional site.

(d) The inspecting agency shall identify the known addresses for the previous 12 months of the child or pregnant female with elevated blood lead levels; notify the property owners, landlords, and tenants at those addresses that an elevated blood lead level was found in a person who resided at the property; and give them a copy of the lead inspection guide. This information shall be classified as private data on individuals as defined under section 13.02, subdivision 12.

(e) The inspecting agency shall conduct the lead inspection according to rules adopted by the commissioner under section 144.9508. An inspecting agency shall have lead inspections performed by lead inspectors licensed by the commissioner according to rules adopted under section 144.9508. If a property owner refuses to allow an inspection, the inspecting agency shall begin legal proceedings to gain entry to the property and the time frame for conducting a lead inspection set forth in this subdivision no longer applies. An inspector or inspecting agency may observe the performance of lead hazard reduction in progress and shall enforce the provisions of this section under section 144.9509. Deteriorated painted surfaces, bare soil, dust, and drinking water must be tested with appropriate analytical equipment to determine the lead content, except that deteriorated painted surfaces or bare soil need not be tested if the property owner agrees to engage in lead hazard reduction on those surfaces.

(f) A lead inspector shall notify the commissioner and the board of health of all violations of lead standards under section 144.9508, that are identified in a lead inspection conducted under this section.

(g) Each inspecting agency shall establish an administrative appeal procedure which allows a property owner to contest the nature and conditions of any lead order issued by the inspecting agency. Inspecting agencies must consider appeals that propose lower cost methods that make the residence lead safe.

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(h) Sections 144.9501 to 144.9509 neither authorize nor prohibit an inspecting agency from charging a property owner for the cost of a lead inspection.

Subd. 3. LEAD EDUCATION STRATEGY. At the time of a lead inspection or following a lead order, the inspecting agency shall ensure that a family will receive a visit at their residence by a swab team worker or public health professional, such as a nurse, sanitarian, public health educator, or other public health professional. The swab team worker or public health professional shall inform the property owner, landlord, and the tenant of the health-related aspects of lead exposure; nutrition; safety measures to minimize exposure; methods to be followed before, during, and after the lead hazard reduction process; and community, legal, and housing resources. If a family moves to a temporary residence during the lead hazard reduction process, lead education services should be provided at the temporary residence whenever feasible.

Subd. 4. LEAD INSPECTION GUIDES. (a) The commissioner of health shall develop or purchase lead inspection guides that enable parents and other caregivers to assess the possible lead sources present and that suggest lead hazard reduction actions. The guide must provide information on lead hazard reduction and disposal methods, sources of equipment, and telephone numbers for additional information to enable the persons to either select a lead contractor or perform the lead hazard reduction. The guides must explain:

(1) the requirements of this section and rules adopted under section 144.9508;

(2) information on the administrative appeal procedures required under this section;

(3) summary information on lead-safe directives;

(4) be understandable at an eighth grade reading level; and

(5) be translated for use by non-English-speaking persons.

(b) An inspecting agency shall provide the lead inspection guides at no cost to:

(1) parents and other caregivers of children who are identified as having blood lead levels of at least ten micrograms of lead per deciliter of whole blood;

(2) all property owners who are issued housing code or lead orders requiring lead hazard reduction of lead sources and all occupants of those properties; and

(3) occupants of residences adjacent to the inspected property.

(c) An inspecting agency shall provide the lead inspection guides on request to owners or occupants of residential property, builders, contractors, inspectors, and the public within the jurisdiction of the inspecting agency.

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Subd. 5. LEAD ORDERS. An inspecting agency, after conducting a lead inspection, shall order a property owner to perform lead hazard reduction on all lead sources that exceed a standard adopted according to section 144.9508. If lead inspections and lead orders are conducted at times when weather or soil conditions do not permit the lead inspection or lead hazard reduction, external surfaces and soil lead shall be inspected, and lead orders complied with, if necessary, at the first opportunity that weather and soil conditions allow. If the paint standard under section 144.9508 is violated, but the paint is intact, the inspecting agency shall not order the paint to be removed unless the intact paint is a known source of actual lead exposure to a specific person. Before the inspecting agency may order the intact paint to be removed, a reasonable effort must be made to protect the child and preserve the intact paint by the use of guards or other protective devices and methods. Whenever windows and doors or other components covered with deteriorated lead-based paint have sound substrate or are not rotting, those components should be repaired, sent out for stripping or be planed down to remove deteriorated lead-based paint or covered with protective guards instead of being replaced, provided that such an activity is the least cost method. Lead orders must require that any source of damage, such as leaking roofs, plumbing, and windows, be repaired or replaced, as needed, to prevent damage to lead-containing interior surfaces. The inspecting agency is not required to pay for lead hazard reduction. Lead orders must be issued within 30 days of receiving the blood lead level analysis. The inspecting agency shall enforce the lead orders issued to a property owner under this section. A copy of the lead order must be forwarded to the commissioner.

Subd. 6. SWAB TEAM SERVICES. After a lead inspection or after issuing lead orders, the inspecting agency, within the limits of appropriations and availability, shall offer the property owner the services of a swab team free of charge and, if accepted, shall send a swab team within ten working days to the residence to perform swab team services as defined in section 144.9501. If the inspecting agency provides swab team services after a lead inspection, but before the issuance of a lead order, swab team services do not need to be repeated after the issuance of the lead order if the swab team services fulfilled the lead order. Swab team services are not considered completed until the clearance inspection required under this section shows that the property is lead safe.

Subd. 7. RELOCATION OF RESIDENTS. (a) An inspecting agency shall ensure that residents are relocated from rooms or dwellings during a lead hazard reduction process that generates leaded dust, such as removal or disruption of lead-based paint or plaster that contains lead. Residents shall not remain in rooms or dwellings where the lead hazard reduction process is occurring. An inspecting agency is not required to pay for relocation unless state or federal funding is available for this purpose. The inspecting agency shall make an effort to assist the resident in locating resources that will provide assistance with relocation costs. Residents shall be allowed to return to the residence or dwelling after completion of the lead hazard reduction process. An inspecting agency shall use grant funds under section 144.9507 if available, in cooperation with local housing agencies, to pay for moving costs and rent for a temporary residence for any low-income resident temporarily relocated during lead hazard

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reduction. For purposes of this section, "low-income resident" means any resident whose gross household income is at or below 185 percent of federal poverty level.

(b) A resident of rental property who is notified by an inspecting agency to vacate the premises during lead hazard reduction, notwithstanding any rental agreement or lease provisions:

(1) shall not be required to pay rent due the landlord for the period of time the tenant vacates the premises due to lead hazard reduction;

(2) may elect to immediately terminate the tenancy effective on the date the tenant vacates the premises due to lead hazard reduction; and

(3) shall not, if the tenancy is terminated, be liable for any further rent or other charges due under the terms of the tenancy.

(c) A landlord of rental property whose tenants vacate the premises during lead hazard reduction shall:

(1) allow a tenant to return to the dwelling unit after lead hazard reduction and clearance inspection, required under this section, is completed, unless the tenant has elected to terminate the tenancy as provided for in paragraph (b); and

(2) return any security deposit due under section 504.20 within five days of the date the tenant vacates the unit, to any tenant who terminates tenancy as provided for in paragraph (b).

Subd. 8. PROPERTY OWNER RESPONSIBILITY. Property owners shall comply with lead orders issued under this section within 60 days or be subject to enforcement actions as provided under section 144.9509. For orders or portions of orders concerning external lead hazards, property owners shall comply within 60 days, or as soon thereafter as weather permits. If the property owner does not use a lead contractor for compliance with the lead orders, the property owner shall submit a plan for approval by the inspecting agency within 30 days after receiving the orders. The plan must include the details required in section 144.9505 as to how the property owner intends to comply with the lead orders and notice as to when lead hazard reduction activities will begin.

Subd. 9. CLEARANCE INSPECTION. After completion of swab team services and compliance with the lead orders by the property owner, including any repairs ordered by a local housing or building inspector, the inspecting agency shall conduct a clearance inspection by visually inspecting the residence for deteriorated paint and bare soil and retest the dust lead concentration in the residence to assure that violations of the lead standards under section 144.9508 no longer exist. The inspecting agency is not required to test a dwelling unit after lead hazard reduction that was not ordered by the inspecting agency.

Subd. 10. CASE CLOSURE. A lead inspection is completed and the responsibility of the inspecting agency ends when all of the following conditions are met:

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(1) lead orders are written on all known sources of violations of lead standards under section 144.9508;

(2) compliance with all lead orders has been completed; and

(3) clearance inspections demonstrate that no deteriorated lead paint, bare soil, or lead dust levels exist that exceed the standards adopted under section 144.9508.

Subd. 11. LOCAL ORDINANCES. No unit of local government shall have an ordinance, regulation, or practice which requires property owners to comply with any lead hazard reduction order in a period of time shorter than the period established for compliance with lead orders under this section.

Sec. 7. [144.9505] LICENSING OF LEAD CONTRACTORS AND CERTIFICATION OF WORKERS.

Subdivision 1. LICENSING AND CERTIFICATION. (a) Lead contractors shall, before performing abatement or lead hazard reduction, obtain a license from the commissioner. Workers for lead contractors shall obtain certification from the commissioner. The commissioner shall specify training and testing requirements for licensure and certification as required in section 144.9508 and shall charge a fee for the cost of issuing a license or certificate and for training provided by the commissioner. Fees collected under this section shall be set in amounts to be determined by the commissioner to cover but not exceed the costs of adopting rules under section 144.9508, the costs of licensure, certification, and training, and the costs of enforcing licenses and certificates under this section. All fees received shall be paid into the state treasury and credited to the lead abatement licensing and certification account and are appropriated to the commissioner to cover costs incurred under this section and section 144.9508.

(b) Contractors shall not advertise or otherwise present themselves as lead contractors unless they have lead contractor licenses issued by the department of health.

Subd. 2. LEAD TRAINING. Lead abatement and lead hazard reduction training must include a hands-on component and instruction on the health effects of lead exposure, the use of personal protective equipment, workplace hazards and safety problems, lead abatement and lead hazard reduction methods, lead-safe directives, decontamination procedures, cleanup and waste disposal procedures, lead monitoring and testing methods, swab team services, and legal rights and responsibilities.

Subd. 3. LICENSED BUILDING CONTRACTOR; INFORMATION. The commissioner shall provide health and safety information on lead abatement and lead hazard reduction to all residential building contractors licensed under section 326.84. The information must include the lead-safe directives and any other materials describing ways to protect the health and safety of both workers and residents.

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Subd. 4. NOTICE OF LEAD ABATEMENT OR LEAD HAZARD REDUCTION WORK. (a) At least five days before starting work at each lead abatement or lead hazard reduction worksite, the person performing the lead abatement or lead hazard reduction work shall give written notice and an approved work plan as required in this section to the commissioner and the appropriate board of health.

(b) This provision does not apply to swab team workers performing work under an order of an inspecting agency.

Subd. 5. ABATEMENT OR LEAD HAZARD REDUCTION PLANS. (a) A lead contractor shall present a lead abatement or lead hazard reduction work plan to the property owner with each bid or estimate for lead abatement or lead hazard reduction work. The plan does not replace or supersede more stringent contractual agreements. A written lead abatement or lead hazard reduction plan must be prepared which describes the equipment and procedures to be used throughout the lead abatement or lead hazard reduction work project. At a minimum, the plan must describe:

(1) the building area and building components to be worked on;

(2) the amount of lead-containing material to be removed, encapsulated, or enclosed;

(3) the schedule to be followed for each work stage;

(4) the workers' personal protection equipment and clothing;

(5) the dust suppression and debris containment methods;

(6) the lead abatement or lead hazard reduction methods to be used on each building component;

(7) cleaning methods;

(8) temporary, on-site waste storage, if any; and

(9) the methods for transporting waste material and its destination.

(b) A lead contractor shall itemize the costs for each item listed in paragraph (a) and for any other expenses associated with the lead abatement or lead hazard reduction work and shall present these costs to the property owner with any bid or estimate for lead abatement or lead hazard reduction work.

(c) A lead contractor shall keep a copy of the plan readily available at the worksite for the duration of the project and present it to the inspecting agency on demand.

(d) A lead contractor shall keep a copy of the plan on record for one year after completion of the project and shall present it to the inspecting agency on demand.

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(e) This provision does not apply to swab team workers performing work under an order of an inspecting agency or providing services at no cost to a property owner with funding under a state or federal grant.

Sec. 8. [144.9506] LICENSING OF LEAD INSPECTORS.

Subdivision 1. LICENSE REQUIRED. (a) A lead inspector shall obtain a license before performing lead inspections and shall renew it annually. The commissioner shall charge a fee and require annual training, as specified in this section. A lead inspector shall have the inspector's license readily available at all times at an inspection site and make it available, on request, for inspection by the inspecting agency with jurisdiction over the site. A license shall not be transferred.

(b) Individuals shall not advertise or otherwise present themselves as lead inspectors unless licensed by the commissioner.

Subd. 2. LICENSE APPLICATION. An application for a license or license renewal shall be on a form provided by the commissioner and shall include:

(1) a \$50 nonrefundable fee, in a form approved by the commissioner; and

(2) evidence that the applicant has successfully completed a lead inspector training course approved under this section or from another state with which the commissioner has established reciprocity. The fee required in this section is waived for federal, state, or local government employees within Minnesota.

Subd. 3. LICENSE RENEWAL. A license is valid for one year from the issuance date unless the commissioner revokes or suspends it, except that the initial license will be issued to expire one year after the completion date on the approved training course diploma. An applicant shall successfully complete either an approved annual refresher lead inspection training course or a repeat of the approved initial lead inspection training course in order to apply for license renewal.

Subd. 4. LICENSE REPLACEMENT. A licensed lead inspector may obtain a replacement license by reapplying for a license. A replacement expires on the same date as the original license. A nonrefundable \$25 fee is required with each replacement application.

Subd. 5. APPROVAL OF LEAD INSPECTION COURSE. A lead inspection course sponsored by the United States Environmental Protection Agency is an approved course for the purpose of this section, providing it covers the criteria listed in section 144.9505. The commissioner shall evaluate for approval by permit lead inspector courses other than those approved by the United States Environmental Protection Agency.

Sec. 9. [144.9507] LEAD-RELATED FUNDING.

Subdivision 1. LEAD EDUCATION STRATEGY CONTRACTS. The commissioner shall, within available federal or state appropriations, contract with:

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(1) boards of health to provide funds for lead education as provided for in sections 144.9503 and 144.9504; and

(2) swab team workers and community-based advocacy groups to provide funds for lead education for primary prevention of toxic lead exposure in areas at high risk for toxic lead exposure.

Subd. 2. LEAD INSPECTION CONTRACTS. The commissioner shall, within available federal or state appropriations, contract with boards of health to conduct lead inspections to determine sources of lead contamination and to issue and enforce lead orders according to section 144.9504.

Subd. 3. TEMPORARY LEAD-SAFE HOUSING CONTRACTS. The commissioner shall, within the limits of available appropriations, contract with boards of health for temporary housing, to be used in meeting relocation requirements in section 144.9504, and award grants to boards of health for the purposes of paying housing and relocation costs under section 144.9504.

Subd. 4. LEAD CLEANUP EQUIPMENT AND MATERIAL GRANTS. The commissioner shall, within the limits of available state or federal appropriations, provide funds for lead cleanup equipment and materials under a grant program to nonprofit community-based organizations in areas at high risk for toxic lead exposure, as provided for in section 144.9503.

Subd. 5. FEDERAL LEAD-RELATED FUNDS. To the extent practicable under federal guidelines, the commissioner of health shall coordinate with the commissioner of housing finance so that at least 50 percent of federal lead funds are allocated for swab team services.

To the extent practicable under federal guidelines, the commissioner of health may also use federal funding to contract with boards of health for purposes as specified in this section, but only to the extent that the federal funds do not replace existing funding for these lead services.

Sec. 10. [144.9508] RULES.

Subdivision 1. SAMPLING AND ANALYSIS. The commissioner shall adopt, by rule, visual inspection and sampling and analysis methods for:

- (1) lead inspections under section 144.9504;
- (2) environmental surveys of lead in paint, soil, dust, and drinking water to determine census tracts that are areas at high risk for toxic lead exposure;
- (3) soil sampling for soil used as replacement soil; and
- (4) drinking water sampling, which shall be done in accordance with lab certification requirements and analytical techniques specified by Code of Federal Regulations, title 40, section 141.89.

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Subd. 2. LEAD STANDARDS AND METHODS. (a) The commissioner shall adopt rules establishing lead hazard reduction standards and methods in accordance with the provisions of this section, for lead in paint, dust, drinking water, and soil in a manner that protects public health and the environment for all residences, including residences also used for a commercial purpose, child care facilities, playgrounds, and schools.

(b) In the rules required by this section, the commissioner shall differentiate between intact paint and deteriorated paint. The commissioner shall require lead hazard reduction of intact paint only if the commissioner finds that the intact paint is on a chewable or lead-dust producing surface that is a known source of actual lead exposure to a specific individual. The commissioner shall prohibit methods that disperse lead dust into the air that could accumulate to a level that would exceed the lead dust standard specified under this section. The commissioner shall work cooperatively with the commissioner of administration to determine which lead hazard reduction methods adopted under this section may be used for lead-safe directives including prohibited practices, preparation, disposal, and cleanup. The commissioner shall work cooperatively with the commissioner of the pollution control agency to develop disposal procedures. In adopting rules under this section, the commissioner shall require the best available technology for lead hazard reduction methods, paint stabilization, and repainting.

(c) The commissioner of health shall adopt lead hazard reduction standards and methods for lead in bare soil in a manner to protect public health and the environment. The commissioner shall adopt a maximum standard of 100 parts of lead per million in bare soil. The commissioner shall set a soil replacement standard not to exceed 25 parts of lead per million. Soil lead hazard reduction methods shall focus on erosion control and covering of bare soil.

(d) The commissioner shall adopt lead hazard reduction standards and methods for lead in dust in a manner to protect the public health and environment. Dust standards shall use a weight of lead per area measure and include dust on the floor, on the window sills, and on window wells. Lead hazard reduction methods for dust shall focus on dust removal and other practices which minimize the formation of lead dust from paint, soil, or other sources.

(e) The commissioner shall adopt lead hazard reduction standards and methods for lead in drinking water both at the tap and public water supply system or private well in a manner to protect the public health and the environment. The commissioner may adopt the rules for controlling lead in drinking water as contained in Code of Federal Regulations, title 40, part 141. Drinking water lead hazard reduction methods may include an educational approach of minimizing lead exposure from lead in drinking water.

(f) The commissioner of the pollution control agency shall adopt rules to ensure that removal of exterior lead-based coatings from residences and steel structures by abrasive blasting methods is conducted in a manner that protects health and the environment.

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(g) All lead hazard reduction standards shall provide reasonable margins of safety that are consistent with more than a summary review of scientific evidence and an emphasis on overprotection rather than underprotection when the scientific evidence is ambiguous.

(h) No unit of local government shall have an ordinance or regulation governing lead hazard reduction standards or methods for lead in paint, dust, drinking water, or soil that require a different lead hazard reduction standard or method than the standards or methods established under this section.

(i) Notwithstanding paragraph (h), the commissioner may approve the use by a unit of local government of an innovative lead hazard reduction method which is consistent in approach with methods established under this section.

Subd. 3. LEAD CONTRACTORS AND WORKERS. The commissioner shall adopt rules to license lead contractors and to certify workers of lead contractors who perform lead abatement or lead hazard reduction.

Subd. 4. LEAD TRAINING COURSE. The commissioner shall establish by rule a permit fee to be paid by a training course provider on application for a training course permit or renewal period for each lead-related training course required for certification or licensure.

Subd. 5. VARIANCES. In adopting the rules required under this section, the commissioner shall provide variance procedures for any provision in rules adopted under this section, except for the numerical standards for the concentrations of lead in paint, dust, bare soil, and drinking water.

Subd. 6. PROGRAM DIRECTIVES. In order to achieve statewide consistency in the application of lead abatement standards, the commissioner shall issue program directives that interpret the application of rules under this section in ambiguous or unusual lead abatement situations. These program directives are guidelines to local boards of health. The commissioner shall periodically review lead abatement orders and the program directives to determine if the rules under this section need to be amended to reflect new understanding of lead abatement practices and methods.

Sec. 11. [144.9509] ENFORCEMENT.

Subdivision 1. ENFORCEMENT. When the commissioner exercises authority for enforcement, the provisions of sections 144.9501 to 144.9509 shall be enforced under the provisions of sections 144.989 to 144.993. The commissioner shall develop a model ordinance for boards of health to adopt to enforce section 144.9504. Boards of health shall enforce a lead order issued under section 144.9504 under a local ordinance or as a public health nuisance under chapter 145A.

Subd. 2. DISCRIMINATION. A person who discriminates against or otherwise sanctions an employee who complains to or cooperates with the inspecting agency in administering sections 144.9501 to 144.9509 is guilty of a petty misdemeanor.

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Subd. 3. ENFORCEMENT AND STATUS REPORT. The commissioner shall examine compliance with Minnesota's existing lead standards and rules and report to the legislature biennially, beginning February 15, 1997, including an evaluation of current lead program activities by the state and boards of health, the need for any additional enforcement procedures, recommendations on developing a method to enforce compliance with lead standards, and cost estimates for any proposed enforcement procedure. The report shall also include a geographic analysis of all blood lead assays showing incidence data and environmental analyses reported or collected by the commissioner.

Sec. 12. Minnesota Statutes 1994, section 144.99, subdivision 1, is amended to read:

Subdivision 1. **REMEDIES AVAILABLE.** The provisions of chapters 1031 and 157 and sections 115.71 to 115.82; 144.12, subdivision 1, paragraphs (1), (2), (5), (6), (10), (12), (13), (14), and (15); 144.121; 144.35; 144.381 to 144.385; 144.411 to 144.417; 144.491; 144.495; 144.71 to 144.74; ~~144.871 to 144.878~~ 144.9501 to 144.9509; 144.992; 326.37 to 326.45; 326.57 to 326.785; 327.10 to 327.131; and 327.14 to 327.28 and all rules, orders, stipulation agreements, settlements, compliance agreements, licenses, registrations, certificates, and permits adopted or issued by the department or under any other law now in force or later enacted for the preservation of public health may, in addition to provisions in other statutes, be enforced under this section.

Sec. 13. **REPEALER.**

Minnesota Statutes 1994, sections 144.871; 144.872; 144.873; 144.874; 144.876; 144.877; 144.8771; 144.878; 144.8781; 144.8782; and 144.879, are repealed.

ARTICLE 2

SWAB TEAM SERVICES PROGRAM

Section 1. Minnesota Statutes 1994, section 268.92, subdivision 1, is amended to read:

Subdivision 1. **DEFINITIONS.** (a) For the purposes of this section, the following terms have the meanings given them:

(a) "Certified trainer" means a lead trainer certified by the commissioner of health under section ~~144.878~~, subdivision 5:

(b) "Certified worker" means a lead abatement worker certified by the commissioner of health under section ~~144.878~~, subdivision 5:

(c) "Commissioner" means the commissioner of economic security words defined in section 144.9501 have the meanings given.

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(d) (b) For purposes of this section, "eligible organization" means a licensed lead contractor, certified trainer, city, board of health, community health department, community action agency as defined in section 268.52, or community development corporation.

(c) For purposes of this section, "commissioner" means the commissioner of economic security, or commissioner of the Minnesota housing finance agency as authorized by section 462A.05, subdivision 15c.

(e) "High risk for toxic lead exposure" has the meaning given in section 144.871, subdivision 7a.

(f) "Licensed contractor" means a contractor licensed by the department of health under section 144.876.

(g) "Removal and replacement abatement" means lead abatement on residential property that requires retrofitting and conforms to the rules established under section 144.878.

(h) "Swab team" has the meaning given in section 144.871, subdivision 9.

Sec. 2. Minnesota Statutes 1994, section 268.92, subdivision 2, is amended to read:

Subd. 2. **GRANTS; ADMINISTRATION.** Within the limits of the available appropriation, the commissioner shall develop a swab team services program which may make demonstration and training grants to eligible organizations for programs to train workers for to provide swab teams team services and removal and replacement abatement; and to provide swab team services and removal and replacement abatement swab team services for residential property. Grants may be awarded to nonprofit organizations to provide technical assistance and training to ensure quality and consistency within the statewide program. Grants shall be awarded to help ensure full-time employment to workers providing swab team services and shall be awarded for a two-year period.

Grants awarded under this section must be made in consultation with the commissioners of the department of health and the housing finance agency, and representatives of neighborhood groups from areas at high risk for toxic lead exposure, a labor organization, the lead coalition, community action agencies, and the legal aid society. The consulting team shall review grant applications and recommend awards to eligible organizations that meet requirements for receiving a grant under this section.

Sec. 3. Minnesota Statutes 1994, section 268.92, subdivision 3, is amended to read:

Subd. 3. **APPLICANTS.** (a) Interested eligible organizations may apply to the commissioner for grants under this section. Two or more eligible organizations may jointly apply for a grant. Priority shall be given to community action agencies in greater Minnesota and to either community action agencies or neigh-

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borhood based nonprofit organizations in cities of the first class. ~~3.75 percent of the total allocation may be used for administrative costs. Of the total annual appropriation, 12.5 percent may be used for administrative purposes. The commissioner may deviate from this percentage if a grantee can justify the need for a larger administrative allowance. Of this amount, up to five percent may be used by the commissioner for state administrative purposes.~~ Applications must provide information requested by the commissioner, including at least the information required to assess the factors listed in paragraph (d).

(b) The commissioner of ~~economic security~~ shall coordinate with the commissioner of health ~~and local~~ who shall consult with boards of health to provide swab team services for purposes of secondary prevention. The priority for swab teams created by grants to eligible organizations under this section shall be work assigned by the commissioner of health, or by a board of health if so designated by the commissioner of health, to provide secondary prevention swab team services to fulfill the requirements of section 144.9504, subdivision 6, in response to a lead order. Swab teams; ~~administered~~ assigned work under this section by the commissioner of ~~economic security~~, that are not engaged daily in fulfilling the requirements of section ~~144.872, subdivision 5~~ 144.9504, subdivision 6, must deliver swab team services in response to elevated blood lead levels as defined in section 144.9501, subdivision 2, where lead orders were not issued, and for purposes of primary prevention in census tracts known to be in areas at high risk for toxic lead exposure as described in section 144.9503, subdivision 2.

(c) Any additional money shall be used for grants ~~shall be made~~ to establish swab teams for primary prevention; ~~without environmental lead testing under section 144.9503, in census tracts in areas at high risk for toxic lead exposure as determined under section 144.9503, subdivision 2.~~

(d) In evaluating grant applications, the commissioner shall consider the following criteria:

(1) the use of ~~licensed lead~~ contractors and certified lead abatement workers for residential ~~lead abatement~~ swab team services;

(2) the participation of neighborhood groups and individuals, as swab team ~~members~~ workers, in areas at high risk for toxic lead exposure;

(3) plans for the provision of swab team services for primary and secondary prevention through swab team services in areas at high risk for toxic lead exposure on a census tract basis without environmental lead testing as required under subdivision 4;

(4) plans for supervision, training, career development, and postprogram placement of swab team members;

(5) plans for resident and property owner education on lead safety;

(6) plans for distributing cleaning supplies to area residents and educating residents and property owners on cleaning techniques;

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(7) sources of other funding and cost estimates for training, lead inspections, swab team services, equipment, monitoring, testing, and administration;

(8) measures of program effectiveness; ~~and~~

(9) coordination of program activities with other federal, state, and local public health, job training, apprenticeship, and housing renovation programs including the emergency jobs program under sections 268.672 to 268.881; and

(10) prior experience in providing swab team services.

Sec. 4. Minnesota Statutes 1994, section 268.92, subdivision 4, is amended to read:

Subd. 4. ~~LEAD ABATEMENT CONTRACTORS.~~ (a) Eligible organizations and ~~licensed lead abatement~~ contractors may participate in the ~~lead abatement swab team~~ program. An eligible organization receiving a grant under this section must assure that all participating lead contractors are licensed and that all swab team, ~~and removal and replacement employees~~ workers are certified by the department of health under section ~~144.878, subdivision 5~~ 144.9505. Eligible organizations and ~~licensed lead~~ contractors may distinguish between interior and exterior services in assigning duties and may participate in the program by:

(1) providing on-the-job training for swab ~~teams~~ team workers;

(2) providing swab team services to meet the requirements of ~~section 144.872~~ sections 144.9503, subdivision 4, and 144.9504, subdivision 6;

(3) providing a removal and replacement ~~abatement~~ component using skilled craft workers under subdivision 7;

(4) providing ~~primary prevention, without environmental lead testing, in census tracts at high risk for toxic lead exposure~~ according to subdivision 7a;

(5) providing lead dust cleaning supplies, as described in section ~~144.872, subdivision 4~~ 144.9503, subdivision 5, paragraph (b), to residents; or

(6) ~~instructing having a swab team worker instruct~~ residents and property owners on appropriate lead control techniques, including the lead-safe directives developed by the commissioner of health.

(b) Participating ~~licensed lead~~ contractors must:

(1) demonstrate proof of workers' compensation and general liability insurance coverage;

(2) be knowledgeable about lead abatement requirements established by the Department of Housing and Urban Development and the Occupational Safety and Health Administration and lead hazard reduction requirements and lead-safe directives of the commissioner of health;

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(3) demonstrate experience with on-the-job training programs;

(4) demonstrate an ability to recruit employees from areas at high risk for toxic lead exposure; and

(5) demonstrate experience in working with low-income clients.

Sec. 5. Minnesota Statutes 1994, section 268.92, subdivision 5, is amended to read:

Subd. 5. **LEAD ABATEMENT EMPLOYEES SWAB TEAM WORKERS.** Each worker engaged in swab team services ~~or removal and replacement abatement in programs~~ established under this section must have blood lead concentrations below 15 micrograms of lead per deciliter of whole blood as determined by a baseline blood lead screening. Any organization receiving a grant under this section is responsible for lead screening and must assure that all swab team workers in lead abatement programs, receiving grant funds under this section, meet the standards established in this subdivision. Grantees must use appropriate workplace procedures including following the lead-safe directives developed by the commissioner of health to reduce risk of elevated blood lead levels. Grantees and participating contractors must report all employee blood lead levels that exceed 15 micrograms of lead per deciliter of whole blood to the commissioner of health.

Sec. 6. Minnesota Statutes 1994, section 268.92, subdivision 6, is amended to read:

Subd. 6. **ON-THE-JOB TRAINING COMPONENT.** (a) Programs established under this section must provide on-the-job training for swab ~~teams~~ team workers. Training methods must follow procedures established under section ~~144.878, subdivision 5~~ 144.9506.

(b) Swab team ~~members~~ workers must receive monetary compensation equal to the prevailing wage as defined in section 177.42, subdivision 6, for comparable jobs in the licensed contractor's principal business.

Sec. 7. Minnesota Statutes 1994, section 268.92, subdivision 7, is amended to read:

Subd. 7. **REMOVAL AND REPLACEMENT COMPONENT.** (a) Within the limits of the available appropriation and if a need is identified by a lead inspector, programs may be established if a need is identified the commissioner may establish a component for removal and replacement abatement of deteriorated paint in residential properties: according to the following criteria:

(1) components within a residence must have both deteriorated lead-based paint and substrate damage beyond repair or rotting wooden framework to be eligible for removal and replacement;

(2) all removal and replacement ~~abatement~~ must be done using least-cost

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methods that meet the standards of section 144.878, subdivision 2, and following lead-safe directives:

(3) whenever windows and doors or other components covered with deteriorated lead-based paint have sound substrate or are not rotting, those components should be repaired, sent out for stripping or be planed down to remove deteriorated lead-based paint or covered with protective guards instead of being replaced, provided that such an activity is the least cost method of providing the swab team service;

(4) removal and replacement ~~abatement~~ or repair must be done by licensed lead ~~abatement~~ contractors: using skilled craft workers or trained swab team members; and

(5) all craft work that requires a state license must be supervised by a person with a state license in the craft work being supervised. The grant recipient may contract for this supervision.

(b) The program design must:

(1) identify the need for ~~trained on the job training of~~ swab team workers and to be removal and replacement ~~abatement~~ workers and;

(2) describe plans to involve appropriate groups in designing methods to meet the need for ~~trained lead abatement training swab team~~ workers; and,

(3) include an examination of how program participants may achieve certification as a part of the work experience and training component. Certification may be achieved through licensing, apprenticeship, or other education programs.

Sec. 8. Minnesota Statutes 1994, section 268.92, is amended by adding a subdivision to read:

Subd. 7a. TESTING AND EVALUATION. (a) Testing of the environment is not necessary by swab teams whose work is assigned by the commissioner of health or a designated board of health under section 144.9504. The commissioner of health or designated board of health shall share the analytical testing data collected on each residence for purposes of secondary prevention under section 144.9504 with the swab team workers in order to provide constructive feedback on their work and to the commissioner for the purposes set forth in paragraph (c).

(b) For purposes of primary prevention evaluation, the following samples must be collected; pretesting and posttesting of one noncarpeted floor dust lead sample and a notation of the extent and location of bare soil and of deteriorated lead-based paint. The analytical testing data collected on each residence for purposes of primary prevention under section 144.9503, shall be shared with the swab team workers in order to provide constructive feedback on their work and to the commissioner for the purposes set forth in paragraph (c).

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(c) The commissioner of health shall establish a program in cooperation with the commissioner to collect appropriate data as required under paragraphs (a) and (b), in order to conduct an ongoing evaluation of swab team services for primary and secondary prevention. Within the limits of available appropriations, the commissioner of health shall conduct or contract with the commissioner, on up to 1,000 residences which have received primary or secondary prevention swab team services, a postremediation evaluation, on at least a quarterly basis for a period of at least two years for each residence. The evaluation must note the condition of the paint within the residence, the extent of bare soil on the grounds, and collect and analyze one noncarpeted floor dust lead sample. The data collected shall be evaluated to determine the efficacy of providing swab team services as a method of reducing lead exposure in young children. In evaluating this data, the commissioner of health shall consider city size, community location, historic traffic flow, soil lead level of the property by area or census tract, distance to industrial point sources that emit lead, season of the year, age of the housing, age, and number of children living at the residence, the presence of pets that move in and out of the residence, and other relevant factors as the commissioner of health may determine. This evaluation of the swab team program may be paid from amounts appropriated to the department of economic security for providing swab team services.

Sec. 9. Minnesota Statutes 1994, section 268.92, subdivision 8, is amended to read:

Subd. 8. **PROGRAM BENEFITS.** As a condition of providing ~~lead abatement~~ swab team services under this section, an organization may require a property owner to not increase rents on a property solely as a result of a substantial improvement made with public funds under the programs in this section.

Sec. 10. Minnesota Statutes 1994, section 268.92, subdivision 10, is amended to read:

Subd. 10. **REPORT.** Beginning in the year in which an appropriation is received, the commissioner shall prepare and submit a ~~lead abatement swab team~~ every program report to the legislature and the governor by December 31, and every two years thereafter. At a minimum, the report must describe the ~~programs~~ organizations that received grants under this section, the cost, nature, and extent of swab team services provided by each grantee, an evaluation of the efficacy of providing swab team services under subdivision 7a, and ~~make~~ recommendations for program changes.

Sec. 11. Minnesota Statutes 1994, section 462A.05, subdivision 15c, is amended to read:

Subd. 15c. **RESIDENTIAL LEAD ABATEMENT.** (a) It may make or purchase loans or grants for the abatement of hazardous levels of lead paint in residential buildings and lead contaminated soil on the property of residential buildings occupied by low- and moderate-income persons. Hazardous levels are as determined by the department of health or the pollution control agency. The

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agency must establish ~~grant~~ criteria for a residential lead paint and lead contaminated soil abatement program, including the terms of loans and grants under this section, a maximum amount for loans or grants, eligible ~~owners~~ borrowers or grantees, eligible contractors, and eligible buildings. The agency may make grants to cities, local units of government, registered lead abatement contractors, and nonprofit organizations for the purpose of administering a residential lead paint and contaminated lead soil abatement program. ~~No loan or grant may be made for lead paint abatement for a multifamily building which contains substantial housing maintenance code violations unless the violations are being corrected in conjunction with receipt of the loan or grant under this section.~~ The agency must establish standards for the relocation of families where necessary and the payment of relocation expenses. To the extent possible, the agency must coordinate loans and grants under this section with existing housing programs.

The agency, in consultation with the department of health, shall report to the legislature by January ~~1993~~ 1996 on the costs and benefits of subsidized lead abatement and the extent of the childhood lead exposure problem. The agency shall review the effectiveness of its existing loan and grant programs in providing funds for residential lead abatement and report to the legislature with examples, case studies and recommendations.

(b) The agency may also make grants to eligible organizations, as defined in section 268.92, subdivision 1, for the purposes of section 268.92.

Sec. 12. **REPEALER.**

Minnesota Statutes 1994, section 115C.082, subdivision 2, is repealed.

Presented to the governor May 22, 1995

Signed by the governor May 25, 1995, 8:42 a.m.

CHAPTER 214—S.F.No. 1033

An act relating to insurance; solvency; regulating disclosures, reinsurance, capital stock, managing general agents, and contracts issued on a variable basis; amending Minnesota Statutes 1994, sections 13.71, by adding a subdivision; 60A.03, subdivision 9; 60A.07, subdivision 10; 60A.093, subdivision 2; 60A.11, subdivisions 18 and 20; 60A.705, subdivision 8; 60A.75; 60H.02, subdivision 4; 60H.08; 61A.19; 61A.31, subdivision 3; and 67A.231; proposing coding for new law in Minnesota Statutes, chapter 60A.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1994, section 13.71, is amended by adding a subdivision to read:

Subd. 19. MATERIAL TRANSACTION REPORTS. Reports required to be filed by insurers regarding certain material transactions are classified under section 60A.135, subdivision 4.

New language is indicated by underline, deletions by ~~strikeout~~.