

1 Pollution Control Agency

2

3 Adopted Permanent Rules Relating to Lead Abatement in Soil

4

5 Rules as Adopted

6 4750.0010 APPLICABILITY.

7 Parts 4750.0010 to 4750.0050 apply to ~~a-property-owner~~ any

8 person who is performing ~~or-has-been-ordered-to-perform~~

9 abatement of lead in bare soil on residential property and

10 playgrounds.

11 4750.0015 DEFINITIONS.

12 Subpart 1. Scope. For purposes of parts 4750.0010 to

13 4750.0050, the following terms have the meanings given them.

14 Subp. 2. Abatement contractor. "Abatement contractor" has

15 the meaning given in Minnesota Statutes, section 144.871,

16 subdivision 3.

17 Subp. 3. Agency. "Agency" means the Minnesota Pollution

18 Control Agency.

19 Subp. 4. Bare soil. "Bare soil" means an outdoor area of

20 one-square-foot-or-more where soil is visible over a continuous

21 area of one square foot or more.

22 ~~Subp. 5. Board of health. "Board of health" has the~~

23 ~~meaning given in Minnesota Statutes, section 145A.02,~~

24 ~~subdivision 2.~~

25 Subp. 6. 5. Commissioner. "Commissioner" means the

26 commissioner of the Minnesota Pollution Control Agency.

27 Subp. 7. 6. Hazardous waste. "Hazardous waste" has the

28 meaning given it in Minnesota Statutes, section 115B.02,

29 subdivision 9.

30 Subp. 8. 7. Person. "Person" has the meaning given in

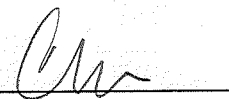
31 Minnesota Statutes, section 116.06, subdivision 8.

32 Subp. 8. Playground. "Playground" means an open area,

33 including vacant lots, used for outdoor games, recreation, and

34 amusement that may contain swings, seesaws, slides, or other

35 means for children's recreation and play. ~~Playgrounds do not~~



1 ~~include public parks or public playgrounds.~~

2 Subp. 9. Residential property. "Residential property"  
3 means real property that contains a house, building, or other  
4 structure used or intended for use as human habitation. The  
5 term residential property includes all open areas on the real  
6 property that may be used by children as playgrounds and  
7 includes sidewalks, walkways, gardens, and driveways.

8 4750.0020 BARE SOIL STANDARD.

9 Bare soil on residential property or on playgrounds ~~for~~  
10 ~~which a board of health is required to conduct an assessment~~  
11 ~~under Minnesota Statutes, section 144.874, subdivision 1,~~ must  
12 not contain lead in a concentration of 3/100 of one percent (300  
13 parts per million) or more by weight.

14 4750.0030 ABATEMENT METHODS FOR BARE SOIL.

15 Subpart 1. Applicability. The abatement methods  
16 prescribed in this part apply to ~~a property owner who has been~~  
17 ~~ordered by a board of health to abate bare soil on residential~~  
18 ~~property or a playground~~ any person conducting abatement of bare  
19 soil that has been determined to exceed the bare soil standard  
20 established in part 4750.0020.

21 Subp. 2. Abatement methods. ~~A property owner who is~~  
22 ~~required to undertake abatement of bare soil shall implement one~~  
23 ~~of the following abatement methods:~~

24 ~~A. the bare soil must be rototilled and the resulting~~  
25 ~~area covered with sod or other material that will prevent the~~  
26 ~~bare soil from being exposed;~~

27 ~~B. if the bare soil contains more than 1,000 parts~~  
28 ~~per million lead, the soil must be removed and replaced with~~  
29 ~~soil that does not contain more than 25 parts per million lead;~~  
30 ~~or~~

31 ~~C. an alternative abatement method approved under the~~  
32 ~~variance procedure in part 4750.0050.~~ Except as provided in  
33 subpart 4, item A, a person who is performing abatement of bare  
34 soil may elect either to cover the bare soil to prevent exposure  
35 or to remove the soil. Depending on which alternative is

1 selected, the person shall comply with the requirements  
2 applicable to the alternative selected.

3 Subp. 3. Soil cover. Any person performing abatement of  
4 bare soil by covering the soil shall comply with the  
5 requirements in items A to C.

6 A. Living ground cover. If the person intends to  
7 cover the bare soil with sod or other living material, the  
8 person shall first till and rake the soil before laying the sod  
9 or other living material.

10 B. Impervious cover. If the person intends to cover  
11 the bare soil with concrete, asphalt, or other similar material,  
12 the person shall compact the soil prior to laying the concrete,  
13 asphalt, or other similar material.

14 C. Other cover material. If the person intends to  
15 cover the bare soil with sand, wood chips, or other nonliving,  
16 pervious material, no preparation to the bare soil is required  
17 prior to application of the sand, wood chips, or other material.

18 Subp. 4. Soil removal.

19 A. Any person performing abatement of bare soil must  
20 remove the soil if the soil contains visible paint chips.

21 B. Any person performing abatement of bare soil by  
22 removing the soil shall either remove the soil from the premises  
23 and dispose of it in accordance with part 4750.0035 or bury the  
24 soil on the property under clean soil that has been excavated  
25 from the premises. In the event the commissioner determines  
26 that burial of the bare soil on the premises would threaten the  
27 groundwater or cause other environmental damage, the bare soil  
28 must be removed from the premises and disposed of in accordance  
29 with part 4750.0035.

30 Subp. 5. Abatement implementation. A property-owner  
31 person who is required-to-undertake performing abatement of bare  
32 soil shall-follow-the-procedures-in-items-A-to-C-when-abating  
33 soil, regardless of the method selected or required, shall  
34 comply with items A to D.

35 A. Children must be prohibited from playing or  
36 otherwise coming in contact with the soil being disrupted during

1 abatement.

2 B. Soil that is removed must be properly stored or  
3 disposed of at the end of each work day.

4 C. Soil on steps and walkways must be removed and  
5 steps, walkways, and foundations must be hosed off with water at  
6 the end of each work day and before replacing soil or new sod  
7 each day.

8 D. During installation of the soil cover, the person  
9 performing the abatement must keep the soil moist.

10 Subp. 4- 6. **Abatement priority.** If abatement of bare soil  
11 is done at a residential property or a playground in conjunction  
12 with other types of lead abatement, the abatement of the bare  
13 soil must be done after paint abatement but before interior dust  
14 abatement.

15 Subp. 7. Abatement area. In the event data establish that  
16 only a portion of the bare soil on a residential property or  
17 playground exceeds the bare soil standard, the person performing  
18 abatement is only required to abate the bare soil that exceeds  
19 the standard.

20 Subp. 8. Variance. Any alternative abatement procedures  
21 to subpart 3 or 4 shall be proposed in a variance request as  
22 described in part 4750.0050 and must have agency approval before  
23 the alternative abatement procedure can be performed.

24 4750.0035 DISPOSAL OF WASTE MATERIALS FROM ABATEMENT PROJECTS.

25 Subpart 1. **Demolition debris.** Demolition debris, such as  
26 windows, doors, walls, and concrete, created from an abatement  
27 project may be disposed of in a demolition landfill.

28 ~~Subp. 2. **Other-leaded-debris.**--The-property-owner-must~~  
29 ~~comply-with-the-requirements-of-chapter-7045-for-other-waste~~  
30 ~~material-from-an-abatement-project.--Other-waste-material~~  
31 ~~includes-both-the-waste-material-from-the-residential-property~~  
32 ~~and-any-waste-material,-such-as-solvents,-generated-as-part-of~~  
33 ~~the-abatement-project.--Any-waste-material-that-is-determined-to~~  
34 ~~be-a-hazardous-waste-must-be-managed-as-a-hazardous-waste. Bare~~  
35 soil. Unless the commissioner determines that bare soil must be

1 managed as a hazardous waste, the person performing the  
2 abatement may dispose of bare soil as normal household refuse.

3 Subp. 3. ~~Bare soil.--The property owner must comply with~~  
4 ~~the requirements of chapter 7045 for any bare soil excavated as~~  
5 ~~part of an abatement project.--Bare soil that contains lead in~~  
6 ~~such concentration that it is a hazardous waste must be managed~~  
7 ~~as a hazardous waste.~~ Other waste material. All other waste  
8 materials generated during abatement of lead contaminated  
9 material shall be disposed of according to applicable agency  
10 requirements.

11 4750.0040 ABATEMENT CONTRACTOR DUTIES.

12 If a ~~property owner who is required to undertake abatement~~  
13 ~~of bare soil~~ person hires an abatement contractor to conduct the  
14 abatement, the abatement contractor shall comply with the  
15 requirements of parts 4750.0030 and 4750.0035.

16 4750.0045 LOCAL ENFORCEMENT.

17 Nothing in parts 4750.0010 to 4750.0050 shall be construed  
18 to restrict the authority of any local governmental body from  
19 enforcing applicable laws regulating the amount of lead in  
20 material.

21 4750.0050 VARIANCE.

22 Subpart 1. Procedures. A ~~property owner who is required~~  
23 ~~to undertake~~ person performing abatement of bare soil may apply  
24 for a variance from the requirements of part 4750.0030,  
25 subpart ~~27-item-A-or-B~~ 3 or 4, to allow for use of innovative  
26 abatement methods. The ~~property owner~~ person shall comply with  
27 part 7000.0700 in applying for the variance and the agency shall  
28 act upon the variance request according to the procedures of  
29 part 7000.0700.

30 Subp. 2. Burden of proof. The ~~property owner~~ person who  
31 applies for a variance has the burden of establishing that the  
32 variance should be granted.

33 Subp. 3. Granting of the variance request. The agency  
34 shall grant the variance request if the ~~property owner~~ person

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1 establishes that the innovative abatement method will ensure  
2 that upon completion of the abatement, no person will come in  
3 contact with bare soil that exceeds the bare soil standard in  
4 part 4750.0020.