

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of the Proposed
Amendments to Rules Governing
Residential Lead Abatement, Minn. R.
Part 4761.2510

**ORDER ON REVIEW OF
ADDITIONAL NOTICE PLAN**

This matter came before Chief Administrative Law Judge Jenny Starr upon the request for review of an Additional Notice Plan for the proposed amendments to Minn. R. 4761.2510 (2021), pursuant to Minn. Stat. § 14.3895, subd. 2 (2020), filed by the Minnesota Department of Health (Department). The Department's request was filed on July 1, 2022.

In its submissions, the Department included the following:

- A copy of the proposed rule amendment;
- A letter explaining why the Department believes its Additional Notice Plan complies with Minn. Stat. § 14.22 (2020);
- A draft copy of the Statement of Need and Reasonableness (SONAR), including its Additional Notice Plan; and
- A draft Notice of Intent to Adopt Rules Without a Public Hearing (Notice of Intent).

The Additional Notice Plan states that the following groups and individuals will be served by email¹ with hyperlinks to a copy of the Notice of Intent, SONAR, and proposed rule:

- The Department's GovDelivery list for its asbestos and lead program stakeholders (approximately 3,000 stakeholders), including builders, contractors, lead abatement professionals, training providers, and other interested stakeholders;
- Local public health associations and all local public health department and community health boards in the state;
- The Department's list of 182 lead contractors and consultants;

¹ The Department notes that in instances where an email address is not available or could not be obtained for a group or individual, the Department will send a copy of the Notice of Intent by U.S. Mail.

- “Local units of government and related professional associations;”
- “Testing laboratories;”
- Health insurance companies and medical professional associations;
- Builders, contractors, realtors, and related professional associations;
- Licensed family child care for Minnesota counties and tribes;
- The Minnesota Child Care Association, Minnesota Association of Child Care Professionals, and Minnesota Child Care Provider Information Network; and
- State agencies including the Department of Labor and Industry, Department of Education, Department of Employment and Economic Development, Minnesota Housing, Department of Human Services – Child Care Licensing and Certification; Department of Human Rights, and Metropolitan Council (Metro Housing and Redevelopment Authority).

In addition, the Department will hold: (1) a public meeting for stakeholders; and (2) publish its Notice of Intent, SONAR, proposed rule and rulemaking updates on the Department’s rulemaking webpage.

The Chief Administrative Law Judge finds that the Department’s Notice Plan is legally sufficient and, therefore,

IT IS HEREBY ORDERED THAT:

The Additional Notice Plan is **APPROVED** with recommendations for more specificity, as detailed in the Memorandum below.

Dated: July 7, 2022



JENNY STARR
Chief Administrative Law Judge

MEMORANDUM

While the Department's Additional Notice Plan is legally sufficient, the Chief Administrative Law Judge respectfully recommends that the Department:

- (1) specifically identify the "local units of government and related professional associations" it plans to notice by naming those professional associations and identifying which local units of government will receive notice;
- (2) identify that "all" testing laboratories in Minnesota will receive notice and specifically identify what kind of testing laboratories will receive notice;
- (3) specifically identify the "builders, contractors, realtors, and related professional organizations," "health insurance companies," and "medical professional associations" that will be sent notice (i.e., name the specific professional organizations);
- (4) clarify if all licensed family child care providers and facilities will receive notice or explain why the Department is limiting notice to only some of the licensees; and
- (5) include notice to landlord and tenant associations in the state, including, for example, the Minnesota Multi-Housing Association, the Minnesota Real Estate Investors Association, Minnesota Home Line Organization, Housing Link, legal aid organizations assisting tenants, etc.).

The Chief Judge recommends including landlord and tenant associations specifically because the SONAR lists, as classes of persons affected by the proposed rule: "tenants, property owners, and managers of residential buildings and dwellings."² Therefore, it would be prudent that organizations representing or assisting these classes of people be provided direct notice. The other recommendations simply assist in providing clarity.

J. S.

² SONAR at 7.