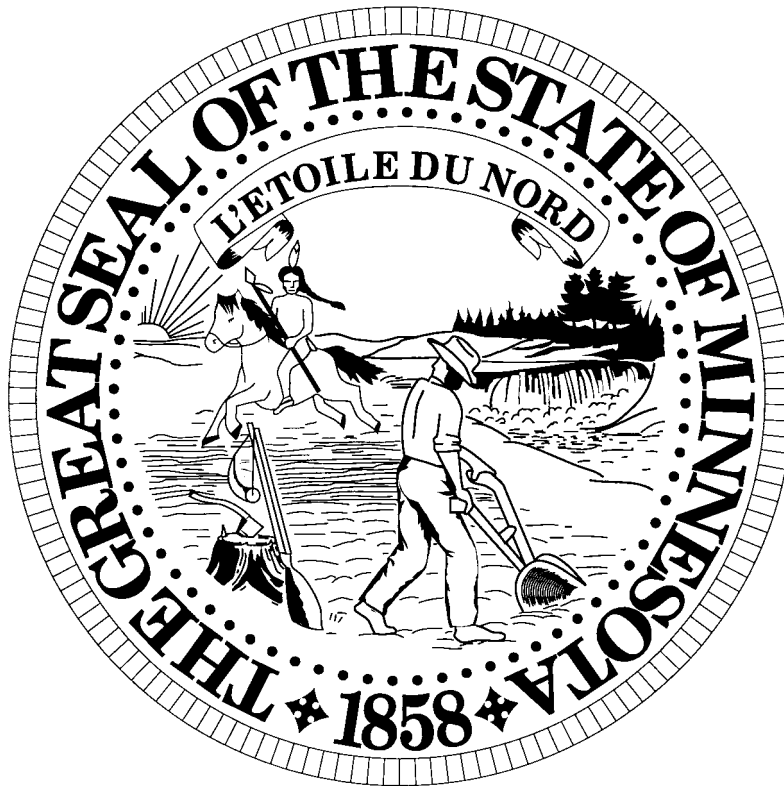


State of Minnesota

State Register

Rules and Official Notices Edition



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State Register

Judicial Notice Shall Be Taken of Material Published in the *State Register*

The *State Register* is the official publication of the State of Minnesota, published weekly to fulfill the legislative mandate set forth in *Minnesota Statutes* § 14.46. The *State Register* contains:

- proposed, adopted, exempt, expedited emergency and withdrawn rules
- executive orders of the governor
- appointments
- proclamations and commendations
- commissioners' orders
- revenue notices
- official notices
- state grants and loans
- contracts for professional, technical and consulting services
- non-state public bids, contracts and grants
- certificates of assumed name, registration of insignia and marks

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Printing Schedule and Submission Deadlines

Vol. 28 Issue Number	PUBLISH DATE	Deadline for: Emergency Rules, Executive and Commissioner's Orders, Revenue and Official Notices, State Grants, Professional-Technical-Consulting Contracts, Non-State Bids and Public Contracts	Deadline for Both Adopted and Proposed RULES
#45	Monday 10 May	Noon Tuesday 4 May	Noon Wednesday 28 April
#46	Monday 17 May	Noon Tuesday 11 May	Noon Wednesday 5 May
#47	Monday 24 May	Noon Tuesday 18 May	Noon Wednesday 12 May
#48	TUESDAY 1 JUNE	Noon Tuesday 25 May	Noon Wednesday 19 May

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Rev. Dr. Martin Luther King Jr Blvd., St. Paul, MN 55155
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St. Paul, MN 55155 **Website:** www.courts.state.mn.us

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Minnesota Rules: Amendments and Additions

NOTICE: How to Follow State Agency Rulemaking in the State Register

The *State Register* is the official source, and only complete listing, for all state agency rulemaking in its various stages. State agencies are required to publish notice of their rulemaking action in the *State Register*. Published every Monday, the *State Register* makes it easy to follow and participate in the important rulemaking process. Approximately 80 state agencies have the authority to issue rules. Each agency is assigned specific **Minnesota Rule** chapter numbers. Every odd-numbered year the **Minnesota Rules** are published. The current 1999 set is a 13-volume bound collection of all adopted rules in effect at the time. Supplements are published to update this set of rules. Generally speaking, proposed and adopted exempt rules do not appear in this set because of their short-term nature, but are published in the *State Register*.

An agency must first solicit **Comments on Planned Rules** or **Comments on Planned Rule Amendments** from the public on the subject matter of a possible rulemaking proposal under active consideration within the agency (*Minnesota Statutes* §§ 14.101). It does this by publishing a notice in the *State Register* at least 60 days before publication of a notice to adopt or a notice of hearing, or within 60 days of the effective date of any new statutory grant of required rulemaking.

When rules are first drafted, state agencies publish them as **Proposed Rules**, along with a notice of hearing, or a notice of intent to adopt rules without a hearing in the case of noncontroversial rules. This notice asks for comment on the rules as proposed. Proposed emergency rules and withdrawn proposed rules are also published in the *State Register*. After proposed rules have gone through the comment period, and have been rewritten into their final form, they again appear in the *State Register* as **Adopted Rules**. These final adopted rules are not printed in their entirety in the *State Register*, only the changes made since their publication as Proposed Rules. To see the full rule, as adopted and in effect, a person simply needs two issues of the *State Register*, the issue the rule appeared in as proposed, and later as adopted. For a more detailed description of the rulemaking process, see the most current edition of the *Minnesota Guidebook to State Agency Services*.

The *State Register* features partial and cumulative listings of rules in this section on the following schedule: issues #1-13 inclusive; issues #14-25 inclusive; issue #26 cumulative for issues #1-26; issues #27-38 inclusive; issue #39, cumulative for issues #1-39; issues #40-51 inclusive; and issues #1-52 (or 53 in some years), cumulative for issues #1-52 (or 53). An annual subject matter index for rules was separately printed usually in August, but starting with Volume 19 now appears in the final issue of each volume. For copies or subscriptions to the *State Register*, contact Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155 (612) 297-3000, or toll-free 1-800-657-3757.

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Proposed Rules

Comments on Planned Rules or Amendments

An agency must first solicit **Comments on Planned Rules** or **Comments on Planned Rules Amendments** from the public on the subject matter of a possible rulemaking proposal under active consideration within the agency (*Minnesota Statutes* § 14.101). It does this by publishing a notice in the *State Register* at least 60 days before publication of a notice to adopt or a notice of hearing, and within 60 days of the effective date of any new statutory grant of required rulemaking.

Rules to be Adopted After a Hearing

After receiving comments and deciding to hold a public hearing on the rule, an agency drafts its rules. It then publishes its rules with a notice of hearing. All persons wishing to make a statement must register at the hearing. Anyone who wishes to submit written comments may do so at the hearing, or within five working days of the close of the hearing. Administrative law judges may, during the hearing, extend the period for receiving comments up to 20 calendar days. For five business days after the submission period the agency and interested persons may respond to any new information submitted during the written submission period and the record is then closed. The administrative law judge prepares a report within 30 days, stating findings of fact, conclusions and recommendations. After receiving the report, the agency decides whether to adopt, withdraw or modify the proposed rule based on consideration of the comments made during the rule hearing procedure and the report of the administrative law judge. The agency must wait five days after receiving the report before taking any action.

Rules to be Adopted Without a Hearing

Pursuant to *Minnesota Statutes* § 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing. An agency must first solicit **Comments on Planned Rules** or **Comments on Planned Rules Amendments** from the public. The agency then publishes a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. If, during the 30-day comment period, 25 or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

Board of Dentistry

Proposed Permanent Rules Relating to Licensure and Registration Renewal and Continuing Education/Professional Development

DUAL NOTICE: Notice of Intent to Adopt Rules Without a Public Hearing Unless 25 or More Persons Request a Hearing, And Notice of Hearing If 25 or More Requests For Hearing Are Received

Proposed Permanent Rules Relating to Licensure and Registration Renewal and Continuing Education/Professional Development, *Minnesota Rules*, parts 3100.0100, 3100.1700, 3100.1750, 3100.1850, 3100.2000, 3100.3600, and 3100.6300; and

Proposed Repeal of Rules Governing Continuing Education, *Minnesota Rules*, parts 3100.4100, 3100.4200, 3100.4300, 3100.4400, 3100.4500, and 3100.4600

Introduction. The Minnesota Board of Dentistry intends to adopt rules without a public hearing following the procedures set forth in the rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.2300 to 1400.2310, and the Administrative Procedure Act, *Minnesota Statutes*, sections 14.22 to 14.28. If, however, 25 or more persons submit a written request for a hearing on the rules by 4:30 p.m. on June 9, 2004, a public hearing will be held in 4th Floor Conference Room A, University Park Plaza, 2829 University Avenue SE, Minneapolis, Minnesota 55414, starting at 9:00 a.m. on Thursday, June 24, 2004. To find out whether the rules will be adopted without a hearing or if the hearing will be held, you should contact the agency contact person after June 9, 2004 and before June 24, 2004.

Agency Contact Person. Comments or questions on the rules and written requests for a public hearing on the rules must be submitted to the agency contact person. The agency contact person is: Kathy Johnson at Minnesota Board of Dentistry, University Park Plaza, 2829 University Avenue SE, Suite 450, Minneapolis, Minnesota 55414-3249, **phone:** (612) 617-2554 or (888) 240-4762 (outside metro), **FAX:** (612) 617-2260, and may also be directed by **e-mail:** kathy.t.johnson@state.mn.us. Minnesota Relay Service for hearing impaired: (800) 627-3529.

Subject of Rules and Statutory Authority. The proposed rules are about changing the continuing education or professional development cycle and hour requirements for all regulated dental professionals, and changing the renewal period for those professions. Specifically, the proposed rules offered would change the current CE cycles for dental professionals from five-year to two-year professional development cycles, increase professional development requirements, establish some targeted areas for continuing education, and change the renewal period from annual to biennial to coincide with the new professional development cycle.

KEY: PROPOSED RULES SECTION – Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated “all new material.” **ADOPTED RULES SECTION** – Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicates deletions from proposed rule language.

Proposed Rules

Additionally, the following rules are being repealed, *Minnesota Rules*, parts 3100.4100, 3100.4200, 3100.4300, 3100.4400, 3100.4500, and 3100.4600.

The statutory authority to adopt the rules is *Minnesota Statutes*, section 150A.04, subdivision 5. A copy of the proposed rules is published in the *State Register* and attached to this notice as mailed. A free copy of the rules is available upon request from the agency contact person listed above.

Comments. You have until 4:30 p.m. on Wednesday, June 9, 2004, to submit written comment in support of or in opposition to the proposed rules or any part or subpart of the rules. Your comment must be in writing and received by the agency contact person by the due date. Comment is encouraged. Your comments should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed. You are encouraged to propose any change desired. Any comments that you would like to make on the legality of the proposed rules must also be made during this comment period.

Request for a Hearing. In addition to submitting comments, you may also request that a hearing be held on the rules. Your request for a public hearing must be in writing and must be received by the agency contact person by 4:30 p.m. on Wednesday, June 9, 2004. Your written request for a public hearing must include your name and address. You must identify the portion of the proposed rules to which you object or state that you oppose the entire set of rules. Any request that does not comply with these requirements is not valid and cannot be counted by the agency when determining whether a public hearing must be held. You are also encouraged to state the reason for the request and any changes you want made to the proposed rules.

Withdrawal of Requests. If 25 or more persons submit a valid written request for a hearing, a public hearing will be held unless a sufficient number withdraw their requests in writing. If enough requests for hearing are withdrawn to reduce the number below 25, the agency must give written notice of this to all persons who requested a hearing, explain the actions the agency took to effect the withdrawal, and ask for written comments on this action. If a public hearing is required, the agency will follow the procedures in *Minnesota Statutes*, sections 14.131 to 14.20.

Alternative Format/Accommodation. Upon request, this Notice can be made available in an alternative format, such as large print, Braille, or cassette tape. To make such a request or if you need an accommodation to make this hearing accessible, please contact the agency contact person at the address or telephone number listed above.

Modifications. The proposed rules may be modified, either as a result of public comment or as a result of the rule hearing process. Modifications must be supported by data and views submitted to the agency or presented at the hearing and the adopted rules may not be substantially different than these proposed rules, unless the procedure under *Minnesota Rules*, part 1400.2110, has been followed. If the proposed rules affect you in any way, you are encouraged to participate in the rulemaking process.

Cancellation of Hearing. The hearing scheduled for June 24, 2004, will be canceled if the agency does not receive requests from 25 or more persons that a hearing be held on the rules. If you requested a public hearing, the agency will notify you before the scheduled hearing whether or not the hearing will be held. You may also call the agency contact person at (612) 617-2554 after June 9, 2004, to find out whether the hearing will be held.

Notice of Hearing. If 25 or more persons submit valid written requests for a public hearing on the rules, a hearing will be held following the procedures in *Minnesota Statutes*, sections 14.131 to 14.20. The hearing will be held on the date and at the time and place listed above. The hearing will continue until all interested persons have been heard. Administrative Law Judge Kathleen D. Sheehy is assigned to conduct the hearing. Judge Kathleen D. Sheehy can be reached at the Office of Administrative Hearings, 100 Washington Square, Suite 1700, Minneapolis, Minnesota 55401 2138, **telephone** (612) 341-7602, and **FAX** (612) 349-2665.

Hearing Procedure. If a hearing is held, you and all interested or affected persons, including representatives of associations or other interested groups, will have an opportunity to participate. You may present your views either orally at the hearing or in writing at any time before the close of the hearing record. All evidence presented should relate to the proposed rules. You may also submit written material to the Administrative Law Judge to be recorded in the hearing record for five working days after the public hearing ends. This five day comment period may be extended for a longer period not to exceed 20 calendar days if ordered by the Administrative Law Judge at the hearing. Following the comment period, there is a five working day rebuttal period during which the agency and any interested person may respond in writing to any new information submitted. No additional evidence may be submitted during the five day rebuttal period. All comments and responses submitted to the Administrative Law Judge must be received at the Office of Administrative Hearings no later than 4:30 p.m. on the due date. All comments or responses received will be available for review at the Office of Administrative Hearings. This rule hearing procedure is governed by *Minnesota Rules*, parts 1400.2000 to 1400.2240, and *Minnesota Statutes*, sections 14.131 to 14.20. Questions about procedure may be directed to the Administrative Law Judge.

The agency requests that any person submitting written views or data to the Administrative Law Judge prior to the hearing or during the comment or rebuttal period also submit a copy of the written views or data to the agency contact person at the address stated above.

Statement of Need and Reasonableness. A statement of need and reasonableness is now available from the agency contact per-

Proposed Rules

son. This statement contains a summary of the justification for the proposed rules, including a description of who will be affected by the proposed rules and an estimate of the probable cost of the proposed rules. The statement may also be reviewed and copies obtained at the cost of reproduction from the agency.

A copy of the Dual Notice and proposed rules shall be mailed to everyone who has registered to be on the Board of Dentistry's rulemaking mailing list under *Minnesota Statutes*, section 14.14, subdivision 1a; and

A copy of the Dual Notice, proposed rules, and the Statement of Need and Reasonableness shall be mailed to the Legislature according to *Minnesota Statutes*, section 14.116.

Lobbyist Registration. *Minnesota Statutes*, chapter 10A, requires each lobbyist to register with the State Campaign Finance and Public Disclosure Board. Questions regarding this requirement may be directed to the Campaign Finance and Public Disclosure Board at: Suite 190, Centennial Building, 658 Cedar Street, St. Paul, Minnesota 55155, telephone (651) 296-5148 or 1-800-657-3889.

Adoption Procedure if No Hearing. If no hearing is required, the agency may adopt the rules after the end of the comment period. The rules and supporting documents will then be submitted to the Office of Administrative Hearings for review for legality. You may ask to be notified of the date the rules are submitted to the office. If you want to be so notified, or want to receive a copy of the adopted rules, or want to register with the agency to receive notice of future rule proceedings, submit your request to the agency contact person listed above.

Adoption Procedure After a Hearing. If a hearing is held, after the close of the hearing record, the Administrative Law Judge will issue a report on the proposed rules. You may ask to be notified of the date when the Administrative Law Judge's report will become available, and can make this request at the hearing or in writing to the Administrative Law Judge. You may also ask to be notified of the date on which the agency adopts the rules and the rules are filed with the Secretary of State, and can make this request at the hearing or in writing to the agency contact person stated above.

Order. I order that the rulemaking hearing be held at the date, time, and location listed above.

Dated: 22 April 2004

Marshall Shragg
Executive Director
Minnesota Board of Dentistry

3100.0100 DEFINITIONS.

[For text of subps 1 to 2b, see M.R.]

Subp. 3. **Applicant.** "Applicant" means a person who has submitted an application to become a licensee; or registrant; ~~or a CDE sponsor.~~

[For text of subps 4 to 6, see M.R.]

Subp. 7. **CDE.** "CDE" means professional development and continuing dental education.

Subp. 7a. **Clinical subject.** "Clinical subject" means those subjects directly related to the provision of dental care and treatment to patients.

[For text of subps 8 and 8a, see M.R.]

Subp. 8b. **Core subject.** "Core subject" means those areas of knowledge that relate to public safety and professionalism as determined by the board or a committee of the board.

Subp. 9. **Course.** "Course" means an educational offering, class, presentation, meeting, or other similar event ~~which is offered by a sponsor and qualifies for CDE credit or for which a licensee or registrant requests CDE credit pursuant to part 3100.4300.~~

Subp. 9a. **CPR.** "CPR" refers to a cardiopulmonary resuscitation certificate obtained through a course equivalent to the American Heart Association healthcare provider course or the American Red Cross professional rescuer course.

Subp. ~~9a~~ 9b. **Dental health care worker personnel or DHCW DHCP.** "Dental health care ~~worker personnel~~" or "~~DHCW DHCP~~" means ~~an individual~~ individuals who ~~works~~ work in a dental practice who may be exposed to body fluids such as blood or saliva.

Subp. ~~9b~~ 9c. **Dental hygienist.** "Dental hygienist" means a person holding a license as a dental hygienist issued by the board pursuant to the act.

KEY: PROPOSED RULES SECTION – Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** – Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicates deletions from proposed rule language.

Proposed Rules

[For text of subp 10, see M.R.]

Subp. 11. **Dentist.** “Dentist” means a person holding a license as a general dentist, specialty dentist, or full faculty dentist issued by the board pursuant to the act.

Subp. 11a. **Elective activities.** “Elective activities” refers to those activities directly related to, or supportive of, the practice of dentistry, dental hygiene, or dental assisting.

Subp. ~~11a~~ 11b. **Faculty dentist.** “Faculty dentist” has the meaning given it in *Minnesota Statutes*, section 150A.01, subdivision 6a.

Subp. 11c. **Fundamental activities.** “Fundamental activities” means those activities directly related to the provision of clinical dental services.

[For text of subps 12a to 16, see M.R.]

Subp. 16a. **Portfolio.** “Portfolio” means an accumulation of written documentation of professional development activities.

Subp. 16b. **Professional development.** “Professional development” means activities that include, but are not limited to, continuing education, community services, publications, and career accomplishments throughout a professional’s life.

[For text of subps 17 to 18a, see M.R.]

Subp. 18b. **Self-assessment.** “Self-assessment” means an ungraded examination provided by the board intended to help determine strengths and weaknesses in specific areas of dental practice.

Subp. 20. [See repealer]

[For text of subp 21, see M.R.]

3100.1700 TERMS AND RENEWAL OF LICENSURE AND REGISTRATION; GENERAL.

Subpart 1. **Requirements.** The requirements of this part apply to the terms and renewal of licensure or registration of an applicant other than a limited faculty or resident dentist. The requirements for the terms and renewal of licensure as a limited faculty or resident dentist are specified in part 3100.1750.

Subp. 1a. ~~Terms~~ **Initial term.** An initial license or registration issued by the board is valid from the date issued until ~~renewed the last day of the licensee’s or registrant’s birth month in either the following even-numbered year for an even-numbered birthdate year or the following odd-numbered year for an odd-numbered birthdate year,~~ or terminated in accordance with the procedures specified in this part. ~~An annually renewed license or registration issued by the board is valid from January 1 of the year for which it was issued until renewed or terminated in accordance with the procedures specified in this part.~~

Subp. 1b. **Biennial term.** A properly renewed license or registration issued by the board is valid from the first day of the month following expiration for 24 months until renewed or terminated in accordance with the procedures specified in this part.

Subp. 2. **Renewal applications.** Each dentist, dental hygienist ~~and,~~ registered dental assistant, or dental assistant with a limited registration under part 3100.8500, subpart 3, shall submit an application for biennial renewal of a license or registration together with the necessary fee no later than ~~December 31 of the year preceding that for which the license or registration renewal is requested~~ the last day of the licensee’s or registrant’s birth month which serves as the application deadline. Applications for renewal ~~will be~~ are considered timely if received by the board no later than ~~December 31 or postmarked on December 31.~~ If the postmark is illegible, the application will be considered timely if received in the board office via United States first class mail on the first workday after December 31 ten business days after the last day of the licensee’s or registrant’s birth month. The application form must provide a place for the renewal applicant’s signature certifying compliance with the applicable professional development requirements and ~~must solicit~~ information to include but not be limited to the applicant’s office address or addresses, the license number or registration certificate number, whether the licensee or registrant has been engaged in the active practice of dentistry during the ~~year~~ two years preceding the ~~year~~ period for which renewal is sought ~~in the active practice of dentistry or dental hygiene or has worked as a registered dental assistant as a licensee or registrant,~~ and if so, whether within or without the state, and such other information which may be reasonably requested by the board.

~~For those licensees or registrants whose five year CDE cycle expired the previous June 30 and who have not submitted evidence of compliance with the five year CDE requirement set forth in part 3100.4100, the board will include in its written notice relating to annual renewal, that the licensee or registrant shall submit verified evidence of having taken the requisite number of CDE credit hours or of having passed the applicable examinations listed in part 3100.1850, subpart 4, in order to have his or her license or registration renewed.~~

Subp. 3. **Failure to submit renewal application.** The following procedure will be followed by the board for all licensees and registrants who have failed to submit the ~~annual~~ biennial renewal application in accordance with subpart 2 ~~including, if applicable, required information about CDE,~~ and applicable fees, except as provided in subpart 5.

A. Any time after ~~January 1~~ the application deadline, the board will send, to the last address on file with the board, a notice to all licensees or registrants who have not made application for the renewal of their license or registration. The notice will state

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that licensee or registrant has failed to make application for renewal; the amount of the renewal and late fees ~~and/or the information required about CDE as specified in subpart 2 which must be submitted in order for the license or registration to be renewed~~; that licensee or registrant may voluntarily terminate the license or registration by notifying the board; and that failure to respond to the notice by the date specified, which date must be at least 33 days after the notice is sent out by the board, either by submitting the renewal application and applicable fees, ~~and/or the information required about CDE~~, or by notifying the board that licensee or registrant has voluntarily terminated his or her license or registration will result in the expiration of the license or registration and termination of the right to practice.

B. If the application for renewal, including ~~required information about CDE~~ the applicant's signature certifying compliance with the applicable professional development requirements, and the applicable ~~annual biennial~~ and late fees or notice of voluntary termination is not received by the board by the date specified in the notice, the license or registration will expire and the licensee's or registrant's right to practice will terminate as of the date specified in the notice. The expiration and termination will not be considered a disciplinary action against the licensee or registrant.

~~C. Notwithstanding items A and B, the expiration date shall be extended six months when a licensee or registrant failed to meet the CDE requirements and requests permission to take the applicable examination specified in part 3100.1850, subpart 2, item A. The license or registration shall expire at the end of the six month extension if the licensee or registrant does not submit within that time period evidence of having passed the examination. In those cases where a licensee or registrant was physically incapable, at the end of that person's five year reporting cycle, of taking CDE courses, the expiration date shall also be extended six months for the purpose of giving the person an opportunity to take the necessary number of CDE course hours. The licensee or registrant must submit clear and convincing evidence of physical incapability. The license or registration shall expire at the end of the six month extension if the licensee or registrant does not submit within that time period evidence of taking the number of CDE course hours necessary to comply with part 3100.4100, subpart 2. Any CDE hours accumulated during the six month extension shall not count toward meeting the requirement of the new CDE cycle.~~

~~In either instance referenced above, a licensee or registrant may submit a request for an extension of the six month period. The board shall grant the extension only in cases of extreme hardship or other compelling reasons. Financial hardship caused by loss of license shall not meet these standards. The burden rests on the licensee or registrant to prove that an extension should be granted, which in no case shall exceed an additional six months.~~

[For text of subp 4, see M.R.]

Subp. 5. **Contested case proceedings.** The board, in lieu of the process ~~set out~~ in subpart 3, may initiate a contested case hearing to revoke or suspend a license or registration for failure to submit the fees ~~and CDE information requested~~ or provide the applicant's signature certifying compliance with the applicable professional development requirements on the renewal application, at the same time that it initiates disciplinary proceedings against the licensee or registrant for other grounds specified in *Minnesota Statutes*, section 150A.08, subdivision 1, and parts 3100.6100 to 3100.7200 and 3100.8100.

3100.1750 TERMS AND RENEWAL OF LICENSURE; LIMITED FACULTY AND RESIDENT DENTISTS.

Subpart 1. **Requirements.** The requirements of this part apply to the terms and renewal of licensure as a limited faculty or resident dentist.

[For text of subp 2, see M.R.]

Subp. 3. Renewal applications.

A. A limited faculty or resident dentist must complete and submit to the board an application form furnished by the board, together with the applicable annual renewal fee, no later than June 30 for the 12-month period for which licensure renewal is requested. Applications for renewal will be considered timely if received by the board no later than June 30 or postmarked on June 30. If the postmark is illegible, the application will be considered timely if received in the board office via United States first class mail on the first workday after June 30.

[For text of item B, see M.R.]

Subp. 4. **Application fees.** Each applicant for initial licensure as a limited faculty or resident dentist shall submit with a license application a fee in the following amounts:

A. limited faculty dentist, \$140; and

B. resident dentist, \$55.

KEY: PROPOSED RULES SECTION – Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** – Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

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Subp. 5. Annual license fees. Each limited faculty or resident dentist shall submit with an annual license renewal application a fee established by the board not to exceed the following amounts:

- A. limited faculty dentist, \$168; and
- B. resident dentist, \$59.

Subp. 6. Annual license late fee. Applications for renewal of any license received after the time specified in this part shall be assessed a late fee equal to 50 percent of the annual renewal fee.

3100.1850 REINSTATEMENT OF LICENSURE OR REGISTRATION.

Subpart 1. **Requirements.** Upon complying with the requirements specified in this part, the applicant's license or registration shall be reinstated. Any person desiring the reinstatement of a license or registration which expired pursuant to part 3100.1700, subpart 3, or was voluntarily terminated shall:

- A. submit to the board a completed reinstatement application ~~on a~~ form provided by the board;
- B. submit with the application the fee specified in part 3100.2000, subpart 6; and
- C. ~~include with the application a letter stating the reasons for applying for reinstatement; and if the applicant cannot provide the information required on the application form, submit either:~~

(1) evidence of having successfully completed part II of the national board examination or the clinical examination specified in part 3100.1100, subpart 2, for dentists; the national board examination or the clinical examination specified in part 3100.1200, item C, for dental hygienists; or the registration examination specified in part 3100.1300, item C, for registered dental assistants; or

(2) a statement setting forth the facts concerning the expiration or voluntary termination, request a waiver of the applicable examination on the basis of those facts and, if desired, request an interview before the appropriate board committee. If the board committee finds from the statement or any other evidence submitted, that good cause has been shown for granting a waiver of the applicable examination, the board committee shall waive the examination requirement and, if determined necessary, stipulate a re-entry educational program on a case-by-case basis.

~~D. comply with the applicable provisions of subparts 2 to 5.~~ Upon reinstatement, the person shall be assigned to the ~~CDE cycle~~ biennial term to which the licensee or registrant was assigned prior to termination of the license or registration.

Subp. 2. [See repealer.]

Subp. 3. [See repealer.]

[For text of subp 5, see M.R.]

3100.2000 FEES.

Subpart 1. **Application fees.** Each applicant for licensure as a dentist or dental hygienist or for registration as a registered dental assistant or for a limited registration as a dental assistant under part 3100.8500, subpart 3, shall submit with a license or registration application a nonrefundable fee in the following amounts in order to administratively process an application:

- A. dentist ~~application~~, \$140;
- B. ~~faculty dentist application~~, \$140;
- ~~C. dental hygienist application~~, \$55;
- ~~D. resident dentist application~~, \$55;
- E. C. registered dental assistant ~~application~~, \$35; and
- F. D. dental assistant with a limited registration ~~application~~, \$15.

Subp. 1a. Initial license or registration fees. Along with the application fee, each dentist, dental hygienist, registered dental assistant, and dental assistant with a limited registration under part 3100.8500, subpart 3, shall submit a separate prorated initial license or registration fee. The prorated initial fee shall be established by the board based upon the number of months of the licensee's or registrant's initial term as described in part 3100.1700, subpart 1a, not to exceed the following monthly fee amounts:

- A. dentist, \$14 x (number of months of initial term);
- B. dental hygienist, \$5 x (number of months of initial term);
- C. registered dental assistant, \$3 x (number of months of initial term); and
- D. dental assistant with a limited registration, \$1 x (number of months of initial term).

Subp. 2. **Annual Biennial license or registration fees.** Each dentist, dental hygienist, and registered dental assistant, and dental assistant with a limited registration under part 3100.8500, subpart 3, shall submit with ~~an annual~~ a biennial license or registration renewal application a fee as established by the board not to exceed the following amounts:

- A. dentist, ~~\$168~~ \$336;
- B. ~~faculty dentist~~, ~~\$168~~;
- ~~C.~~ dental hygienist, ~~\$59~~ \$118;
- ~~D.~~ ~~resident dentist~~, ~~\$59~~;
- ~~E.~~ C. registered dental assistant, ~~\$40~~ \$80; and
- ~~F.~~ D. dental assistant with a limited registration, ~~\$12~~ \$24.

[For text of subp 3, see M.R.]

Subp. 4. ~~Annual~~ **Biennial license or registration late fee.** Applications for renewal of any license or registration received after the time specified in part 3100.1700 ~~or 3100.1750 are subject to~~ shall be assessed a late fee equal to ~~50~~ 25 percent of the ~~annual~~ biennial renewal fee.

Subp. 5. **Duplicate license or registration fee.** Each licensee or registrant shall submit with a request for issuance of a duplicate of the original license or registration or of an annual or biennial renewal of it a fee in the following amounts:

- A. original dentist or dental hygiene license, \$20; and
- B. initial and renewal registration certificates and license renewal certificates, \$10.

[For text of subp 6, see M.R.]

Subp. 8. [See repealer.]

Subp. 8a. [See repealer.]

[For text of subps 9 and 9a, see M.R.]

Subp. 10. **Refunds.** No fee shall be refunded for any reason ~~except in those cases where the applicant for licensure or registration is found to be ineligible to take the examination.~~

3100.3600 TRAINING AND EDUCATIONAL REQUIREMENTS TO ADMINISTER ANESTHESIA AND SEDATION.

[For text of subps 1 to 4, see M.R.]

Subp. 5. **Notice to board.** A dentist who administers a pharmacological agent for the purpose of general anesthesia, conscious sedation, or nitrous oxide inhalation analgesia shall submit to the board the information in items A to C.

[For text of item A, see M.R.]

B. Beginning January 1, 1993, a dentist may administer pharmacological agents for the purpose of general anesthesia or conscious sedation only if the dentist has submitted the following information to the board on forms provided by it: the name, address, and telephone number of the institution at which the dentist took the program or residency that complies with subparts 2, item A, subitem (1) or (2); and 3, item A, subitem (1), a certified copy of the dentist's transcript or other official record from the institution verifying that the dentist satisfactorily completed the program, residency, or course; and the name, address, and telephone number of the institution or other agency at which the dentist successfully completed the advanced cardiac life support course required by subparts 2, item A, subitem (3); and 3, item A, subitem (2). After this initial submission, dentists shall ~~every year~~ submit on their license renewal application or other form provided by the board a statement of the most recent course completed in advanced or basic cardiac life support.

C. Beginning January 1, 1993, a dentist not previously registered with the board pursuant to subpart 5, item A, may administer nitrous oxide inhalation analgesia only after the dentist has submitted the following information to the board on forms provided by it: the name, address, and telephone number of the institution at which the dentist took the course that complies with subpart 4, item B; a certified copy of the dentist's transcript or other official record from the institution verifying that the dentist has successfully completed an advanced or basic cardiac life support course as required by subpart 4, item C. After this initial submission, a dentist shall ~~every year~~ submit on the license renewal application or other form provided by the board a statement of the most recent course completed in advanced cardiac life support or basic cardiac life support.

D. A dental hygienist or registered dental assistant who graduated from an institution accredited by the Commission on Accreditation or received licensure by credentials prior to September 2, 2004, may administer nitrous oxide inhalation analgesia only after the dental hygienist or registered dental assistant has submitted the following information to the board on forms provided by it: the name, address, and telephone number of the institution at which the dental hygienist or registered dental assistant successfully completed the course required by subpart 4, item E; and a certified copy of the dental hygienist's or registered dental assis-

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tant's transcript or other official record from the institution verifying that the dental hygienist or registered dental assistant has successfully completed the advanced or basic cardiac life support course as required by subpart 4, item E. After this initial submission, the dental hygienist or registered dental assistant shall ~~every year~~ submit on the license renewal application or other form provided by the board a statement of the most recent course completed in advanced or basic cardiac life support.

[For text of subps 6 to 8, see M.R.]

3100.5100 PROFESSIONAL DEVELOPMENT.

Subpart 1. Professional development cycles.

A. The initial professional development cycle must coincide with the initial licensure and registration period for each dentist, dental hygienist, or registered dental assistant. The initial cycle for each licensee or registrant begins on the date of initial licensure or registration and ends on the last day of the licensee's or registrant's birth month in either an even-numbered or odd-numbered year that corresponds with the licensee's or registrant's year of birth. The initial cycle varies in the number of months depending on the date of initial licensure or registration for each licensee or registrant.

B. A biennial professional development cycle coincides with the biennial licensure or registration periods for each dentist, dental hygienist, or registered dental assistant. Each biennial renewal cycle consists of a 24-month period beginning on the first day of the month following expiration of the previous professional development cycle. An established biennial cycle continues to apply even if the license or registration is revoked, suspended, conditioned, or not renewed for any reason for any length of time.

Subp. 2. Professional development requirements.

A. For the initial professional development requirements, each dentist, dental hygienist, and registered dental assistant shall establish a portfolio to record, monitor, and retain acceptable documentation of fundamental and elective professional development activities, CPR certification, and self-assessments.

B. The minimum number of required hours of fundamental and elective professional development for each biennial cycle is 50 hours for dentists and 25 hours for dental hygienists and registered dental assistants. Each dentist, dental hygienist, and registered dental assistant shall establish a portfolio to record, monitor, and retain acceptable documentation of fundamental and elective professional development activities, CPR certification, and self-assessments. Any professional development hours earned in excess of the required hours for a biennial cycle must not be carried forward to the subsequent biennial cycle. The requirements for the fundamental and elective professional development activities are described in subitems (1) and (2).

(1) Each dentist, dental hygienist, and registered dental assistant must complete a minimum of 60 percent of the required biennial hours in fundamental activities directly related to the provision of clinical dental services as follows: a minimum of 30 hours for dentists and a minimum of 15 hours for dental hygienists and registered dental assistants. A licensee or registrant may earn all required biennial hours in fundamental activities only.

(2) Dentists, dental hygienists, and registered dental assistants are allowed a maximum of 40 percent of the required biennial hours in elective activities directly related to, or supportive of, the practice of dentistry, dental hygiene, or dental assisting as follows: a maximum of 20 hours for dentists and a maximum of ten hours for dental hygienists and registered dental assistants.

C. Professional development is credited on an hour-for-hour basis.

D. If a licensee or registrant fails to meet the professional development requirements because of extenuating circumstances, the licensee or registrant may apply for an extension of time to complete the requirements by making a written request to the board. The written request shall include a complete explanation of the circumstances, the renewal period, the number of hours earned, and the licensee's or registrant's plan for completing the balance of the requirement. If an extension is granted after review, the board shall establish the length of the extension to obtain the professional development requirements which must be completed concurrently with the subsequent renewal period.

Subp. 3. Professional development activities. Professional development activities include, but are not limited to, continuing education, community services, publications, and career accomplishments throughout a professional's life. Professional development activities are categorized as fundamental or elective activities as described in items A and B.

A. Fundamental activities include, but are not limited to, clinical subjects, core subjects, and CPR training. Examples of fundamental activities for an initial or biennial cycle are as described in subitems (1) to (4).

(1) Clinical subjects are those seminars, symposiums, lectures, or programs whose contents directly relate to the provision of dental care and treatment to patients.

(2) Core subjects are those seminars, symposiums, lectures, or programs that relate to public safety and professionalism. Each licensee or registrant shall complete a minimum of two of the categories of core subjects for each biennial cycle. Examples of core subject categories include, but are not limited to:

(a) infection control;

(b) record keeping;

- (c) ethics;
- (d) patient communications;
- (e) management of medical emergencies; and
- (f) treatment and diagnosis (for dentists only).

(3) A CPR certification course is mandatory for each licensee or registrant to maintain licensure or registration. The CPR course must be equivalent to the American Heart Association healthcare provider course or the American Red Cross professional rescuer course.

(4) The board shall approve other additional fundamental activities if the board finds the activity to be a seminar, symposium, lecture, or program whose contents directly related to dental care and treatment to patients or public safety and professionalism.

B. Elective activities for an initial or biennial cycle include, but are not limited to, the examples as described in subitems (1) to (7):

- (1) general attendance at a multiday state or national dental convention for a maximum of three credit hours;
- (2) volunteerism or community service directly relating to the practice of dentistry, dental hygiene, or dental assisting such as international or national mission work, voluntary clinic work, or dental health presentations to students or groups;
- (3) professional reading of published articles or other forms of self-study directly relating to the practice of dentistry, dental hygiene, or dental assisting;
- (4) scholarly activities include, but are not limited to:
 - (a) teaching a professional course directly related to the practice of dentistry, dental hygiene, or dental assisting; or presenting a continuing dental education program;
 - (b) presenting a table clinic directly related to the practice of dentistry, dental hygiene, or dental assisting;
 - (c) authoring a published dental article or text in a recognized publication;
 - (d) participating in test construction for an accredited state or nationally recognized dental association or organization; and
 - (e) participating in a scientific dental research program from an accredited institution or program or an evidence-based clinical study;

(5) dental practice management and communication courses include, but are not limited to, stress management, patient or staff motivation, computer, insurance claims or billing, foreign language, sign language, transferring patient records, Health Insurance Portability and Accountability Act (HIPAA) training, and patient abandonment;

(6) college courses directly relating to the practice of dentistry, dental hygiene, or dental assisting such as chemistry, anatomy, microbiology, nutrition, pharmacology, or other basic sciences; or

(7) the board shall approve other additional elective activities if the board finds the contents of the activity to be directly related to, or supportive of, the practice of dentistry, dental hygiene, or dental assisting.

Subp. 4. Acceptable documentation of professional development activities. Each licensee or registrant must record or obtain acceptable documentation of hours in professional development activities for the licensee's or registrant's portfolio. Acceptable documentation includes, but is not limited to, the following:

- A. completion of all self-assessment examinations provided by the board;
- B. a copy of the front and back of a completed CPR card or certificate from the American Heart Association, the American Red Cross, or other equivalent organization;
- C. confirming documentation from the presenting organization that provides the attendee's name, license or registration number, name of organization or presenter, course date, number of credit hours, subject matter, or program title; and
- D. a personal log of published articles read by the licensee or registrant including title of the article, name of author, name of journal or periodical, and date of published article.

Subp. 5. Retention of documentation. Each licensee or registrant must keep acceptable documentation for each fundamental and elective activity as required to meet professional development requirements. The licensee or registrant must retain the documentation for 24 months after each biennial renewal period has ended for purposes of an audit by the appropriate board committee.

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3100.5200 PORTFOLIO CONTENTS.

Each licensee or registrant must establish a professional portfolio. The professional portfolio must be used to record, monitor, and retain acceptable documentation of professional development activities. Upon completion of an initial or biennial professional development cycle, each licensee or registrant must have the required number of hours, if applicable, and proof of acceptable documentation as described under part 3100.5100, subpart 4, contained within the portfolio.

3100.5300 AUDIT PROCESS OF PORTFOLIO.

Subpart 1. **Auditing for compliance.** The board shall perform random audits of the portfolios. The licensee or registrant shall receive notification of being audited after submission of the renewal application and fee. Those licensees or registrants who are randomly selected for an audit shall provide their portfolio to the appropriate board committee within 60 days from the receipt date. Failure to comply with the audit documentation request or failure to supply acceptable documentation within 60 days may result in disciplinary action. After completion of an audit, the appropriate board committee shall officially notify the licensee or registrant by indicating the determination made regarding professional development compliance. All licensees or registrants are considered to be actively licensed or registered during the audit process.

Subp. 2. **Appropriate documentation.** The licensee or registrant shall submit true, complete, and accurate documentation. Falsification of any evidence for any renewal period or falsification or omission of documentation may result in disciplinary action.

Subp. 3. **Failure of an audit.**

A. Upon failure of an audit, the appropriate board committee shall either grant the licensee or registrant six months to comply with written requirements to resolve deficiencies in professional development compliance or initiate disciplinary proceedings against the licensee or registrant on grounds specified in parts 3100.6100 and 3100.6200 and *Minnesota Statutes*, section 150A.08, subdivision 1. Deficiencies causing audit failure may include, but are not limited to, the following:

- (1) lack of proof of documentation or participation;
- (2) credit hours earned outside of renewal period being audited;
- (3) excess of earned hours in a category having a maximum if a deficiency exists;
- (4) lack of earned hours in a category having a minimum if a deficiency exists;
- (5) failure to submit the portfolio;
- (6) unacceptable professional development sources; or
- (7) fraudulently earned or reported hours.

B. Failing to comply with the board committee's requirements by the end of the grace period shall result in the expiration of the person's license or registration and termination of the right to practice. A license or registration which has expired pursuant to this part may be reinstated pursuant to part 3100.1850.

Subp. 4. **Audit appeal.** Upon failure of an audit, the licensee or registrant has the option to appeal the decision to the board.

Subp. 5. **Mandatory audit.** The licensee or registrant must submit to a mandatory audit of the next renewal period by the appropriate board committee when the previous audit was failed by the licensee or registrant.

3100.5400 PROFESSIONAL DEVELOPMENT TRANSITION.

After January 1, 2005, the board shall notify in writing each licensee or registrant regarding the number of continuing education credits earned during their current five-year CDE cycle as of that date. Each licensee or registrant shall apply the number of credits earned towards the applicable professional development requirements described in part 3100.5100 when establishing that person's biennial professional development portfolio. The CDE notification from the board serves as acceptable documentation as proof of credits earned and must be retained in the licensee's or registrant's professional development portfolio.

Full faculty dentists may apply previous continuing education credits towards the applicable professional development requirements described in part 3100.5100 when establishing a biennial professional development portfolio. The full faculty dentist must have earned the CE credit hours within the five-year period prior to January 1, 2005, and must be able to obtain acceptable documentation of the hours pursuant to part 3100.5100, subpart 4.

3100.6300 ADEQUATE SAFETY AND SANITARY CONDITIONS FOR DENTAL OFFICES.

[For text of subps 1 to 10, see M.R.]

Subp. 11. **Infection control.** Dental health care ~~workers~~ personnel shall comply with the most current infection control recommendations, guidelines, precautions, procedures, practices, strategies, and techniques specified in the United States Department of Health and Human Services, Public Health Service, Centers for Disease Control publications of the Morbidity and Mortality Weekly Report (MMWR). The current infection control techniques set forth in the MMWR dated ~~July 12, 1991, volume 40, number RR-8, pages 1 to 9~~ December 19, 2003, volume 52, number RR-17, are hereby incorporated by reference. The MMWR is available at the Minnesota State Law Library, by interlibrary loan, or by subscription from the United States Department of Health and

Human Services, Public Health Service, Centers for Disease Control. The infection control standards in the MMWR are subject to frequent change.

[For text of subps 12 to 15, see M.R.]

REPEALER. *Minnesota Rules*, parts 3100.0100, subpart 20; 3100.1850, subparts 2 and 3; 3100.2000, subparts 8 and 8a; 3100.4100; 3100.4200; 3100.4300; 3100.4400; 3100.4500; and 3100.4600, are repealed.

EFFECTIVE DATE. *Minnesota Rules*, parts 3100.1700 to 3100.2000 and 3100.5100 to 3100.5300 are effective January 1, 2005.

INCORPORATION BY REFERENCE: Part 3100.6300, subpart 11: Morbidity and Mortality Weekly Report (MMWR) current infection control techniques, December 19, 2003, volume 52, number RR-17, is available at the Minnesota State Law Library, by interlibrary loan, or by subscription from the United States Department of Health and Human Services, Public Health Service, Centers for Disease Control, and is subject to frequent change.

Department of Health

Division of Environmental Health

Proposed Permanent Rules Relating to Lead Poisoning Prevention

NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

Proposed New Rules Governing the Minnesota Lead Poisoning Prevention Act, *Minnesota Rules*, Parts 4761.2000 to 4761.2700, and Repeal of Parts 4761.1000 to 4761.1220

Introduction. The Department of Health intends to adopt rules without a public hearing following the procedures set forth in the rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.2300 to 1400.2310, and the Administrative Procedure Act, *Minnesota Statutes*, sections 14.22 to 14.28. You may submit written comments on the proposed rules and may also submit a written request that a hearing be held on the rules until June 9, 2004.

Agency Contact Person. Comments or questions on the rules and written requests for a public hearing on the rules must be submitted to the agency contact person. The agency contact person is:

Nancy La Plante
Minnesota Department of Health
Asbestos/Lead Compliance Unit
P.O. Box 64975
St. Paul, Minnesota 55164-0975
Phone: (651) 215-0905
Fax: (651) 215-0975
Email: nancyjo.laplante@health.state.mn.us
TTY: (651) 215-0707, or toll free through the Minnesota Relay Service at 1-800-627-3529 and ask for (651) 215-0811.

Subject of Rules and Statutory Authority. The proposed rules implement the provisions of the Lead Poisoning Prevention Act, found at *Minnesota Statutes*, sections 144.9501 to 144.9509. The Act and the accompanying rules pertain to lead hazard reduction in homes and facilities where children are likely to be present, in order to minimize the potential for lead poisoning.

The Department is proposing to amend the rules for three reasons. First, the Minnesota Legislature amended the law governing lead poisoning prevention in 2001, requiring several rule changes. For example, the Commissioner was directed to adopt rules regarding the registration of lead sampling technicians and the training requirements for lead interim control workers. The proposed rules address these and other changes required by law. Second, the U.S. Environmental Protection Agency (EPA) reduced the standard for lead in dust for floors and window troughs. MDH must make corresponding changes to its rule in order to continue as an EPA authorized state. Finally, the existing rule is somewhat disorganized, and the Department wished to reorganize the rule provisions and clarify certain rule parts that have generated questions from regulated parties. Because this rulemaking includes a significant reorganization, the existing rule parts are being repealed and replaced with proposed rule parts 4761.2000 to 4761.2700.

The statutory authority to adopt the rules can be found in *Minnesota Statutes*, section 144.9508. A copy of the proposed rules is published in the *State Register* and available on the **web** at <http://www.health.state.mn.us/divs/eh/lead/rule/>. A free copy is also available upon request from the agency contact person.

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Comments. You have until 4:30 p.m. on June 9, 2004, to submit written comments in support of or in opposition to the proposed rules and any part or subpart of the rules. Your comments must be in writing and received by the agency contact person by the due date. Comment is encouraged. Your comments should identify the portion of the proposed rules addressed and the reason for the comment. You are encouraged to propose any change desired. Any comments that you would like to make on the legality of the proposed rules must also be made during this comment period.

Request for a Hearing. In addition to submitting comments, you may also request that a hearing be held on the rules. Your request for a public hearing must be in writing and must be received by the agency contact person by 4:30 p.m. on June 9, 2004. Your written request for a public hearing must include your name and address. You must identify the portion of the proposed rules to which you object or state that you oppose the entire set of rules. Any request that does not comply with these requirements is not valid and cannot be counted by the agency when determining whether a public hearing must be held. You are also encouraged to state the reason for the request and any changes you want made to the proposed rules.

Withdrawal of Requests. If 25 or more persons submit a valid written request for a hearing, a public hearing will be held unless a sufficient number withdraw their requests in writing. If enough requests for hearing are withdrawn to reduce the number below 25, the agency must give written notice of this to all persons who requested a hearing, explain the actions the agency took to effect the withdrawal, and ask for written comments on this action. If a public hearing is required, the agency will follow the procedures in *Minnesota Statutes*, sections 14.131 to 14.20.

Alternative Format. Upon request, this Notice can be made available in an alternative format, such as large print, Braille, or cassette tape. To make such a request, please contact the agency contact person at the address or telephone number listed above.

Modifications. The proposed rules may be modified as a result of public comment. The modifications must be supported by comments and information submitted to the agency, and the adopted rules may not be substantially different than these proposed rules, unless the procedure under *Minnesota Rules*, part 1400.2110, has been followed. If the proposed rules affect you in any way, you are encouraged to participate in the rulemaking process.

Statement of Need and Reasonableness. A statement of need and reasonableness is now available from the agency contact person. This statement contains a summary of the justification for the proposed rules, including a description of who will be affected by the proposed rules and an estimate of the probable cost of the proposed rules.

Adoption and Review of Rules. If no hearing is required, the agency may adopt the rules after the end of the comment period. The rules and supporting documents will then be submitted to the Office of Administrative Hearings for review for legality. You may ask to be notified of the date the rules are submitted to the office. If you want to be so notified, or want to receive a copy of the adopted rules, or want to register with the agency to receive notice of future rule proceedings, submit your request to the agency contact person listed above.

Dated: April 22, 2004

Dianne Mandernach, Commissioner
Minnesota Department of Health

4717.7000 VARIANCE REQUEST.

Subpart 1. **Request.** A party may ask the commissioner of health to grant a variance from the following rules:

- A. clean indoor air, parts 4620.0100 to 4620.1500, except part 4620.0300;
- B. formaldehyde in housing, part 4620.1800;
- C. asbestos abatement, part 4620.3710, item A, and, where space limitations prevent compliance with the specified requirements or where compliance with the specified requirements would create a greater hazard, parts 4620.3566, 4620.3567, 4620.3568, subparts 1 to 4, 4620.3569, 4620.3571, subparts 1 and 2, and 4620.3575, subpart 3;
- D. lodging establishments, parts 4625.0400 to 4625.0600; 4625.0900; 4625.1200 to 4625.1600; 4625.2000, except the last sentence; and 4625.2200;
- E. manufactured home parks and recreational camping areas, parts 4630.0400; 4630.0600, subparts 2 to 4; and 4630.0900 to 4630.1700;
- F. children's camps, parts 4630.2300 to 4630.4700;
- G. roller towels, part 4635.0200;
- H. enclosed sports arenas, parts 4620.3900 to 4620.4800, except part 4620.4300;
- I. water conditioning contractors and installers, parts 4715.5000 to 4715.6000;
- J. public swimming pools, parts 4717.0100 to 4717.3900;
- K. general requirements for construction of surface water and groundwater under the direct influence of surface water treatment facilities, parts 4720.3920 to 4720.3965;

- L. water haulers, parts 4720.4000 to 4720.4600;
- M. wellhead protection, parts 4720.5200 to 4720.5570;
- N. wells and borings, parts 4725.0100 to 4725.7450;
- O. explorers and exploratory borings, parts 4727.0100 to 4727.1300;
- P. explorers and exploratory borings, parts 4727.0100 to 4727.1300;
- Q. ionizing radiation, parts 4730.0100 to 4730.3610, except parts 4730.0400 and 4730.0600; and

R. lead poisoning prevention, parts ~~4761.1000~~ 4761.2000 to ~~4761.1200~~ 4761.2700, except ~~part 4761.1100~~ parts 4761.2000, 4761.2100, 4761.2200, 4761.2220, and 4761.2510.

4761.2000 DEFINITIONS.

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

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

Subp. 3. Abrasive blasting. “Abrasive blasting” has the meaning given in part 7025.0020, subpart 2.

Subp. 4. Affected property. “Affected property” means a:

- A. residence;
- B. school;
- C. child-occupied facility; or
- D. play area as defined in *Minnesota Statutes*, section 144.9501, subdivision 25a.

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

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

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

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

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

- A. the combined weekly visits last at least six hours; and
- B. the combined annual visits last at least 60 hours.

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

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

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

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

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

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

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

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Proposed Rules

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

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

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

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

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

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

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

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

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

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

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

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

Subp. 16. Dry sanding. “Dry sanding” means sanding without moisture and includes both hand and machine sanding.

Subp. 17. Dry scraping. “Dry scraping” means scraping without moisture and includes both hand and machine scraping.

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

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

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

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

Subp. 22. EPA. “EPA” means the United States Environmental Protection Agency.

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

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

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

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

Subp. 27. HUD. “HUD” means the United States Department of Housing and Urban Development.

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

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

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

Subp. 31. Occupant. “Occupant” means a person who lives or resides in a residence.

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

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

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

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

Subp. 36. Residence. “Residence” means:

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

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

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

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

Subp. 39. Vacuum blasting. “Vacuum blasting” has the meaning given in part 7025.0020, subpart 14.

Subp. 40. Water blasting. “Water blasting” means using pressurized water to remove a surface coating.

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

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

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

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

Subp. 45. X-ray fluorescence analyzer. “X-ray fluorescence analyzer” means a device that uses gamma ray-induced fluorescence of lead atoms to measure a material’s lead content.

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

4761.2100 APPLICABILITY.

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

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

A. work that is performed for any purpose other than the express purpose of regulated lead work as defined in *Minnesota*

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Statutes, section 144.9501, subdivision 26a;

B. an emergency shelter home or emergency shelter service;

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

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

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

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

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

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

CERTIFICATION, LICENSURE, REGISTRATION

4761.2200 CERTIFIED LEAD FIRMS.

Subpart 1. General requirements.

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

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

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

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

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

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

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

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

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

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

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

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

4761.2220 QUALIFIED INDIVIDUALS; REQUIRED METHODS AND SUPERVISION.

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

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

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

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

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

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(2) interim controls workers who have completed the appropriate training according to part 4761.2340, item B.

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

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

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

4761.2240 LEAD WORKER LICENSE.

Subpart 1. General requirements.

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

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

C. A lead worker license is not transferable.

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

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

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

Subp. 3. Expiration; renewal; retraining.

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

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

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

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

Subp. 4. Application.

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

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

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

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

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

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

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

(3) a copy of the current lead worker license from the state that the applicant is licensed in; and

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

Subp. 5. Renewal application.

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

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- (1) a completed application on a form provided by the commissioner;
- (2) a \$50 nonrefundable renewal application fee payable to the Minnesota Department of Health; and
- (3) a copy of the training course diploma from the most recent lead worker refresher training course as required under subpart 3.

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

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

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

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

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

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

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

4761.2260 LEAD SUPERVISOR LICENSE.

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

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

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

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

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

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

A. complete:

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

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

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

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

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

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

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

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

Subp. 5. **Application.**

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

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

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

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

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

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

- (1) a completed application on a form provided by the commissioner;
- (2) a \$50 nonrefundable application fee payable to the Minnesota Department of Health;
- (3) a copy of the applicant's original diploma for the initial lead supervisor training course;
- (4) documentation that the applicant passed an independent examination;
- (5) a copy of the current lead supervisor license from the state that the applicant is licensed in; and
- (6) a copy of the applicant's original diploma from the Minnesota lead supervisor refresher training course.

Subp. 6. Renewal application.

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

- (1) a completed application on a form provided by the commissioner;
- (2) a \$50 nonrefundable renewal application fee payable to the Minnesota Department of Health; and
- (3) a copy of the training course diploma from the most recent lead supervisor refresher training course as required under

subpart 4.

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

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

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

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

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

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

4761.2280 LEAD INSPECTOR LICENSE.

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

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

A. complete:

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

ized by the EPA and a lead inspector refresher training course for which the commissioner has issued a permit under part 4761.2370; and

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

Subp. 3. Expiration; renewal; retraining.

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

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

C. A lead inspector refresher training course must be completed within 36 months after the date on the last issued training

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course diploma. A refresher training course taken more than 36 months after the date on the last issued training course diploma does not qualify the individual for a renewed license.

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

Subp. 4. Application.

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

- (1) a completed application on a form provided by the commissioner;
- (2) a \$50 nonrefundable application fee payable to the Minnesota Department of Health;
- (3) a copy of the applicant's original diploma for the initial lead inspector training course; and
- (4) documentation that the applicant passed an independent examination.

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

- (1) a completed application on a form provided by the commissioner;
- (2) a \$50 nonrefundable application fee payable to the Minnesota Department of Health;
- (3) a copy of the applicant's original diploma for the initial lead inspector training course;
- (4) documentation that the applicant passed an independent examination;
- (5) a copy of the current lead inspector license from the state that the applicant is licensed in; and
- (6) a copy of the applicant's original diploma from the Minnesota lead inspector refresher training course.

Subp. 5. Renewal application.

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

- (1) a completed application on a form provided by the commissioner;
- (2) a \$50 nonrefundable renewal application fee payable to the Minnesota Department of Health; and
- (3) a copy of the training course diploma from the most recent lead inspector refresher training course as required under subpart 3.

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

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

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

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

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

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

4761.2300 LEAD RISK ASSESSOR LICENSE.

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

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

- A. have a high school diploma and at least three years of experience in regulated lead work, asbestos abatement, environmental remediation, general construction, or a childhood lead poisoning prevention program of a government agency;
- B. have a bachelor's degree and one year of experience in regulated lead work, asbestos abatement, environmental remediation, general construction, or a childhood lead poisoning prevention program of a government agency;
- C. have an associate's degree and two years of experience in regulated lead work, asbestos abatement, environmental remediation, general construction, or a childhood lead poisoning prevention program of a government agency; or
- D. be a certified industrial hygienist, registered professional engineer, registered architect, certified safety professional, or registered public health sanitarian.

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

A. complete:

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

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

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

Subp. 4. Expiration; renewal; retraining.

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

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

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

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

Subp. 5. Application.

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

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

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

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

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

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

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

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

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

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

(5) a copy of the current lead risk assessor license from the state that the applicant is licensed in; and

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

Subp. 6. Renewal application.

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

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

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

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

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

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

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

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Proposed Rules

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

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

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

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

4761.2320 LEAD PROJECT DESIGNER LICENSE.

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

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

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

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

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

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

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

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

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

Subp. 4. Expiration; renewal; retraining.

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

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

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

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

Subp. 5. Application.

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

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

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

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

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

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

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

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

(4) a copy of the current lead project designer license from the state that the applicant is licensed in; and

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

Subp. 6. Renewal application.

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

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

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

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

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

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

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

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

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

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

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

4761.2340 INTERIM CONTROLS REQUIREMENTS.

A. Individuals who perform interim controls, as defined by *Minnesota Statutes*, section 144.9501, subdivision 13a, must comply with this part.

B. To perform interim controls, an individual must complete:

(1) a lead-safe work practices training course developed or approved by the EPA or HUD or approved by a state or tribal lead training program authorized by the EPA; or

(2) a lead worker or lead supervisor training course for which a permit has been issued under part 4761.2370 or approved by a state or tribal lead training program authorized by the EPA.

C. An interim controls worker must maintain a copy of the training course diploma or certificate that is issued upon completing the requirements of a training course under item B. The diploma or certificate must be at the work site and available for review where the interim controls are conducted.

4761.2360 LEAD SAMPLING TECHNICIAN REGISTRATION.

Subpart 1. **Registration required.** A lead sampling technician, as defined in *Minnesota Statutes*, section 144.9501, subdivision 22b, must be registered with the Department of Health.

Subp. 2. **Training requirements; initial registration.** To be eligible for initial registration as a lead sampling technician, an applicant must complete a lead sampling technician course:

A. developed or accepted by the EPA or HUD; or

B. approved by a state or tribal lead training program authorized by the EPA.

Subp. 3. **Application.** To register as a lead sampling technician, an applicant must submit to the commissioner:

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

B. a copy of the applicant's original training course diploma that is issued by the training course provider upon completing the training course and passing the course examination.

Subp. 4. **Renewal.** An individual registered as a lead sampling technician must renew the registration annually to maintain registration status. To renew the registration, an individual must submit to the commissioner a completed registration renewal on a form provided by the commissioner.

Subp. 5. **Denial; conditions.** The commissioner shall deny a registration for a lead sampling technician if the applicant fails to

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comply with all applicable requirements in this part. The commissioner may also deny an application or set conditions on a registration according to *Minnesota Statutes*, section 144.99, subdivision 8. An applicant must be notified in writing of the denied application and the reasons for the denial.

Subp. 6. Expiration and transfer. A lead sampling technician registration is not transferable and is valid for 12 months after the commissioner approves the registration.

TRAINING COURSES; EXAMINATIONS

4761.2370 TRAINING COURSE PERMITS.

Subpart 1. General requirements.

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

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

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

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

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

Subp. 2. Permit application.

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

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

(2) a nonrefundable application fee as follows:

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

(b) \$250 for a refresher training course;

(3) a copy of the following:

(a) the course agenda;

(b) a sample sign-in sheet;

(c) the instructor manual;

(d) the trainee manual;

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

(f) any videotapes used for training;

(g) any audiotapes used for training;

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

(i) a sample diploma;

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

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

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

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

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

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

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

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

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

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

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

B. a nonrefundable application fee as follows:

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

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

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

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

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

4761.2380 REQUIRED TRAINING COURSE PERSONNEL; DUTIES.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4761.2400 TRAINING COURSE PROVIDER REQUIREMENTS AND DUTIES.

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

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

A. the name of the individual;

B. a unique identification number for the individual;

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

D. the location of the training course;

E. the course completion date;

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

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

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

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

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

Subp. 4. **Amending notifications.**

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

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

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

Subp. 5. **Attendance requirements.**

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

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

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

B. The daily sign-in log must include:

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

(2) the name of the course;

(3) the name of the training course provider;

(4) the date of the course; and

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

4761.2420 TRAINING COURSE REQUIREMENTS.

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

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

Subp. 3. Written examinations.

- A. A training course must include a written examination according to this subpart.
- B. Each training course must include a written examination that is given only at the end of the training course.
- C. The training course provider must administer training course examinations unless other arrangements are reported in advance to the commissioner.
- D. If the training course provider administers the examination, the training course provider must:
 - (1) not reveal any portion of the examination contents to any participant before administering the examination;
 - (2) ensure the security of the examination;
 - (3) ensure that no written material other than the examination materials are allowed within the participant's view; and
 - (4) ensure that any participant who passes the examination does so on the participant's own merit.
- E. Written examinations for initial and refresher training courses must incorporate questions about Minnesota statutes and rules related to lead and must comply with the requirements of Code of Federal Regulations, title 40, part 745, subpart L.
- F. A score of at least 70 percent is required to pass an initial or refresher training course written examination.
- G. The initial and refresher training course written examinations must consist of:
 - (1) at least 50 multiple-choice questions for a lead worker training course;
 - (2) at least 100 multiple-choice questions for a lead supervisor training course;
 - (3) at least 50 multiple-choice questions for a lead inspector training course;
 - (4) at least 100 multiple-choice questions for a lead risk assessor training course; and
 - (5) at least 50 multiple-choice questions for a lead project designer training course.
- H. If a participant in a lead worker training course is unable to read the written examination, the training course provider may arrange to administer the examination in an alternative manner to the participant.

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

- A. attend the entire training course;
- B. demonstrate to the instructor the participant's proficiency during the hands-on portion of the course; and
- C. pass a closed-book written examination that complies with subpart 3.

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

- A. attend the entire training course; and
- B. pass a closed-book written examination that complies with subpart 3.

Subp. 6. Record retention and reporting.

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

- (1) all documents that demonstrate the qualifications of all training instructors, including the training manager and principal instructors according to part 4761.2380, subparts 2, 4, and 6;
- (2) annual performance evaluations of all principal instructors as specified in part 4761.2380, subpart 3, item C;
- (3) current curriculum and course materials according to part 4761.2370, subpart 2, item A, subitem (3);
- (4) all questions that might be used in the course examination, the correct answers to the questions, and a description of the proportion of test questions devoted to each major topic in the course;
- (5) information regarding how the hands-on assessment is conducted, including:
 - (a) who conducts the assessment;
 - (b) how the skills are graded;
 - (c) what facilities are used; and

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(d) the pass and fail rate;

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

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

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

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

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

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

4761.2440 COURSE CONTENT AND LENGTH.

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

Subp. 2. Lead workers.

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

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

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

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

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

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

(5) recognizing and controlling lead hazards;

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

(7) interior and exterior dust abatement methods;

(8) bare soil abatement methods;

(9) daily and final cleanup methods; and

(10) clearance inspections.

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

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

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

(1) safety practices;

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

(3) technologies for regulated lead work.

Subp. 3. Lead supervisors.

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

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

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

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

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

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

piratory protection;

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

(6) developing and implementing an occupant protection plan;

(7) interpreting lead risk assessment and inspection reports;

(8) developing and implementing an abatement report;

(9) recognizing and controlling lead hazards;

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

(11) interior and exterior dust abatement methods;

(12) bare soil abatement methods;

(13) daily and final cleanup methods;

(14) clearance standards, inspections, and testing;

(15) waste disposal; and

(16) record keeping.

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

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

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

(1) safety practices;

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

(3) technologies for regulated lead work.

Subp. 4. Lead inspectors.

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

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

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

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

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

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

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

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

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

(8) report writing; and

(9) record keeping.

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

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

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

(1) safety practices;

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

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(3) technologies for regulated lead work.

Subp. 5. Lead risk assessors.

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

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

- (1) the role and responsibilities of a lead risk assessor;
- (2) collecting background information to perform a lead risk assessment;
- (3) sources of environmental lead contamination, including paint, dust, bare soil, drinking water, air, packaging, and food;
- (4) lead hazard screening protocol;
- (5) visually inspecting and identifying potential sources of lead-based paint hazards;
- (6) sampling methods for paint, dust, bare soil, drinking water, and other potential sources of lead exposure;
- (7) interpreting lead inspection sample results, including the application of clearance standards and inspections;
- (8) developing lead hazard control options, including lead hazard reduction, and operations and maintenance activities that reduce lead hazards; and
- (9) report writing.

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

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

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

- (1) safety practices;
- (2) federal and state regulations regarding regulated lead work; and
- (3) technologies for regulated lead work.

Subp. 6. Lead project designers.

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

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

- (1) the role and responsibilities of a lead project designer;
- (2) developing and implementing an occupant protection plan for a lead hazard reduction project;
- (3) lead-based paint abatement, in-place management, and lead-based paint hazard reduction methods, including prohibited practices;
- (4) internal and external dust abatement and cleanup for a lead hazard reduction project;
- (5) clearance standards and testing; and
- (6) integrating regulated lead work with modernization and rehabilitation projects.

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

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

- (1) safety practices;
- (2) federal and state regulations regarding regulated lead work; and
- (3) technologies for regulated lead work.

Subp. 7. Interim controls workers. A training course for interim controls workers must be developed or approved by the EPA, HUD, or a state or tribal lead training program authorized by the EPA.

Subp. 8. Lead sampling technicians. A training course for lead sampling technicians must be developed by the EPA, HUD, or a state or tribal lead training program authorized by the EPA.

4761.2460 INDEPENDENT TESTING ORGANIZATIONS; PERMITS.

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

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

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

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

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

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

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

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

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

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

4761.2480 INDEPENDENT TESTING ORGANIZATION REQUIREMENTS.

Subpart 1. Examination notification.

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

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

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

Subp. 2. Amending notifications.

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

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

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

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

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

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

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

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

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

(1) the date of the examination;

(2) the name of the independent testing organization;

(3) the location where the examination was administered;

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

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

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

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

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

LEAD STANDARDS; METHODS

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

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

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

B. registers at least one milligram of lead per square centimeter or more as measured by an x-ray fluorescence analyzer, unless atomic absorption spectrophotometry or quantitative chemical analyses shows that the lead content is less than one-half of one percent by dry weight.

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

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

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

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

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

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

4761.2540 BARE SOIL ANALYSES WITHIN AN URBAN CENSUS TRACT.

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

Subp. 2. **Sampling criteria.**

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

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

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

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

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

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

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

(1) a sample identification number;

(2) the sampling date;

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

(4) the census tract number;

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

(6) the soil sample location.

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

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I. An assessing agency must prepare a report describing how and where the samples were collected. The assessing agency must provide a copy of the report at no cost to the commissioner upon request. The assessing agency must retain the report for as long as it is the basis for issuing lead orders without additional soil sampling.

4761.2550 LEAD HAZARD SCREEN.

Subpart 1. General requirements.

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

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

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

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

Subp. 2. Methodologies.

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

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

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

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

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

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

C. visually identify the location of any deteriorated paint;

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

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

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

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

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

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

4761.2560 LEAD INSPECTION.

Subpart 1. General requirements.

A. A person must allow the commissioner to have access to a work site, according to *Minnesota Statutes*, section 144.99, sub-

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division 2, while the person performs a lead inspection.

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

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

Subp. 2. Methodologies.

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

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

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

Subp. 3. Lead inspection requirements.

A. A lead inspection for an affected property must:

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

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

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

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

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

4761.2570 LEAD RISK ASSESSMENT.

Subpart 1. General requirements.

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

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

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

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

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

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

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

Subp. 2. Methodologies.

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

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

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

Subp. 3. Lead risk assessment requirements.

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

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

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

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

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

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

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

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

(b) other common areas in the building where the lead risk assessor determines that one or more children are likely to come into contact with dust. Collection and analyses under this subitem are in addition to the requirements of subitems (4) and (5). In lieu of the collection and analyses under this subitem, interior window sills, window troughs, and floors may be assumed to have lead-contaminated dust on them;

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

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

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

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

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

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

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

4761.2580 LEAD HAZARD REDUCTION NOTIFICATION.

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

Subp. 2. Notification requirements.

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

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

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

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

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

4761.2590 AMENDING NOTIFICATIONS.

A. A certified lead firm, lead supervisor, or property owner performing lead hazard reduction must submit to the commissioner an amendment, on a form provided by the commissioner, for any change in the information reported to the commissioner on the original notice under part 4761.2580 or any subsequent amendment received after the original notice.

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

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

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

4761.2600 EMERGENCY PROJECT NOTICE.

Subpart 1. **Notice requirement.**

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

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

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

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

4761.2610 PROJECT RECORDS.

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

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

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

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

4761.2615 OCCUPANT PROTECTION PLAN AND WARNING SIGNS.

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

B. The plan must include:

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

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

(3) a list of the work areas;

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

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

C. The lead supervisor or property owner must:

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

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

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

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

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

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

4761.2620 PROHIBITED PRACTICES FOR LEAD HAZARD REDUCTION.

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

A. open-flame burning or torching;

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

C. chemical strippers containing methylene chloride;

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

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

(1) two square feet in any one room;

(2) 20 square feet on exterior surfaces; or

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

F. dry sweeping;

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

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

4761.2625 ABRASIVE AND WATER BLASTING METHODS FOR LEAD HAZARD REDUCTION.

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

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

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

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

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

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

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

4761.2630 METHODS FOR REMOVING INTACT BUILDING COMPONENTS.

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

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

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

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

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

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

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

Subp. 6. Decontamination procedures.

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

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

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

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

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

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

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

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

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

E. conduct clearance inspections according to part 4761.2670.

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

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

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

(1) two square feet per room;

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

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

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

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

Subp. 3. Work area preparation.

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

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

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

(1) vacuumed with a HEPA-filtered vacuum;

(2) wet wiped; or

(3) disposed of as lead-contaminated waste.

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

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

Subp. 4. Installing work area barriers.

A. Objects that cannot be removed from the work area and remain within five feet of the work area must be covered and

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secured with at least one layer of one-mil plastic sheeting.

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

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

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

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

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

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

Subp. 7. **Decontamination procedures.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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J. conduct clearance inspections according to part 4761.2670.

4761.2645 METHODS FOR REMOVING LARGE AREAS OF INTERIOR PAINT.

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

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

Subp. 3. **Containment preparation.**

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

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

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

(1) vacuumed with a HEPA-filtered vacuum;

(2) wet wiped; or

(3) disposed of as lead-contaminated waste.

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

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

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

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

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

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

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

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

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

Subp. 5. **Residents.**

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

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

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

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

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

Subp. 7. **Decontamination procedures.**

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

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

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

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

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

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

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

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

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

Subp. 9. Final cleaning procedures and inspection.

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

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

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

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

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

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

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

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

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

(9) conduct clearance inspections according to part 4761.2670.

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

4761.2650 METHODS FOR REMOVING LARGE AREAS OF EXTERIOR PAINT.

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

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

Subp. 3. Work area preparation.

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

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

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

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

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tion is occurring.

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

Subp. 4. Installing work area barriers.

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

B. At least one layer of six-mil plastic sheeting must be spread on the ground to extend at least ten feet in all directions from the surface being disturbed or extend at least 20 feet if the structure is more than one story in height, unless an adjacent building or other obstacle interferes. The plastic sheeting must be attached to the side of the building so that no gaps exist between the plastic and the building. The plastic sheeting must be secured in place. The edges of the plastic sheeting must be raised to form a catch basin to protect the ground surface from runoff in the event of precipitation. Ladder feet must not puncture the plastic sheeting unless it is necessary to ensure that the ladder is safely placed in a stable position.

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

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

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

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

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

Subp. 7. Decontamination procedures.

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

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

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

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

Subp. 8. Work condition restrictions.

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

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

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

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

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

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

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

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

F. inspect all ground surfaces on the property, the neighboring property, and any areas used to store equipment and waste materials for visible dust and debris generated by the lead hazard reduction and, if suspect dust and debris is observed, clean the ground surfaces; and

G. conduct clearance inspections according to part 4761.2670.

4761.2655 ENCAPSULATION OF LEAD-BASED PAINT.

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

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

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

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

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

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

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

(1) is structurally sound;

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

(3) will support the application of an encapsulant.

4761.2660 METHODS FOR LEAD HAZARD REDUCTION FOR SOIL.

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

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

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

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

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

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

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

(1) removed; or

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

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

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

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

4761.2665 STORAGE OF LEAD-CONTAMINATED DEBRIS.

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

4761.2670 CLEARANCE INSPECTIONS.

Subpart 1. General requirements.

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

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

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

D. The lead hazard reduction is successfully completed when a clearance inspection is performed according to subparts 2 and

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3 and analyses of samples according to subpart 4 demonstrates that the lead levels in part 4761.2510 are not exceeded.

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

Subp. 2. Visual inspection.

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

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

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

Subp. 3. Clearance sampling.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Subp. 4. Clearance results.

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

B. Composite dust sample results must be no greater than the dust lead level under part 4761.2510, subpart 2, which is divid-

ed by one-half of the number of subsamples that make up the composite sample.

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

4761.2680 CONTENT OF REPORTS.

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

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

B. the address of the affected property;

C. the date that the affected property was constructed;

D. the apartment or room numbers, if applicable;

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

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

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

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

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

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

K. all analytical results including the units of measurement;

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

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

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

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

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

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

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

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

A. the address of the affected property;

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

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

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

E. the occupant protection plan;

KEY: PROPOSED RULES SECTION – Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** – Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

Proposed Rules

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

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

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

I. any suggested monitoring of encapsulants or enclosures;

J. a copy of the clearance inspection report;

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

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

Subp. 4. Report retention.

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

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

4761.2690 ENFORCEMENT.

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

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

4761.2700 VARIANCES.

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

REPEALER. *Minnesota Rules*, parts 4761.1000; 4761.1010; 4761.1020; 4761.1040; 4761.1050; 4761.1060; 4761.1070; 4761.1080; 4761.1090; 4761.1100; 4761.1110; 4761.1120; 4761.1130; 4761.1140; 4761.1150; 4761.1160; 4761.1170; 4761.1180; 4761.1190; 4761.1200; 4761.1210; 4761.1220; and 4761.1230, are repealed.

INCORPORATION BY REFERENCE: Part 4761.2000, subpart 15: Soil Testing and Research Analytical Laboratories, Department of Soil Science, Agricultural Experiment Station, University of Minnesota, Determination of Lead in Soil (July 1990); American Society for Testing and Materials, Standard Practice for Field Collection of Settled Dust Samples Using Wipe Sampling Methods for Lead Determination by Atomic Spectrometry Techniques (E 1728-99) (March 2000); American Society for Testing and Materials, Standard Specification for Wipe Sampling Materials for Lead in Surface Dust (E 1792-01) (March 2002); American Society for Testing and Materials, Standard Practice for Collection of Floor Dust for Chemical Analysis (D 5438-00) (June 2000); American Society for Testing and Materials, Standard Specification for Non-Reinforced Liquid Coating Encapsulation Products for Leaded Paint in Buildings (E 1795-00) (August 2000); American Society for Testing and Materials, Standard Specification for Reinforced Liquid Coating Encapsulation Products for Leaded Paint in Buildings (E 1797-00) (August 2000); American Society for Testing and Materials, Standard Guide for Selection and Use of Liquid Coating Encapsulation Products for Leaded Paint in Buildings (E 1796-97) (May 1998); United States Department of Housing and Urban Development, Guidelines for the Evaluation and Control of Lead-based Paint Hazards in Housing (June 1995), including the 1997 edition of Chapter 7. The guidelines are available on the Internet at: www.hud.gov/offices/lead/guidelines/hudguidelines/index.cfm; *Code of Federal Regulations*, title 40, section 141.86, paragraph (b), clause (2), for water sampling methodology to determine lead content; United States Environmental Protection Agency, Residential Sampling for Lead: Protocols for Dust and Soil Sampling (EPA 747-R-95-001) (March 1995).

Part 4761.2460, subpart 2: Standards for Educational and Psychological Testing (1999), published by American Psychological Association (APA) and available through the Minitex interlibrary loan system.

Executive Orders

The governor has the authority to issue written statements of orders, called Executive Orders, as well as Emergency Executive Orders. The governor's authority is specified in the *Constitution of the State of Minnesota*, Article V, and in *Minnesota Statutes* 4.035. Emergency Executive Orders, for protection from an imminent threat to health and safety, become effective immediately, are filed with the secretary of state, and published in the *State Register* as soon as possible after they are issued. Other Executive Orders become effective 15 days after publication in the *State Register* and filing with the secretary of state. Unless otherwise specified, an executive order expires 90 days after the date the governor who issued the order vacates office.

Office of the Governor

Executive Order #04-06: Providing for Personnel and Equipment for the Prairie Island Nuclear Power Plant Drill and Exercise

I, TIM PAWLENTY, GOVERNOR OF THE STATE OF MINNESOTA, by virtue of the authority vested in me by the Constitution and the applicable statutes, do hereby issue this Executive Order:

WHEREAS, the Minnesota Department of Public Safety, Homeland Security and Emergency Management, has requested assistance in providing personnel and equipment to support the Prairie Island Nuclear Power Plant Drill and Exercise; and

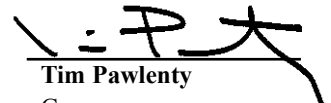
WHEREAS, adequate personnel and equipment are not available from the Department of Public Safety, other participating agencies, Goodhue and Dakota Counties of Minnesota, and other local authorities;

NOW, THEREFORE, I hereby order that:

1. The Adjutant General of Minnesota order to active duty, as needed during the period of May 4, 2004 to June 16, 2004, in the service of the State, such personnel and equipment of the military forces of the State needed by the Department of Public Safety and Goodhue and Dakota Counties to successfully complete the Prairie Island Nuclear Power Plant Drill and Exercise.
2. The cost of subsistence, transportation, fuel, pay, and allowances of said individuals shall be paid by the Department of Public Safety, Division of Emergency Management, as provided by an interdepartmental agreement dated August 7, 1995.

Pursuant to *Minnesota Statutes* 2002, Section 4.035, subd. 2, this Order shall be effective May 4, 2004 through June 16, 2004.

IN TESTIMONY WHEREOF, I have set my hand this 30th day of April, 2004.


Tim Pawlenty
Governor

Filed According to Law:


Mary Kiffmeyer
Secretary of State

Office of the Governor

Executive Order #04-07: Workplace Mediation Program

I, TIM PAWLENTY, GOVERNOR OF THE STATE OF MINNESOTA, by virtue of the authority vested in me by the Constitution and the applicable statutes, do hereby issue this Executive Order:

WHEREAS, workplace disputes disrupt the ability of agencies to fulfill their missions; and

WHEREAS, unresolved disputes can undercut workplace morale, interpersonal relationships, and negatively impact productivity; and

WHEREAS, many workplace disputes fall outside of established grievance procedures and could be resolved before rising to the level of a formal complaint; and

WHEREAS, the best resolution to a dispute is often one fashioned by the parties to the disputes; and

WHEREAS, workplace mediation assists the disputants in finding a resolution to their dispute in a non-adversarial setting; and

WHEREAS, a workplace mediation program that uses trained state employees to help resolve disputes within state agencies

Executive Orders

would be easily accessible and an efficient use of existing resources; and

WHEREAS, the use of mediation can mitigate or reduce the reliance on, or trend toward, litigation and other expensive formal procedures as a means of resolving employee disputes; and

WHEREAS, the Bureau of Mediation Services has developed and administered a workplace mediation program for state agencies; and

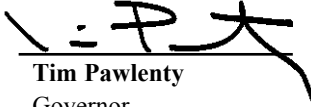
WHEREAS, the Departments of Employee Relations and Finance; Minnesota Association of Professional Employees; Association of Federal, State, County and Municipal Employees; Middle Managers Association; and Minnesota Government Engineers' Council, have all worked with the Bureau of Mediation Services to fashion a shared neutrals mediation program for state agencies and MNSCU campus;

NOW, THEREFORE, I hereby order that:


1. State agencies and MNSCU Campuses are encouraged to make use of the workplace mediation program offered by the Bureau of Mediation Services,
2. The Bureau of Mediation Services has the following responsibilities:
 - A. Coordinate the recruitment, selection and training of workplace mediators.
 - B. Assist agencies and campuses in publicizing the workplace mediation program.
 - C. Administer the program, which includes, but is not limited to, these duties:
 - (1) Maintain phone access during working hours;
 - (2) Contact the parties requesting mediation and the parties who are requested to mediate;
 - (3) Contact mediators, assign them to cases and provide them with relevant information; and
 - (4) Provide appropriate materials, and collect, evaluate and summarize evaluation forms;
 - D. Maintain a base of available workplace mediators sufficiently large to accommodate the requests for mediation.
 - E. Maintain and conduct workplace mediator training updates as needed.
 - F. Supervise the professional department of the workplace mediators and implement corrective action as needed.
 - G. Provide technical assistance to parties inquiring about the workplace mediation program and consult with appropriate state employees and bargaining units.
3. Executive branch agencies and MNSCU campuses assume the following responsibilities:
 - A. Encourage managers, supervisors and employees to use the workplace mediation program and guarantee release time for employees to participate in the program.
 - B. Recommend potential workplace mediators to the Bureau of Mediation Services.
 - C. Pay for training and approve release time for training as needed (up to 20 hours a year) to conduct mediation for those chosen for the workplace mediation roster.
 - D. Appoint a workplace mediation program coordinator to work with the Bureau of Mediation Services, employees and bargaining units.
 - E. Participate in evaluation of the workplace mediation program.

Pursuant to *Minnesota Statutes* 2002, section 4.035, subd. 2, this Order shall be effective fifteen (15) days after publication in the *State Register* and filing with the Secretary of State and shall remain in effect until rescinded by proper authority or it expires in accordance with *Minnesota Statutes* 2002, section 4.035, subd. 3.

IN TESTIMONY WHEREOF, I have set my hand this 30th day of April, 2004.


Tim Pawlenty
Governor

Filed According to Law:


Mary Kiffmeyer
Secretary of State

Official Notices

Pursuant to Minnesota Statutes § 14.101, an agency must first solicit comments from the public on the subject matter of a possible rulemaking proposal under active consideration within the agency by publishing a notice in the State Register at least 60 days before publication of a notice to adopt or a notice of hearing, and within 60 days of the effective date of any new statutory grant of required rulemaking. The State Register also publishes other official notices of state agencies and non-state agencies, including notices of meetings and matters of public interest.

Minnesota Higher Education Services Office

Notice of Public Hearing Before the Minnesota Higher Education Services Office Regarding Issuance of Supplemental Student Loan Program Revenue Bonds, Series 2004 (Tax-Exempt)

The Minnesota Higher Education Services Office ("MHESO") will hold a public hearing at 9:00 a.m. in 1450 Energy Park Drive, Suite 350, St. Paul, Minnesota on the 1st day of June, 2004, on the issuance of Supplemental Student Loan Program Revenue Bonds, Series 2004 (Tax-Exempt) (the "Bonds"). The Bonds are being issued for the purpose of making loans to eligible students (the "Student Loans") under the MHESO's Supplemental Student Loan Program in accordance with the provisions of *Minnesota Statutes*, Chapter 136A, as amended, refunding certain outstanding tax-exempt bonds previously issued by MHESO for the purpose of making Student Loans, funding certain funds and paying a portion of the costs of issuance of the Bonds (the "Project"). MHESO'S principal offices are located at 1450 Energy Park Drive, Suite 350, St. Paul, Minnesota 55108.

The Bonds are proposed to be issued in an amount not to exceed \$150,000,000. The Bonds shall be limited obligations of MHESO payable from and secured solely by all payments of principal of and interest on certain Student Loans and the proceeds thereof, certain funds and accounts and other collateral constituting the security as to be described in the resolution authorizing the Bonds. The Bonds will not be deemed to constitute a pledge of the faith of MHESO or the State of Minnesota, but shall be payable solely from revenues pledged by MHESO in accordance with an indenture of trust, as supplemented. Neither the faith or credit nor the taxing power of the State of Minnesota will be pledged to the payment of principal of or the interest on the Bonds. MHESO has no taxing power.

The hearing shall provide the fullest opportunity for expression of opinion, for argument on the merits and for the introduction of documentary evidence pertinent to the nature of the Project and the proposed issuance of the Bonds. Written comments will be accepted by MHESO at 1450 Energy Park Drive, Suite 350, St. Paul, Minnesota 55108, but must be received on or before the date of the hearing.

Dated: April 28, 2004

BY ORDER OF THE DIRECTOR OF THE
MINNESOTA HIGHER EDUCATION
SERVICES OFFICE
Susan Heegaard
Director

Minnesota Housing Finance Agency

Request for Comments on Possible Amendment of Rules Governing the Minnesota Urban and Rural Homesteading Program, *Minnesota Rules*, 4900.2400 to 4900.2600

Subject of Rules. The Minnesota Housing Finance Agency (MHFA) requests comments on possible amendment of rules governing its Minnesota Urban and Rural Homesteading Program ("MURL"). The proposed amendment of MURL rules would incorporate a statute change permitting acquisition/demolition/construction as an eligible activity along with rehabilitation, only when it costs less to acquire/demolish/construct versus acquiring/rehabilitating a property. The proposed amendment of MURL rules would contain the administrative policy that demolition/construction is only permitted on a prior approval basis. It would also clarify that if a MURL project is financed with federal HOME Investment Partnership Program funds and those regulations conflict with state rules, federal regulations supercede.

Persons Affected. The proposed amendment of MURL rules would likely affect: program administrators, potential homeowners, developers, cities, housing and redevelopment authorities/agencies.

Statutory Authority. *Minnesota Statutes*, section 462A.06, subdivision 11, authorizes the agency to adopt rules respecting its mortgage lending, construction lending, rehabilitation lending, grants, temporary lending, and any other rules needed to carry out its corporate purpose. See also, *First Special Session Laws of Minnesota 2001*, chapter 4, article 4, section 13.

Public Comment. Interested persons or groups may submit written comments or information on the proposed amendment of MURL rules until further notice is published in the *State Register* that the agency intends on adopting the changes. The agency is not planning on appointing an advisory committee to comment on them.

Official Notices

Rules Drafts. Prior to formal publication in the *State Register*, the agency has prepared a draft of the possible amendment of MURL rules which is available either in written copy or on the agency's web home page at www.mhfa.state.mn.

Agency Contact Person. Written comments, questions, requests to receive a draft copy of, and requests for more information on, the possible amendment of MURL rules should be directed to Diane Sprague at MHFA, 400 Sibley Street, Suite 300, St. Paul, MN 55101-1998, **telephone:** (651) 296-2257, **FAX:** (651) 296-8139, **e-mail:** diane.sprague@state.mn.us. TTY users can call the agency at (651) 297-2361.

Alternative Format. This Request for Comments can be obtained in an alternative format, such as large print, braille, or cassette tape, by contacting the agency contact person identified above.

Minnesota Housing Finance Agency

Request for Comments on Possible Amendment of Rules Governing the Rehabilitation Loan Program, *Minnesota Rules*, sections 4900.0010 and 4900.0630

Subject of Rules. The Minnesota Housing Finance Agency (MHFA) requests comments on possible amendment of rules governing its Rehabilitation Loan Program ("Rehab Loan Program"). The agency is considering replacing two somewhat inconsistent definitions of "low- and moderate- income" with a new definition based on median income data updated/published annually by the U.S. Department of Housing and Urban Development and adjusted for household size. Organizations administering affordable housing programs commonly use these data for establishing income eligibility standards, including MHFA for other programs it delivers. Using these data would have the policy effect of targeting scarce program funds to larger-sized households with children.

Persons Affected. The possible amendment of Rehab Loan Program rules would likely affect: potential applicants/recipients, program administrators and their statewide trade associations, organizations where a significant portion of the population served/represented or membership is comprised of single-person households (e.g., seniors), housing advocates, nonprofit housing and service agencies.

Statutory Authority. *Minnesota Statutes*, section 462A.06, subdivision 11, authorizes the agency to adopt rules respecting its mortgage lending, construction lending, rehabilitation lending, grants, temporary lending, and other rules needed to carry out its corporate purpose. See also, *First Special Session Laws of Minnesota 2001*, chapter 4, article 4, section 13.

Public Comment. Interested persons or groups may submit written comments or information on the possible amendment of Rehab Loan Program rules until further notice is published in the *State Register* that the agency intends on adopting the changes. The agency is not planning on appointing an advisory committee to comment on them.

Rules Drafts. Prior to formal publication in the *State Register*, the agency has prepared a draft of the possible amendment of Rehab Loan Program rules which is available either in written copy or on the agency's web home page at www.mhfa.state.mn.us.

Agency Contact Person. Written comments, questions, requests to receive a draft copy of, and requests for more information on, the possible amendment of Rehab Loan Program rules should be directed to Diane Sprague at MHFA, 400 Sibley Street, Suite 300, St. Paul, MN 55101-1998, **telephone:** (651) 296-2257, **FAX:** (651) 296-8139, **e-mail:** diane.sprague@state.mn.us. TTY users can call the agency at (651) 297-2361.

Alternative Format. This Request for Comments can be obtained in an alternative format, such as large print, braille, or cassette tape, by contacting the agency contact person identified above.

Minnesota Housing Finance Agency

Request for Comments Possible Repeal of Rules Governing the Board of Directors, *Minnesota Rules*, sections 4900.0030, 4900.0040

Subject of Rules. The Minnesota Housing Finance Agency (MHFA) requests comments on possible repeal of rules governing its Board of Directors. The agency is considering repealing the board's rules on meeting scheduling because they are inconsistent with its by-laws and the Minnesota Open Meeting Law. If repealed, state statute would replace the rules with Open Meeting Law provisions, and the existing by-laws would continue being followed.

Persons Affected. Repeal of the Board of Directors' rules would likely affect: agency board members, agency staff, members of the public having business with the agency and/or board, members of the public interested in attending meetings.

Statutory Authority. *Minnesota Statutes*, section 462A.06, subdivision 11, authorizes the agency to adopt rules respecting its mortgage lending, construction lending, rehabilitation lending, grants, temporary lending, and any other rules needed to carry out its corporate purpose. See also, *First Special Session Laws of Minnesota 2001*, chapter 4, article 4, section 13.

Public Comment. Interested persons or groups may submit written comments or information on the possible amendment of the Board of Directors' rules until further notice is published in the *State Register* that the agency intends on repealing them. The agency is not planning on appointing an advisory committee to comment on their repeal.

Rules Draft. Prior to formal publication in the *State Register*, the Agency has prepared a draft of the Board of Directors' rules proposed for repeal. It is available either in written copy or on the agency's web home page at www.mhfa.state.mn.us

Agency Contact Person. Written comments, questions, requests to obtain a draft copy of, and requests for more information on, these rules proposed for repeal should be directed to Diane Sprague at MHFA, 400 Sibley St., Suite 300, St. Paul, MN 55101, **telephone:** (651) 296-2257, **FAX:** (651) 296-8139, **e-mail:** diane.sprague@state.mn.us. TTY users can contact the agency at (651) 296-2361.

Alternate Format. This Request for Comments can be obtained in an alternate form, such as large print, braille, or cassette tape, by contacting the agency contact person identified above.

Minnesota Housing Finance Agency

Request for Comments on Possible Amendment of Rules Governing the Economic Development and Housing Challenge Program, *Minnesota Rules*, sections 4900.3600 to 4900.3652

Subject of Rules. The Minnesota Housing Finance Agency (MHFA) requests comments on possible amendment of rules governing its Economic Development and Housing Challenge ("Challenge") Program. Economic Vitality and Housing Initiative ("EVHI") regional advisory groups were established in the mid-1990s to assess the need for, and encourage development of, work-force housing. These groups set priorities that MHFA used in awarding Challenge funds.

Due in part to declining business participation, shifts in state economic development policy, and feedback from a range of individuals and groups, the agency has revamped the EVHI groups. They have been combined with similar, existing regional Continuum of Care groups that plan for, and encourage development of, housing for households that are homeless. These new groups now serve as single forums for addressing a range of regional housing issues. The consolidation streamlines and makes better use of both the agency's and the regional groups' time and resources. Additionally, development/submittal of previously required regional selection priorities will become voluntary, with the agency using them to inform the funding awards process.

Persons Affected. Possible amendment of the Challenge Program rules would likely affect: members of the newly formed regional housing advisory groups, tenants and/or owners of eligible properties, financiers and developers of affordable and supportive housing, cities, housing and redevelopment authorities/agencies, public housing authorities/agencies, housing and social service advocates and/or organizations active in assisting low-income households.

Statutory Authority. *Minnesota Statutes*, section 462A.06, subdivision 11, authorizes the agency to adopt rules respecting its mortgage lending, construction lending, rehabilitation lending, grants, temporary lending, and any other rules needed to carry out its corporate purpose. See also, *First Special Session Laws of Minnesota 2001*, chapter 4, article 4, section 13.

Public Comment. Interested persons or groups may submit written comments or information on the possible amendment of the Challenge Program rules until the agency publishes a notice in the *State Register* that it intends on adopting the changes. The agency does not plan on appointing an advisory committee to comment on them.

Rules Drafts. Prior to formal publication in the *State Register*, the agency has prepared a draft of the possible amendment of the Challenge Program rules which is available either in written copy or on the agency's web home page at www.mhfa.state.mn.us.

Agency Contact Person. Written comments, questions, requests to obtain a draft copy of, and requests for more information on, the possible amendment of Challenge Program rules should be directed to: Diane Sprague at MHFA, 400 Sibley Street, Suite 300, St. Paul, MN 55101-1998, **telephone:** (651) 296-2257, **FAX:** (651) 296-8139, and **e-mail:** diane.sprague@state.mn.us. TTY users can call the Agency at (651) 297-2361.

Alternative Format. This Request for Comments can be obtained in an alternative format, such as large print, braille, or cassette tape, by contacting the agency contact person identified above.

Minnesota Housing Finance Agency

Request for Comments on Possible Amendment of Rules Governing the Housing Trust Fund Program, *Minnesota Rules*, section 4900.3700 to 4900.3769

Subject of Rules. The Minnesota Housing Finance Agency (MHFA) requests comments on possible amendment of rules governing its Housing Trust Fund Program ("HTF"). The HTF historically made flexible capital loans for affordable housing projects. Legislation promulgated in 2001 and rules approved in 2002 now enable it to additionally make operating subsidy loans and pro-

Official Notices

vide funding for tenant- and building-based rental assistance.

Two broad categories of changes are proposed -- to fine-tune programming after the initial period of expanded operations and to incorporate authorities needed to embark on a near decade-long Governor's initiative aimed at ending long-term homelessness. Among areas of change would be the following. A number of definitions would be added, modified, or deleted. Conditions under which applications can be reviewed outside the agency's established funding process would be refined. Proposals assisting households experiencing long-term homelessness would be given a priority for all three types of funding. Eligible applicants for capital funding would be clarified; supportive housing would be added as a priority for operating subsidies requests. Rental assistance administrators would receive greater flexibility in how funds could be used. The maximum period a tenant could receive assistance would be clarified, and tenants would also be given an opportunity to work with administrators in resolving problems that otherwise could lead to subsidy termination.

Persons Affected. The proposed amendment of HTF rules would likely affect: tenants and/or owners of eligible properties, financiers and developers of affordable and supportive housing, cities, housing and redevelopment authorities/agencies, public housing authorities/agencies, housing and social service advocates and/or organizations active in assisting low-income households.

Statutory Authority. *Minnesota Statutes*, section 462A.06, subdivision 11, authorizes the agency to adopt rules respecting its mortgage lending, construction lending, rehabilitation lending, grants, temporary lending, and any other rules needed to carry out its corporate purpose. See also, *First Special Session Laws of Minnesota 2001*, chapter 4, article 4, section 13.

Public Comment. Interested persons or groups may submit written comments or information on the possible amendment of HTF rules until further notice is published in the *State Register* that the agency intends on adopting the changes. The agency does not plan on appointing an advisory committee to comment on them.

Rules Drafts. Prior to formal publication in the *State Register*, the agency has prepared a draft of the possible amendment of the HTF rules which is available either in written copy or on the agency's web home page at www.mhfa.state.mn.us.

Agency Contact Person. Written comments, questions, requests to obtain a draft copy of, and requests for more information on, the possible amendment of HTF rules should be directed to: Diane Sprague at MHFA, 400 Sibley Street, Suite 300, St. Paul, MN 55101-1998, **telephone:** (651) 296-2257, **FAX:** (651) 296-8139, **e-mail:** diane.sprague@state.mn.us. TTY users can call the agency at (651) 297-2361.

Alternative Format. This Request for Comments can be obtained in an alternative format, such as large print, braille, or cassette tape, by contacting the agency contact person identified above.

Minnesota Housing Finance Agency

Request for Comments on Possible Amendment of Rules Governing the Capacity-Building Revolving Loan Program, *Minnesota Rules*, sections 4900.1925 to 4900.1930

Subject of Rules. The Minnesota Housing Finance Agency (MHFA) requests comments on possible amendment of rules governing its Capacity-Building Revolving Loan Program. This program provides short-term funding assistance for affordable housing projects' predevelopment costs. Changes would clarify that the program's statute permits acquiring land or buildings as an eligible use for funds.

Persons Affected. The proposed amendment of Capacity-Building Program rules would likely affect: agencies administering the program, tenants and owners of eligible properties, financiers and developers of affordable and supportive housing, cities, and housing and redevelopment authorities/agencies.

Statutory Authority. *Minnesota Statutes*, section 462A.06, subdivision 11, authorizes the agency to adopt rules respecting its mortgage lending, construction lending, rehabilitation lending, grants, temporary lending, and any other rules needed to carry out its corporate purpose. See also, *First Special Session Laws of Minnesota 2001*, chapter 4, article 4, section 13.

Public Comment. Interested persons or groups may submit written comments or information on the possible amendment of Capacity-Building Program rules until further notice is published in the *State Register* that the agency intends on adopting the changes. The agency is not planning on appointing an advisory committee to comment on them.

Rules Drafts. Prior to formal publication in the *State Register*, the agency has prepared a draft of the possible amendment of Capacity-Building Program rules which is available either in written copy or on the agency's web home page at www.mhfa.state.mn.us.

Agency Contact Person. Written comments, questions, requests to receive a draft copy of, and requests for more information on, the possible amendment of Capacity-Building Program rules should be directed to Diane Sprague at MHFA, 400 Sibley Street, Suite 300, St. Paul, MN 55101-1998, **telephone:** (651) 296-2257, **FAX:** (651) 296-8139, **e-mail:** diane.sprague@state.mn.us. TTY users can call the agency at (651) 297-2361.

Alternative Format. This Request for Comments can be obtained in an alternative format, such as large print, braille, or cassette tape, by contacting the agency contact person identified above.

Public Employees Retirement Association

Notice of Meeting of the Board of Trustees

A meeting of the Board of Trustees of the Public Employees Retirement Association (PERA) will be held on Thursday, May 13, 2004, at 9:30 a.m., in the PERA offices, 60 Empire Drive, Room 117, Saint Paul, Minnesota.

Minnesota State Rehabilitation Council

Applications Sought for Appointments

The Minnesota State Rehabilitation Council has an immediate opening for a person with a disability to represent southeast Minnesota. The State Rehabilitation Council advises the state on employment services for persons with disabilities and participates in assessment of the state's Vocational Rehabilitation Program. Members are appointed by the Governor. The council meets approximately 10 times annually on the fourth Wednesday of the month. A minimum of one meeting per year will be held in Greater Minnesota. Appointments are made to ensure representation of persons with disabilities, Vocational Rehabilitation Program consumers, business, industry, labor, vocational rehabilitation counseling and others. More information can be obtained from Gail Lundeen, State Rehabilitation Council, Rehabilitation Services, 390 North. Robert Street, St. Paul, Minnesota 55101, (651) 296-5629, (800) 328-9095, or **email** her at gail.lundeen@state.mn.us. TTY: (800) 657-3973; (651) 296-3900

Applications are taken by the Secretary of State and available on the internet at www.sos.state.mn.is/openapp/forms.html.

Minnesota State Retirement System

Board of Directors, Regular Meeting

The Board of Directors of the Minnesota State Retirement System (MSRS) is scheduled to meet on Friday, May 14, 2004, at 9:00 a.m. in the Retirement Systems of Minnesota Building, 60 Empire Drive, Suite 117, Saint Paul, Minnesota.

Minnesota Board of Teaching

Announcement of Adoption of Praxis II Examination and Passing Score for Teacher Licensure:

8710.4750 TEACHERS OF SCIENCE

8710.3300 MIDDLE LEVEL LICENSURE IN ACADEMIC SPECIALTY

8710.3200 TEACHERS OF ELEMENTARY EDUCATION WITH A SPECIALTY

The tests and required passing scores in this announcement become effective for all licensure applications postmarked on or after October 1, 2004. As required by *Minnesota Rules*, Part 8710.0500, subpart 4, the Minnesota Board of Teaching hereby notifies citizens of Minnesota that the following examinations have been adopted as requirements for first time applicants for teacher licensure in Minnesota.

The tests announced herein are adopted in *addition to* the already adopted examinations of skills in reading, writing, and mathematics under *Minnesota Rules* 8710.0500, subpart 1, item A; and,

Each new classroom teacher licensee in Minnesota must complete one pedagogy test and the content test required for the licensure field or fields to be issued under *Minnesota Rules* 8710.0500, subpart 1, item B; and,

Minnesota licensed classroom teachers *adding* a new licensure field on or after September 1, 2001, must take the content test specified, but are not required to take a pedagogy test as required under *Minnesota Rules* 8710.0500, subpart 1, item B.

Applicants prepared outside Minnesota shall be granted temporary licenses under the provisions of *Minnesota Rules* 8710.0500, subpart 11, to provide time to comply with testing requirements.

All examinations listed below are from the Praxis II series of examinations by the Educational Testing Service (ETS). For information regarding these examinations, applicants should contact an approved Minnesota teacher preparation institution or the Minnesota Board of Teaching (651) 582-8833.

Official Notices

CONTENT EXAMINATIONS:

On or after October 1, 2004, a first time applicant for the following licensure field, whether a first time Minnesota licensee or to add a field to an existing Minnesota teacher license, must successfully complete the following examination at the required passing score:

8710.4750 TEACHERS OF SCIENCE.

<u>Examination</u>		<u>Passing Score:</u>
Biology: Content Knowledge	9-12 Biology	152
Chemistry: Content Knowledge	9-12 Chemistry	152
Earth Science: Content Knowledge	9-12 Earth Science	149
Physics: Content Knowledge	9-12 Physics	137

8710.3300 MIDDLE LEVEL LICENSURE IN ACADEMIC SPECIALTY.

8710.3200 TEACHERS OF ELEMENTARY EDUCATION WITH A SPECIALTY.

<u>Examination</u>		
Middle School English Language Arts	5-8 Communication Arts & Literature	161
Middle School 5-8 Mathematics	5-8 Mathematics	152
Middle School Science	5-8 Science	150
Middle School Social Studies	5-8 Social Studies	151

Minnesota Board of Teaching

Request for Comments Regarding Proposed Amendments to Rules Relating to *Minnesota Rule 8710.4750 teachers of Science License*

Subject of Rules. The Minnesota Board of Teaching requests comments on a proposed rule for a non-renewal license to meet the Federal requirements of No Child Left Behind and a proposed amendment to licensure for Educational Speech Language Pathologist.

Persons Affected. The amendments to the rules would likely affect teachers, the schools they will serve, and educational organizations and institutions in Minnesota.

Statutory Authority. *Minnesota Statutes*, section 122A.09, subdivision 9, authorizes the Board to adopt rules for teacher licensure.

Public Comment. Interested persons or groups may submit comments or information on these proposed rules in writing until July 1, 2004.

Rules Drafts. Copies of the proposed rule and amendment are available and are attached to all copies of this Request transmitted by U.S. Mail. Copies of the preliminary draft may also be obtained by contacting the Agency Contact Person listed below

Agency Contact Person. Written comments, questions, requests to receive a draft of the rules, and requests for more information on these proposed rules should be addressed to: George J. Maurer, Executive Director, Minnesota Board of Teaching, 1500 Highway 36 West, Roseville, Minnesota 55113-4266. Dr. Maurer's telephone number is (651) 582-8833 and the fax number is (651) 582-8872. TTY users may call the Board at (651) 582-8201.

Alternative Format. Upon request this Request for Comments can be made available in an alternative format, such as large print, Braille, or cassette tape. To make such a request, please contact the agency contact person at the address or telephone number listed above.

Note: *Comments received in response to this notice will not necessarily be in the formal rulemaking record submitted to the administrative law judge when a proceeding to adopt rules is started. The agency is required to submit to the judge only those written comments received in response to the rules after they are proposed.*

State Contracts

Informal Solicitations: Informal solicitations for professional/technical (consultant) contracts valued at over \$5,000 through \$50,000, may either be published in the *State Register* or posted on the Department of Administration, Materials Management Division's (MMD) website. Interested vendors are encouraged to monitor the P/T Contract Section of the MMD website at www.mmd.admin.state.mn.us for informal solicitation announcements.

Formal Solicitations: Department of Administration procedures require that formal solicitations (announcements for contracts with an estimated value over \$50,000) for professional/technical contracts must be published in the *State Register*. Certain quasi-state agency and Minnesota State College and University institutions are exempt from these requirements.

Department of Administration

State Designer Selection Board

- Minnesota Veterans Home, Minneapolis (Project 04-04)
- Minnesota Veterans Home, Hastings (Project 04-05)

To Minnesota Registered Design Professionals:

Please note the corrected Shortlisting and Interview/Selection schedule changes.

Project 04-04 Shortlisting Tuesday, May 25, 2004 and Interview/Selection Tuesday, June 1, 2004.

Project 04-05 Shortlisting Tuesday, June 1, 2004 and Interview/Selection Tuesday, June 8, 2004.

Administration Department

Communications Media Division

CORRECTION and Subscriptions

PLEASE NOTE: Due to an error, our Web site mistakenly presented the *State Register* with LINKS and other access aids, including those for Contracts and Grants, and the Index. We apologize for this error. These special features are meant only for subscribers to the E-mail *State Register*. They will no longer be available to viewers of the *State Register* on-line.

Also, printed (hard) copies to the *State Register* will NO LONGER be available after Vol. 28, #52. Only subscriptions via E-mail will be available, beginning with Volume 29, #1 - July 6, 2004.

With an E-mail subscription, you will receive THREE EXTRAS free-of-charge:

#1 - LINKS are provided for fast reference, saving you time and effort.

#2 - INDEX - growing with each issue, contains information you need.

#3 - CONTRACTS & GRANTS - up-to-date listing of contracts, grants and loans, and non-state contracts.

To have the *State Register* E-MAILED to you the afternoon it is published, on Friday, subscribe today. Cost is \$180 for an entire year, \$80 LESS than the cover price. Contact: Minnesota's Bookstore, 660 Olive Street, St. Paul, MN 55155; Telephone: (651) 297-8774; FAX: (651) 297-8260; E-mail: jessie.rahmeyer@state.mn.us.

Minnesota State Colleges and Universities

Request for Proposals for a Satellite Digital Network Service

NOTICE IS HEREBY GIVEN that a request for proposals is being solicited for a satellite digital network service that will address the current network criteria as well as provide additional enhancements and/or alternatives. The current network criteria includes a digital uplink, provision of a transmission pathway from the requester production studios to the uplink site, receive capability, HELP DESK support, engineering services, and operational support.

Proposals are due on May 28, 2004, no later than 1:00 PM CDT.

For further information, or to request a copy of the Request for Proposals document, please contact via e-mail Dr. Penelope L. Dickhudt at: penny.dickhudt@so.mnscu.edu. This is the only person designated to answer questions regarding this request. All requests and/or questions shall be submitted to the given E-Mail address.

This request for bids does not obligate the State to complete the proposed project, and the State reserves the right to cancel the solicitation if it is considered to be in its best interest.

The Minnesota State Colleges & Universities is an equal opportunity employer and educator.

State Contracts

Minnesota Historical Society

Request for Bids for Trail Construction and Renovation on the Sylvan Point, East/West, and Swamp Trails at Forest History Center, Grand Rapids, Minnesota

The Minnesota Historical Society is seeking bids from qualified individuals or firms for trail construction and renovation on the Sylvan Point, East/West, and Swamp Trails on the grounds of the Forest History Center. The project involves upgrading approximately 1910 lineal feet mile of existing trail, and constructing 7700 lineal feet of new trail to comply with ADA standards. Work includes furnishing all labor and materials for the project.

Copies of the bidding documents may be obtained from the office of Short, Elliot, Hendrickson, Inc., 21 NE 5th Street, Suite 200, Grand Rapids, MN 55744 (218) 322-4500 upon payment of \$45.00 per set. Checks should be made out to the above mentioned firm. No refunds will be provided.

All bids must be received no later than 2:00 p.m., Local Time, Tuesday, June 8, 2004. Late bids will not be considered.

A **MANDATORY** pre-bid meeting will be held Thursday, May 27, 2004 at 1:00 p.m. at the Forest History Center, located at 2609 County Road 76 in Grand Rapids.

Minnesota Historical Society

Notice of Request for Proposals for Professional Architectural and Engineering Services

The Minnesota Historical Society is seeking proposals from qualified architectural and engineering professionals to complete a structural conditions assessment of the Mille Lacs Indian Museum in **Onamia, Minnesota**. The Museum building, completed in 1996, has started exhibiting signs of deterioration and material failure.

The Request for Proposals is available by calling or writing Mary Green Toussaint, Contracting & Purchasing Assistant, Minnesota Historical Society, 345 Kellogg Blvd. W., St. Paul, MN 55102. **Telephone:** (651) 297-7007 or **e-mail** mary.green-toussaint@mnhs.org.

A mandatory pre-proposal meeting will be held on Wednesday, May 19, 2004 at 1:00 p.m. on site at the Mille Lacs Indian Museum.

Proposals must be received no later that 2:00 p.m., Local Time, Thursday, May 27, 2004. No late proposals will be accepted.

Dated: May 10, 2004

Minnesota Historical Society

Notice of Request for Proposals for Professional Design and Construction Services

The Minnesota Historical Society is seeking proposals from qualified professionals to develop design and construction documents for interpretive trails on property located within and immediately adjacent to the Fort Ridgely Historic Site in Nicollet County, Minnesota.

The Request for Proposals is available by calling or writing Mary Green Toussaint, Contracting & Purchasing Assistant, Minnesota Historical Society, 345 Kellogg Blvd. W., St. Paul, MN 55102. **Telephone:** (651) 297-7007 or **e-mail** mary.green-toussaint@mnhs.org.

A mandatory pre-proposal meeting will be held on Wednesday, May 19, 2004 at 11:00 a.m. at the site, which is located in Fort Ridgely State Park, seven miles south of Fairfax, Minnesota off Highway 4.

Proposals must be received no later that 2:00 p.m., Local Time, Wednesday, June 2, 2004. No late proposals will be accepted.

Dated: May 10, 2004

Department of Transportation

Engineering Services Division

Notice of Potential Availability of Contracting Opportunities for a Variety of Highway Related Technical Activities (the "Consultant Pre-Qualification Program")

This document is available in alternative formats for persons with disabilities by calling Robin Valento at (651) 284-3622 for persons who are hearing or speech impaired by calling the Minnesota Relay Service at (800) 627-3529.

Mn/DOT, working in conjunction with the Consultant Reform Committee, the Minnesota Consulting Engineers Council, and the Department of Administration, has developed the Consultant Pre-qualification Program as a new method of consultant selection. The ultimate goal of the Pre-Qualification Program is to streamline the process of contracting for highway related professional/technical services. Mn/DOT anticipates that most consultant contracts for highway-related technical activities will be awarded using this method,

however, Mn/DOT also reserves the right to use RFP or other selection processes for particular projects. Nothing in this solicitation requires Mn/DOT to complete or use the Consultant Pre-qualification Program.

Mn/DOT is currently requesting applications from consultants. Refer to Mn/DOT's Consultant Services web site, indicated below, to see which highway related professional/technical services are available at this time. Following the advertisement of a particular category of services, applications will be accepted on a continual basis.

All expenses incurred in responding to this notice will be borne by the responder. Response to this notice becomes public information under the Minnesota Government Data Practices.

Consultant Pre-Qualification Program information, application requirements and application forms are available on Mn/DOT's web site at <http://www.dot.state.mn.us/consult>

Send completed application material to:

Robin Valento
Pre-Qualification Administrator
Minnesota Department of Transportation
Consultant Services
395 John Ireland Boulevard, Seventh Floor North, Mail Stop 680
St. Paul, MN 55155

Note: DUE DATE:

APPLICATION MATERIAL WILL BE ACCEPTED ON A CONTINUAL BASIS.

Department of Transportation

Engineering Services Division

Notice Concerning Professional/Technical Contract Opportunities

NOTICE TO ALL: The Minnesota Department of Transportation (Mn/DOT) is now placing additional public notices for professional/technical contract opportunities on Mn/DOT's Consultant Services website at: www.dot.state.mn.us/consult.

New public notices may be added to the website on a daily basis and be available for the time period as indicated within the public notice.

Non-State Contracts & Grants

The *State Register* also serves as a central marketplace for contracts let out on bid by the public sector. The *State Register* meets state and federal guidelines for statewide circulation of public notices. Any tax-supported institution or government jurisdiction may advertise contracts and requests for proposals from the private sector. It is recommended that contracts and RFPs include the following: 1) name of contact person; 2) institution name, address, and telephone number; 3) brief description of project and tasks; 4) cost estimate; and 5) final submission date of completed contract proposal. Allow at least three weeks from publication date (four weeks from date article is submitted for publication). Surveys show that subscribers are interested in hearing about contracts for estimates as low as \$1,000. Contact editor for further details.

Hennepin County

Request for Qualifications for Professional Consultants

Hennepin County requests qualifications and fee schedules for professional consulting services in the areas of: architecture, engineering, planning, environmental health & safety, environmental management, housing, community works & transit, transportation, and certain specialty areas. The purpose of this Request for Qualifications (RFQ) is to establish two-year consulting service agreements to provide professional services on an as-needed basis for during 2005-2006. Please note that selection of a firm and execution of an agreement does not guarantee any current or future work. Responses are due by June 3, 2004.

The Request for Qualifications (RFQ) and related documents are posted on a designated page of the County's web site beginning May 3, 2004, and is being advertised in numerous publications and professional associations. You may navigate to the County web page for this RFQ by starting at www.hennepin.us, then click on links in this order: Your County Government (upper left corner); Doing Business with Hennepin; Contract Opportunities; RFQ for 2005-2006 Professional Consulting Services (under the "Current RFP's, RFQ's..." heading). Or, try typing RFQ in the search box.

If you are unable to download the RFQ and would like to receive a copy in the mail, please contact Jay Sorlien at (612) 596-8633 or jay.sorlien@co.hennepin.mn.us.

Non-State Contracts & Grants

Metropolitan Council

Public Hearing on the Rosemount Interceptor Facility Plan

Rosemount Community Center

13885 South Robert Trail, Rosemount, Minnesota

Monday, June 14, 2004 - 7:00 p.m.

The Metropolitan Council will hold a public hearing on the Rosemount Interceptor Facility Plan. The Draft Facility Plan for this project, prepared by the Metropolitan Council's Environmental Services Division (MCES), outlines recommendations for closing the Rosemount Wastewater Treatment Plant and conveying wastewater through a sanitary sewer interceptor from Rosemount to MCES's Empire Wastewater Treatment Plant.

The recommended plan involves the construction of two pumping stations, as well as gravity sewers and pressure sewers following the same alignment of a new outfall pipe that will carry effluent (treated wastewater) from the Empire Plant to the Mississippi River in northeast Rosemount. The pipe portions of the interceptor are proposed for construction at the same time as the Empire Plant outfall in 2004-2006. The pumping stations would be designed and bid as a separate project in 2005-2006.

Copies of the Draft Facility Plan are available for review at:

- Rosemount City Hall, 2875 145th St. W., Rosemount
- Metropolitan Council's Data Center, 230 E. Fifth St., St. Paul

All interested persons are encouraged to attend the hearing and provide comments.

You also may submit comments, which must be received by the Metropolitan Council no later than June 4, 2004:

- Send written comments to: Pat Schultz at Metropolitan Council Environmental Services, 230 E. Fifth St., St. Paul, MN 55101
- Fax comments to: Pat Schultz at (651) 602-1477
- Record comments on: Metropolitan Council Public Comment Line at (651) 602-1500
- E-mail comments to: data.center@metc.state.mn.us
- Send TTY comments to (651) 291-0904

Upon request, the Council will provide reasonable accommodations to persons with disabilities. Please submit such requests to Pat Schultz via mail or fax (see above) or by phone at (651) 602-1096 before June 7, 2004.

Metropolitan Council

Notice of Request for Proposals (RFP): MWWTP Odor Control Improvement

RFP Number 04P035

The Metropolitan Council is soliciting proposals for professional services for engineering design and construction support to assist the Council in odor control improvement projects.

This contract will be PFA-eligible and has subcontracting goals of M/WBE 8% and SBRA 3.5%.

A tentative schedule is as follows:

<i>Issue Request for Proposals</i>	May 13, 2004
<i>Receive Proposals</i>	June 17, 2004
<i>Contract Award</i>	August 2004
<i>Design Complete</i>	April 2005
<i>Construction Complete</i>	July 2006

All firms interested in submitted a proposal for this work are invited to request an RFP document from:

Harriet Simmons, Senior Administrative Assistant
Metropolitan Council
230 East Fifth Street
Mears Park Centre
St. Paul, MN 55101
Phone: (651) 602-1086
Fax: (651) 602-1138
e-mail: harriet.simmons@metc.state.mn.us

Non-State Contracts & Grants

Metropolitan Council

Notice of Request for Proposals on the South Saint Paul Forcemain Improvement

RFP Number 03P128

NOTICE IS HEREBY GIVEN that the Metropolitan Council is re-soliciting proposals for facility planning, engineering design and engineering construction support services for replacement and/or rehabilitation to the Council's existing interceptor from the South Saint Paul Lift Station to the Metropolitan Waste Water Treatment Plant in Saint Paul. Previous facilities planning efforts have identified three alternative routes and a recommended route. Completion of the facilities plan is expected to require significant environmental studies.

The Council intends to use a two phase process to evaluate proposals in response to this RFP. In Phase 1, prospective proposers will be asked to submit information concerning the qualifications and experience of the proposer and its staff. After evaluating Phase 1 submittals, the Council will invite selected proposers to advance to Phase 2 and provide a project work plan, cost proposal, and other information. Those firms participating in Phase 2 will have an opportunity to meet with Council staff to answer questions and discuss the project.

The *tentative* schedule for this project is as follows.

<i>RFP Issue Date</i>	May 10, 2004
<i>Phase 1 Submission Due</i>	May 26, 2004 at 2:00 PM
<i>Phase 2 Proposers Selected</i>	June 4, 2004
<i>Meetings with Council Staff</i>	Week of June 7, 2004
<i>Phase 2 Proposals Due</i>	July 6, 2004 at 2:00 PM
<i>Award of Contract</i>	July, 2004

All firms interested in this project should submit a request for a copy of the RFP through:

Harriet Simmons, Administrative Assistant, Contracts and Procurement Unit
Metropolitan Council
Mears Park Centre
230 E. Fifth Street, St. Paul, MN 55101
Phone: (651) 602-1086
Fax: (651) 602-1138
E-mail: harriet.simmons@metc.state.mn.us

University of Minnesota

Notice of Bid Information Service (BIS) Available for All Potential Vendors

The University of Minnesota offers 24 hour/day, 7 day/week access to all Request for Bids/Proposals through its web based Bid Information Services (BIS). Subscriptions to BIS are \$75/year. Visit our web site at bidinfo.umn.edu or call the BIS Coordinator at (612) 625-5534.

Requests for Bids/Proposals are available to the public at no charge each business day from 8:00 a.m. to 4:30 p.m. in the Purchasing Services lobby, Suite 560, 1300 S. 2nd Street, Mpls., MN 55454.



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