

Minnesota Statutes Annotated Currentness
Health (Ch. 144-159)
 [⌵] [Chapter 144](#). Department of Health
 → Lead Poisoning Prevention Act

144.9501. Definitions

Subdivision 1. Citation. Sections 144.9501 to [144.9512](#) may be cited as the "Lead Poisoning Prevention Act."

Subd. 2. Applicability. The definitions in this section apply to sections 144.9501 to [144.9512](#).

Subd. 3. Abatement. "Abatement" means any set of measures intended to eliminate known or presumed lead hazards. Abatement includes:

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

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

Subd. 4. Areas at high risk for toxic lead exposure. "Areas at high risk for toxic lead exposure" means a census tract in a city of the first class or a county or area within a county outside a city of the first class that has been determined to be at high risk for toxic lead exposure under [section 144.9503](#).

Subd. 4a. Assessing agency. "Assessing agency" means the commissioner or a board of health with authority and responsibility to conduct lead risk assessments in response to reports of children or pregnant women with elevated blood lead levels.

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

Subd. 6. Board of health. "Board of health" means an administrative authority established under [section 145A.03](#).

Subd. 6a. Child. "Child" means an individual up to 72 months of age.

Subd. 6b. Clearance inspection. "Clearance inspection" means a visual identification of deteriorated paint and bare soil and a resampling and analysis of interior dust lead concentrations in a residence to ensure that the lead standards established in rules adopted under [section 144.9508](#) are not exceeded.

Subd. 6c. Capillary blood sample. "Capillary blood sample" means a quantity of blood drawn from a capillary. The sample generally is collected by fingerstick.

Subd. 6d. Certified lead firm. "Certified lead firm" means a person that employs individuals to perform regulated lead work and that is certified by the commissioner under [section 144.9505](#).

Subd. 7. Commissioner. "Commissioner" means the commissioner of the Minnesota Department of Health.

Subd. 7a. Contracting entity. "Contracting entity" means a public or private body, board, individual, corporation, partnership, proprietorship, joint venture, fund, authority, or similar entity that contracts with a person to do regulated lead work.

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

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

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

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

Subd. 12. Repealed by [Laws 1998, c. 407, art. 2, § 109](#).

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

Subd. 13a. Interim controls. "Interim controls" means a set of measures intended to temporarily reduce human exposure or likely exposure to known or presumed lead hazards, including specialized cleaning, repairs, maintenance, painting, temporary encapsulation, or enclosure.

Subd. 14. Repealed by [Laws 1998, c. 407, art. 2, § 109](#).

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

Subd. 16. Repealed by [Laws 1998, c. 407, art. 2, § 109](#).

Subd. 17. Lead hazard reduction. "Lead hazard reduction" means abatement or interim controls undertaken to make a residence, child care facility, school, or playground lead-safe by complying with the lead standards and methods adopted under [section 144.9508](#).

Subd. 17a. Lead hazard screen. "Lead hazard screen" means a limited risk assessment activity that involves the visual identification of dust, paint, or bare soil and sampling and analysis of dust.

Subd. 17b. Lead interim control worker. "Lead interim control worker" means an individual who is trained as specified by the commissioner to conduct interim control activities.

Subd. 18. Lead inspection. "Lead inspection" means a surface by surface investigation to determine the presence of lead content of paint and a visual identification of the existence and location of bare soil.

Subd. 19. Lead inspector. "Lead inspector" means a person who is licensed by the commissioner to perform a lead inspection under [section 144.9505](#).

Subd. 19a. Lead project design. "Lead project design" means site-specific written project specifications for a regulated lead work project. Lead project design includes written technical project specifications incorporated into bidding documents.

Subd. 20. Lead order. "Lead order" means a legal instrument to compel a property owner to engage in lead hazard reduction according to the specifications given by the assessing agency.

Subd. 20a. Lead project designer. "Lead project designer" means an individual who is responsible for planning the site-specific performance of regulated lead work and who has been licensed by the commissioner under [section 144.9505](#).

Subd. 20b. Lead risk assessment. "Lead risk assessment" means an investigation to determine the existence, nature, severity, and location of lead hazards.

Subd. 20c. Lead risk assessor. "Lead risk assessor" means an individual who performs lead risk assessments or lead inspections and who has been licensed by the commissioner under [section 144.9505](#).

Subd. 21. Lead-safe. "Lead-safe" means a condition in which:

- (1) lead is not present;
- (2) lead may be present at the residence, child care facility, school, or playground, if the lead concentration in the dust, paint, soil, and water of a residence does not exceed the standards adopted under [section 144.9508](#); or
- (3) if the lead concentrations in the paint or soil do exceed the standards, the paint is intact and the soil is not bare soil.

Subd. 22. Lead-safe practices. "Lead-safe practices" means methods for construction, renovation, remodeling, or maintenance activities that are not regulated lead work and that are performed so that they do not:

- (1) violate the standards under [section 144.9508](#);
- (2) create lead dust through the use of prohibited practices;
- (3) leave debris or a lead residue that can form a dust;
- (4) provide a readily accessible source of lead dust, lead paint, lead paint chips, or lead contaminated soil, after the use of containment methods; and

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

Subd. 22a. Lead supervisor. "Lead supervisor" means an individual who is responsible for the on-site performance of abatement or interim controls and who has been licensed by the commissioner under [section 144.9505](#).

Subd. 22b. Lead sampling technician. "Lead sampling technician" means an individual who performs clearance inspections for nonabatement or nonorder lead hazard reduction sites, lead dust sampling in other settings, or visual assessment for deteriorated paint, and who is registered with the commissioner under [section 144.9505](#).

Subd. 23. Lead worker. "Lead worker" means an individual who performs abatement or interim control work and who has been licensed by the commissioner under [section 144.9505](#).

Subd. 24. Person. "Person" has the meaning given in [section 326.71, subdivision 8](#).

Subd. 25. Persons at high risk for elevated blood lead level. "Persons at high risk for elevated blood lead level" means:

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

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

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

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

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

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

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

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

Subd. 25a. Play area. "Play area" means any established area where children play, or on residential property, any established area where children play or bare soil is accessible to children.

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

Subd. 26a. Regulated lead work. (a) "Regulated lead work" means:

(1) abatement;

- (2) interim controls;
- (3) a clearance inspection;
- (4) a lead hazard screen;
- (5) a lead inspection;
- (6) a lead risk assessment;
- (7) lead project designer services;
- (8) lead sampling technician services; or
- (9) swab team services.

(b) Regulated lead work does not include:

- (1) activities such as remodeling, renovation, installation, rehabilitation, or landscaping activities, the primary intent of which is to remodel, repair, or restore a structure or dwelling, rather than to permanently eliminate lead hazards, even though these activities may incidentally result in a reduction in lead hazards; or
- (2) interim control activities that are not performed as a result of a lead order and that do not disturb painted surfaces that total more than:
 - (i) 20 square feet (two square meters) on exterior surfaces;
 - (ii) two square feet (0.2 square meters) in an interior room; or
 - (iii) ten percent of the total surface area on an interior or exterior type of component with a small surface area.

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

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

Subd. 28a. Standard. "Standard" means a quantitative assessment of lead in any environmental media or consumer product.

Subd. 29. Swab team services. "Swab team services" means activities that provide protection from lead hazards primarily through the use of interim controls, such as:

- (1) removing lead dust by washing, vacuuming with high efficiency particle accumulator (HEPA) or wet vacuum cleaners, and cleaning the interior of residential property;
- (2) removing loose paint and paint chips and repainting or installing guards to protect intact paint;
- (3) covering or replacing bare soil that has a lead concentration of 100 parts per million or more;

(4) health education;

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

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

Subd. 30. Swab team worker. "Swab team worker" means an individual who performs swab team services and who has been licensed by the commissioner as a lead worker under [section 144.9505](#).

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

Subd. 32. Repealed by [Laws 2001, c. 205, art. 1, § 43](#).

144.9502. Statewide lead surveillance system

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

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

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

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

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

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

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

(1) within two working days by telephone, fax, or electronic transmission, with written or electronic confirmation within one month, for a venous blood lead level equal to or greater than 15 micrograms of lead per deciliter of whole blood; or

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

(b) If a blood lead analysis is performed outside of Minnesota and the facility performing the analysis does not

report the blood lead analysis results and epidemiological information required in this section to the commissioner, the provider who collected the blood specimen must satisfy the reporting requirements of this section. For purposes of this section, "provider" has the meaning given in [section 62D.02, subdivision 9](#).

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

Subd. 4. Blood lead analyses and epidemiologic information. The blood lead analysis reports required in this section must specify:

- (1) whether the specimen was collected as a capillary or venous sample;
- (2) the date the sample was collected;
- (3) the results of the blood lead analysis;
- (4) the date the sample was analyzed;
- (5) the method of analysis used;
- (6) the full name, address, and phone number of the laboratory performing the analysis;
- (7) the full name, address, and phone number of the physician or facility requesting the analysis;
- (8) the full name, address, and phone number of the person with the blood lead level, and the person's birthdate, gender, and race.

Subd. 5. Follow-up epidemiologic information. The follow-up epidemiologic information required in this section must specify:

- (1) the name, address, and phone number of the agency or individual contacted to investigate the environment of the person with the elevated blood lead level to determine the sources of lead exposure; and
- (2) the name, address, and phone number of all agencies or individuals to whom the person or the person's guardian was referred for education about the sources, effects, and prevention of lead exposure.

Subd. 6. Repealed by [Laws 2001, c. 205, art. 1, § 43](#).

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

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

- (1) meet or exceed the proficiency standards established in the federal Clinical Laboratory Improvement Regulations, Code of Federal Regulations, title 42, section 493, promulgated in accordance with the Clinical Laboratory Improvement Act amendments of 1988, [Public Law 100-578](#); [FN1] or

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

(b) A laboratory performing lead analysis of paint, soil, or dust must be a laboratory recognized by the United States Environmental Protection Agency under the Toxic Substances Control Act, [United States Code, title 15, section 2685, paragraph \(b\)](#). Analysis of samples of drinking water must be performed by a laboratory certified by the commissioner to analyze lead in water.

Subd. 9. Classification of data. Notwithstanding any law to the contrary, including [section 13.05, subdivision 9](#), data collected by the commissioner of health about persons with blood lead levels, including analytic results from samples of paint, soil, dust, and drinking water taken from the individual's home and immediate property, shall be private and may only be used by the commissioner of health, the commissioner of labor and industry, authorized agents of Indian tribes, and authorized employees of local boards of health for the purposes set forth in this section.

[FN1] [42 U.S.C.A. § 263a](#).

144.9503. Primary prevention

Subdivision 1. Primary prevention program. The commissioner shall develop and maintain a primary prevention program to reduce lead exposure in young children and pregnant women. A board of health serving a city of the first class shall determine areas at high risk for toxic lead exposure before doing primary prevention lead hazard reduction activities. The program shall provide primary prevention lead education materials, promote primary prevention swab team services, provide lead cleanup equipment and material grants as funding allows, monitor regulated lead work, and develop and maintain lead-safe practices in cooperation with the commissioner of administration.

Subd. 2. Priorities for primary prevention. (a) The commissioner of health and boards of health serving cities of the first class shall determine areas at high risk for toxic lead exposure.

(b) A board of health serving a city of the first class shall rank order census tracts by awarding points as specified in this paragraph. The priority for primary prevention in census tracts at high risk for toxic lead exposure shall be based on the cumulative points awarded to each census tract. A greater number of points means a higher priority.

(1) One point may be awarded to a census tract for each ten percent of children who were under six years old at the time they were screened for lead in blood and whose blood lead level exceeds ten micrograms of lead per deciliter of whole blood, provided the commissioner has determined that the data used to award the points are comprehensive and representative.

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

(3) One point may be awarded for every 100 parts per million of lead in soil, based on the median soil lead values of foundation soil samples, calculated on 100 parts per million intervals, or fraction thereof. A board of health shall use data from its own soil survey conducted according to rules adopted under [section 144.9508](#), except that a board of health serving Minneapolis or St. Paul that has not conducted its own soil survey shall use the June 1988 census tract version of the houseside map titled "Distribution of Houseside Lead Content of Soil-Dust in the Twin Cities," prepared by the Center for Urban and Regional Affairs, Humphrey Institute, University of Minnesota, Publication 1989, Center for Urban and Regional Affairs 89-4. Where the map displays a census tract that is crossed by two or more intervals, the board of health shall make a reasoned determination of the median foundation soil lead value for that census tract.

(4) A board of health may award one point to each census tract for each of the following factors based on cutoff criteria to be determined by the board of health:

(i) percent of minority population;

(ii) number of children less than six years of age;

(iii) percent of housing built before 1950; and

(iv) percent of population living in poverty.

(c) The commissioner may determine areas at high risk for toxic lead exposure at the county level or within a county outside a city of the first class using one or more of the following criteria:

(1) blood lead levels greater than ten micrograms per deciliter of whole blood in children under six years of age;

(2) percent of dilapidated or deteriorated housing;

(3) soil lead levels in excess of 100 parts per million;

(4) percent of minority population;

(5) percent of housing built before 1950;

(6) percent of children living in poverty; or

(7) other factors appropriate in preventing lead exposure, as determined by a federal agency including the United States Centers for Disease Control and Prevention, the United States Environmental Protection Agency, or the United States Department of Housing and Urban Development.

Subd. 3. Primary prevention lead education strategy. The commissioner of health shall develop and maintain a primary prevention lead education strategy to prevent lead exposure. The strategy includes:

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

(2) providing lead education materials to the general public;

(3) providing lead education materials to property owners, landlords, and tenants by swab team workers and public health professionals, such as nurses, sanitarians, health educators, nonprofit organizations working on lead issues, and other public health professionals in areas at high risk for toxic lead exposure; and

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

Subd. 4. Swab team services. Primary prevention may include the use of swab team services. The swab team services may be provided based on lead hazard screens whenever possible and must at least include lead hazard reduction for deteriorated interior lead-based paint, bare soil, and dust.

Subd. 5. Repealed by [Laws 1998, c. 407, art. 2, § 109](#).

Subd. 6. Repealed by [Laws 2001, c. 205, art. 1, § 43](#).

Subd. 7. Lead-safe practices information. The commissioner shall develop and maintain in cooperation with the commissioner of administration provisions and procedures to define lead-safe practices information for residential remodeling, renovation, installation, and rehabilitation activities that are not lead hazard reduction, but may disrupt lead-based paint surfaces and guidance documents for the regulated industry.

Subds. 8, 9. Repealed by [Laws 1998, c. 407, art. 2, § 109](#).

144.9504. Secondary prevention

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

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

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

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

(1) within 48 hours of a child or pregnant female in the residence being identified to the agency as having a venous blood lead level equal to or greater than 60 micrograms of lead per deciliter of whole blood;

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

(3) within ten working days of a child in the residence being identified to the agency as having a venous blood lead level equal to or greater than 15 micrograms of lead per deciliter of whole blood; or

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

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

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

(d) Within the limits of appropriations, the assessing agency shall identify the known addresses for the previous 12 months of the child or pregnant female with venous blood lead levels of at least 15 micrograms per deciliter for the child or at least ten micrograms per deciliter for the pregnant female; notify the property owners, landlords, and tenants at those addresses that an elevated blood lead level was found in a person who resided at the property; and give them primary prevention information. Within the limits of appropriations, the assessing agency may perform a risk assessment and issue corrective orders in the properties, if it is likely that the previous address contributed to the child's or pregnant female's blood lead level. The assessing agency shall provide the notice required by this subdivision without identifying the child or pregnant female with the elevated blood lead level. The assessing agency is not required to obtain the consent of the child's parent or guardian or the consent of the pregnant female for purposes of this subdivision. This information shall be classified as private data on individuals as defined under [section 13.02, subdivision 12](#).

(e) The assessing agency shall conduct the lead risk assessment according to rules adopted by the commissioner under [section 144.9508](#). An assessing agency shall have lead risk assessments performed by lead risk assessors licensed by the commissioner according to rules adopted under [section 144.9508](#). If a property owner refuses to allow a lead risk assessment, the assessing agency shall begin legal proceedings to gain entry to the property and the time frame for conducting a lead risk assessment set forth in this subdivision no longer applies. A lead risk assessor or assessing agency may observe the performance of lead hazard reduction in progress and shall enforce the provisions of this section under [section 144.9509](#). Deteriorated painted surfaces, bare soil, and dust must be tested with appropriate analytical equipment to determine the lead content, except that deteriorated painted surfaces or bare soil need not be tested if the property owner agrees to engage in lead hazard reduction on those surfaces. The lead content of drinking water must be measured if another probable source of lead exposure is not identified. Within a standard metropolitan statistical area, an assessing agency may order lead hazard reduction of bare soil without measuring the lead content of the bare soil if the property is in a census tract in which soil sampling has been performed according to rules established by the commissioner and at least 25 percent of the soil samples contain lead concentrations above the standard in [section 144.9508](#).

(f) Each assessing agency shall establish an administrative appeal procedure which allows a property owner to contest the nature and conditions of any lead order issued by the assessing agency. Assessing agencies must consider appeals that propose lower cost methods that make the residence lead safe. The commissioner shall use the authority and appeal procedure granted under [sections 144.989 to 144.993](#).

(g) [Sections 144.9501 to 144.9512](#) neither authorize nor prohibit an assessing agency from charging a property owner for the cost of a lead risk assessment.

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

Subd. 4. Repealed by [Laws 2001, c. 205, art. 1, § 43](#).

Subd. 5. Lead orders. (a) An assessing agency, after conducting a lead risk assessment, shall order a property owner to perform lead hazard reduction on all lead sources that exceed a standard adopted according to [section 144.9508](#). If lead risk assessments and lead orders are conducted at times when weather or soil conditions do not permit the lead risk assessment or lead hazard reduction, external surfaces and soil lead shall be assessed, and lead orders complied with, if necessary, at the first opportunity that weather and soil conditions allow.

(b) If the paint standard under [section 144.9508](#) is violated, but the paint is intact, the assessing agency shall not order the paint to be removed unless the intact paint is a known source of actual lead exposure to a specific person. Before the assessing agency may order the intact paint to be removed, a reasonable effort must be made to protect the child and preserve the intact paint by the use of guards or other protective devices and methods.

(c) Whenever windows and doors or other components covered with deteriorated lead-based paint have sound substrate or are not rotting, those components should be repaired, sent out for stripping or planed down to remove deteriorated lead-based paint, or covered with protective guards instead of being replaced, provided that such an activity is the least cost method. However, a property owner who has been ordered to perform lead hazard reduction may choose any method to address deteriorated lead-based paint on windows, doors, or other components, provided that the method is approved in rules adopted under [section 144.9508](#) and that it is appropriate to the specific property.

(d) Lead orders must require that any source of damage, such as leaking roofs, plumbing, and windows, be repaired or replaced, as needed, to prevent damage to lead-containing interior surfaces.

(e) The assessing agency is not required to pay for lead hazard reduction. The assessing agency shall enforce the lead orders issued to a property owner under this section.

Subd. 6. Swab team services. After a lead risk assessment or after issuing lead orders, the assessing agency,

within the limits of appropriations and availability, shall offer the property owner the services of a swab team free of charge and, if accepted, shall send a swab team within ten working days to the residence to perform swab team services as defined in [section 144.9501](#). If the assessing agency provides swab team services after a lead risk assessment, but before the issuance of a lead order, swab team services do not need to be repeated after the issuance of the lead order if the swab team services fulfilled the lead order. Swab team services are not considered completed until the clearance inspection required under this section shows that the property is lead safe.

Subd. 7. Relocation of residents. (a) Within the limits of appropriations, the assessing agency shall ensure that residents are relocated from rooms or dwellings during a lead hazard reduction process that generates lead dust, such as removal or disruption of lead-based paint or plaster that contains lead. Residents shall not remain in rooms or dwellings where the lead hazard reduction process is occurring. An assessing agency is not required to pay for relocation unless state or federal funding is available for this purpose. The assessing agency shall make an effort to assist the resident in locating resources that will provide assistance with relocation costs. Residents shall be allowed to return to the room or dwelling after completion of the lead hazard reduction process. An assessing agency shall use grant funds under [section 144.9507](#) if available, in cooperation with local housing agencies, to pay for moving costs and rent for a temporary residence for any low-income resident temporarily relocated during lead hazard reduction. For purposes of this section, "low-income resident" means any resident whose gross household income is at or below 185 percent of federal poverty level.

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

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

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

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

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

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

(2) return any security deposit due under [section 504B.178](#) within five days of the date the tenant vacates the unit, to any tenant who terminates tenancy as provided for in paragraph (b).

Subd. 8. Property owner notification responsibility. If the property owner does not hire a person licensed by the commissioner under [section 144.9505](#) for compliance with the lead orders, the property owner shall submit a notice as to when regulated lead work will begin, according to [section 144.9505, subdivision 4](#), to the assessing agency within 30 days after receiving the orders.

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

Subd. 10. Case closure. A lead risk assessment is completed and the responsibility of the assessing agency ends when all of the following conditions are met:

- (1) lead orders are written on all known sources of violations of lead standards under [section 144.9508](#);
- (2) compliance with all lead orders has been completed; and
- (3) clearance inspections demonstrate that no deteriorated lead paint, bare soil, or lead dust levels exist that exceed the standards adopted under [section 144.9508](#).

Subd. 11. Repealed by [Laws 2001, c. 205, art. 1, § 43](#).

144.9505. Licensing of lead firms and professionals

Subdivision 1. Licensing and certification; generally. (a) All fees received shall be paid into the state treasury and credited to the lead abatement licensing and certification account and are appropriated to the commissioner to cover costs incurred under this section and [section 144.9508](#).

(b) Persons shall not advertise or otherwise present themselves as lead supervisors, lead workers, lead inspectors, lead risk assessors, lead sampling technicians, lead project designers, or lead firms unless they have licenses or certificates issued by or are registered with the commissioner under this section.

(c) The fees required in this section for inspectors, risk assessors, and certified lead firms are waived for state or local government employees performing services for or as an assessing agency.

(d) An individual who is the owner of property on which regulated lead work is to be performed or an adult individual who is related to the property owner, as defined under [section 245A.02, subdivision 13](#), is exempt from the requirements to obtain a license and pay a fee according to this section.

(e) A person that employs individuals to perform regulated lead work outside of the person's property must obtain certification as a certified lead firm. An individual who performs regulated lead work must be employed by a certified lead firm, unless the individual is a sole proprietor and does not employ any other individual who performs regulated lead work, the individual is employed by a person that does not perform regulated lead work outside of the person's property, or the individual is employed by an assessing agency.

Subd. 1a. Lead worker license. Before an individual performs regulated lead work as a worker, the individual shall first obtain a license from the commissioner. No license shall be issued unless the individual shows evidence of successfully completing a training course in lead hazard control. The commissioner shall specify the course of training and testing requirements and shall charge a \$50 fee for the license. License fees are nonre-

fundable and must be submitted with each application. The license must be carried by the individual and be readily available for review by the commissioner and other public health officials charged with the health, safety, and welfare of the state's citizens.

Subd. 1b. Lead supervisor license. Before an individual performs regulated lead work as a supervisor, the individual shall first obtain a license from the commissioner. No license shall be issued unless the individual shows evidence of experience and successful completion of a training course in lead hazard control. The commissioner shall specify the course of training, experience, and testing requirements and shall charge a \$50 fee for the license. License fees are nonrefundable and must be submitted with each application. The license must be carried by the individual and be readily available for review by the commissioner and other public health officials charged with the health, safety, and welfare of the state's citizens.

Subd. 1c. Lead inspector license. Before an individual performs lead inspection services, the individual shall first obtain a license from the commissioner. No license shall be issued unless the individual shows evidence of successfully completing a training course in lead inspection. The commissioner shall specify the course of training and testing requirements and shall charge a \$50 fee for the license. License fees are nonrefundable and must be submitted with each application. The license must be carried by the individual and be readily available for review by the commissioner and other public health officials charged with the health, safety, and welfare of the state's citizens.

Subd. 1d. Lead risk assessor license. Before an individual performs lead risk assessor services, the individual shall first obtain a license from the commissioner. No license shall be issued unless the individual shows evidence of experience and successful completion of a training course in lead risk assessment. The commissioner shall specify the course of training, experience, and testing requirements and shall charge a \$100 fee for the license. License fees are nonrefundable and must be submitted with each application. The license must be carried by the individual and be readily available for review by the commissioner and other public health officials charged with the health, safety, and welfare of the state's citizens.

Subd. 1e. Lead project designer license. Before an individual performs lead project designer services, the individual shall first obtain a license from the commissioner. No license shall be issued unless the individual shows evidence of experience and successful completion of a training course in lead project design. The commissioner shall specify the course of training, experience, and testing requirements and shall charge a \$100 fee for the license. License fees are nonrefundable and must be submitted with each application. The license must be carried by the individual and be readily available for review by the commissioner and other public health officials charged with the health, safety, and welfare of the state's citizens.

Subd. 1f. Lead sampling technician. An individual performing lead sampling technician services shall first register with the commissioner. The commissioner shall not register an individual unless the individual shows evidence of successfully completing a training course in lead sampling. The commissioner shall specify the course of training and testing requirements. Proof of registration must be carried by the individual and be readily available for review by the commissioner and other public health officials charged with the health, safety, and welfare of the state's citizens.

Subd. 1g. Certified lead firm. A person within the state intending to directly perform or cause to be performed through subcontracting or similar delegation any regulated lead work shall first obtain certification from the

commissioner. The certificate must be in writing, contain an expiration date, be signed by the commissioner, and give the name and address of the person to whom it is issued. The certification fee is \$100, is nonrefundable, and must be submitted with each application. The certificate or a copy of the certificate must be readily available at the worksite for review by the contracting entity, the commissioner, and other public health officials charged with the health, safety, and welfare of the state's citizens.

Subd. 2. Repealed by [Laws 2001, c. 205, art. 1, § 43](#).

Subd. 3. Licensed building contractor; information. The commissioner shall provide health and safety information on lead abatement and lead hazard reduction to all residential building contractors licensed under section 326B.05. The information must include the lead-safe practices and any other materials describing ways to protect the health and safety of both employees and residents.

Subd. 4. Notice of regulated lead work. (a) At least five working days before starting work at each regulated lead worksite, the person performing the regulated lead work shall give written notice to the commissioner and the appropriate board of health.

(b) This provision does not apply to lead hazard screen, lead inspection, lead risk assessment, lead sampling technician, or lead project design activities.

Subd. 5. Repealed by [Laws 2001, c. 205, art. 1, § 43](#).

Subd. 6. Duties of contracting entity. A contracting entity intending to have regulated lead work performed for its benefit shall include in the specifications and contracts for the work a requirement that the work be performed by contractors and subcontractors licensed by the commissioner under [sections 144.9501 to 144.9512](#) and according to rules adopted by the commissioner related to regulated lead work. No contracting entity shall allow regulated lead work to be performed for its benefit unless the contracting entity has seen that the person has a valid license or certificate. A contracting entity's failure to comply with this subdivision does not relieve a person from any responsibility under [sections 144.9501 to 144.9512](#).

144.9506. Repealed by Laws 2001, c. 205, art. 1, § 43

144.9507. Lead-related funding

Subdivision 1. Lead education strategy contracts. The commissioner shall, within available federal or state appropriations, contract with:

- (1) boards of health to provide funds for lead education as provided for in [sections 144.9503 and 144.9504](#); and
- (2) swab team workers and community-based advocacy groups to provide funds for lead education for primary prevention of toxic lead exposure in areas at high risk for toxic lead exposure.

Subd. 2. Lead risk assessment contracts. The commissioner shall, within available federal or state appropriations, contract with boards of health to conduct lead risk assessments to determine sources of lead contamination and to issue and enforce lead orders according to [section 144.9504](#).

Subd. 3. Temporary lead-safe housing contracts. The commissioner shall, within the limits of available appropriations, contract with boards of health for temporary housing, to be used in meeting relocation requirements in [section 144.9504](#), and award grants to boards of health for the purposes of paying housing and relocation costs under [section 144.9504](#). The commissioner may use up to 15 percent of the available appropriations to provide temporary lead-safe housing in areas of the state in which the commissioner has the duty under [section 144.9504](#) to perform secondary prevention.

Subd. 4. Repealed by [Laws 1999, c. 245, art. 2, § 45, par. \(b\)](#).

Subd. 5. Federal lead-related funds. To the extent practicable under federal guidelines, the commissioner of health may use federal funding to contract with boards of health for purposes specified in this section, but only to the extent that the federal funds do not replace existing funding for these lead services.

Subd. 6. Medical assistance. Medical assistance reimbursement for lead risk assessment services under [section 256B.0625, subdivision 52](#), shall not be used to replace or decrease existing state or local funding for lead services and lead-related activities.

144.9508. Rules

Subdivision 1. Sampling and analysis. The commissioner shall adopt, by rule, methods for:

- (1) lead inspections, lead hazard screens, lead risk assessments, and clearance inspections;
- (2) environmental surveys of lead in paint, soil, dust, and drinking water to determine areas at high risk for toxic lead exposure;
- (3) soil sampling for soil used as replacement soil;
- (4) drinking water sampling, which shall be done in accordance with lab certification requirements and analytical techniques specified by [Code of Federal Regulations, title 40, section 141.89](#); and
- (5) sampling to determine whether at least 25 percent of the soil samples collected from a census tract within a standard metropolitan statistical area contain lead in concentrations that exceed 100 parts per million.

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

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

commissioner of the Pollution Control Agency to develop disposal procedures. In adopting rules under this section, the commissioner shall require the best available technology for regulated lead work methods, paint stabilization, and repainting.

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

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

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

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

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

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

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

(j) The commissioner shall adopt rules for issuing lead orders required under [section 144.9504](#), rules for notification of abatement or interim control activities requirements, and other rules necessary to implement [sections 144.9501](#) to [144.9512](#).

Subd. 2a. Lead standards for exterior surfaces and street dust. The commissioner may, by rule, establish lead standards for exterior horizontal surfaces, concrete or other impervious surfaces, and street dust on residential property to protect the public health and the environment.

Subd. 3. Licensure and certification. The commissioner shall adopt rules to license lead supervisors, lead workers, lead project designers, lead inspectors, and lead risk assessors. The commissioner shall also adopt rules requiring certification of firms that perform regulated lead work and rules requiring registration of lead sampling technicians. The commissioner shall require periodic renewal of licenses, certificates, and registrations and shall establish the renewal periods.

Subd. 4. Lead training course. The commissioner shall establish by rule requirements for training course providers and the renewal period for each lead-related training course required for certification or licensure. The commissioner shall establish criteria in rules for the content and presentation of training courses intended to qualify trainees for licensure under subdivision 3. The commissioner shall establish criteria in rules for the content and presentation of training courses for lead interim control workers. Training course permit fees shall be nonrefundable and must be submitted with each application in the amount of \$500 for an initial training course, \$250 for renewal of a permit for an initial training course, \$250 for a refresher training course, and \$125 for renewal of a permit of a refresher training course.

Subd. 5. Variances. In adopting the rules required under this section, the commissioner shall provide variance procedures for any provision in rules adopted under this section, except for the numerical standards for the concentrations of lead in paint, dust, bare soil, and drinking water. A variance shall be considered only according to the procedures and criteria in [Minnesota Rules, parts 4717.7000 to 4717.7050](#).

Subd. 6. Repealed by [Laws 2001, c. 205, art. 1, § 43](#).

144.9509. Enforcement

Subdivision 1. Enforcement. When the commissioner exercises authority for enforcement, the provisions of [sections 144.9501 to 144.9512](#) shall be enforced under the provisions of [sections 144.989 to 144.993](#). Boards of health shall enforce a lead order issued under [section 144.9504](#) under a local ordinance or as a public health nuisance under chapter 145A.

Subd. 2. Discrimination. A person who discriminates against or otherwise sanctions an employee who complains to or cooperates with the assessing agency in administering [sections 144.9501 to 144.9512](#) is guilty of a petty misdemeanor.

Subd. 3. Enforcement and status report. The commissioner shall examine compliance with Minnesota's existing lead standards and rules and report to the legislature biennially, beginning February 15, 1997, including an evaluation of current lead program activities by the state and boards of health, the need for any additional enforcement procedures, recommendations on developing a method to enforce compliance with lead standards, and cost estimates for any proposed enforcement procedure. The report shall also include a summary of lead surveillance data collected by the commissioner.

144.951. Repealed by [Laws 1976, c. 173, § 64](#)

144.9511. Repealed by [Laws 1999, c. 245, art. 2, § 45, par. \(b\)](#)

144.9512. Lead abatement program

Subdivision 1. Definitions. (a) The definitions in [section 144.9501](#) and in this subdivision apply to this section.

(b) "Commissioner" means the commissioner of health.

Subd. 2. Grants; administration. Within the limits of the available appropriation, the commissioner shall make grants to a nonprofit organization currently operating the CLEARCorps lead hazard reduction project to train workers to provide swab team services for residential property.

Subd. 3. Deleted by amendment, [Laws 2007, c. 147, art. 16, § 9](#).

Subd. 4. Eligible grant activities. The nonprofit receiving a grant under this section must ensure that all participating lead supervisors or certified firms are licensed and that all swab team workers are certified by the Department of Health under [section 144.9505](#). The nonprofit organization may participate in the program by:

- (1) providing on-the-job training for swab team workers;
- (2) providing swab team services to meet the requirements of sections 144.9503, subdivision 4, and 144.9504, subdivision 6;
- (3) providing lead hazard reduction to meet the requirements of [section 144.9501, subdivision 17](#);
- (4) providing lead dust cleanup equipment and materials, as described in [section 144.9503, subdivision 1](#), to residents;
- (5) having a swab team worker instruct residents and property owners on appropriate lead control techniques, including the lead-safe directives developed by the commissioner of health;
- (6) conducting blood lead testing events including screening children and pregnant women according to Department of Health screening guidelines;
- (7) performing case management services according to Department of Health case management guidelines; or
- (8) conducting mandated risk assessments under [section 144.9504, subdivision 2](#).

Subd. 5. Swab team workers. Each worker engaged in swab team services established under this section must have blood lead concentrations below 15 micrograms of lead per deciliter of whole blood as determined by a baseline blood lead screening. The nonprofit organization receiving a grant under this section is responsible for lead screening and must ensure that all swab team workers meet the standards established in this subdivision. The nonprofit organization must use appropriate workplace procedures including following the lead-safe directives developed by the commissioner of health to reduce risk of elevated blood lead levels. The nonprofit organization and participating contractors must report all employee blood lead levels that exceed 15 micrograms of lead per deciliter of whole blood to the commissioner of health.

Subds. 6 to 8. Deleted by amendment, [Laws 2007, c. 147, art. 16, § 9](#).

Subd. 9. Program benefits. As a condition of providing swab team services under this section, the nonprofit organization may require a property owner to not increase rents on a property solely as a result of a substantial im-

provement made with public funds under the programs in this section.

Subd. 10. Requirements of nonprofit organization. The nonprofit organization that is awarded a grant under this section must prepare and submit a quarterly progress report to the commissioner beginning three months after receipt of the grant.

144.952. Repealed by Laws 1977, c. 347, § 23

144.953 to 144.965. Repealed by Laws 1976, c. 173, § 64

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