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NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES

178 NAC 23

TITLE 178 ENVIRONMENTAL HEALTH

CHAPTER 23 LEAD-BASED PAINT ACTIVITIES

001. SCOPE AND AUTHORITY. These regulations govern the professions and occupations, businesses, training courses, and standards for lead-based paint activities under the Residential Lead-based Paint Professions Practice Act Nebraska Revised Statutes (Neb. Rev. Stat.) §§ 71-6318 to 71-6331.01 and the Uniform Credentialing Act.

002. DEFINITIONS. Definitions set out in the Residential Lead-Based Paint Professions Certification Act, the Uniform Credentialing Act, 172 Nebraska Administrative Code (NAC) 10, and the following apply to this chapter.

002.01 CLEARANCE EXAMINATION. An activity conducted following lead-based paint hazard reduction activities to determine that the hazard reduction activities are complete and that no soil-lead hazards or surface dust-lead hazards, as defined in this part, exist in the dwelling unit or worksite. The clearance process includes a visual assessment and collection and analysis of environmental samples.

002.02 CLEARANCE LEVELS. The maximum allowable concentrations of lead on environmental surfaces.

002.03 COMPLETE APPLICATION. An application which contains all of the requested information, with attestation to its truth and completeness, signatures of the applicant(s), submitted with all required fees and documentation.

002.04 COURSE TEST BLUEPRINT. A written document identifying the proportion of the course test questions devoted to each major topic in the course curriculum.

002.05 SUCCESSFULLY PASS. Answering correctly at least seventy percent of the questions on either the license examination or the end of course examination.

003. ACCREDITATION OF TRAINING PROVIDERS, TRAINING PROGRAMS AND REVIEW COURSES. A training provider must not provide, offer, or claim to provide lead-based paint professions training programs or review courses without applying for and receiving accreditation from the Department.

003.01 REQUIREMENTS FOR ACCREDITATION. An applicant must meet the following:

- (A) Have a training program manager with demonstrated experience, education, or training in the construction industry including lead or asbestos abatement, painting,

- carpentry, renovation, remodeling, occupational safety and health, or industrial hygiene and one of the following:
- (i) At least two years of experience, education, or training in teaching workers or adults; or
 - (ii) A bachelor's or graduate degree in building construction technology, engineering, industrial hygiene, safety, public health, education, business administration or provider management or a related field; or
 - (iii) Two years of experience in managing a training provider specializing in environmental hazards;
- (B) Have a qualified principal instructor for each professions training programs or review courses who has:
- (i) Demonstrated experience, education, or training in teaching workers or adults;
 - (ii) Successfully completed at least 16 hours of lead-specific training from any training provider that is Environmental Protection Agency accredited or State-accredited by an authorized state; and
 - (iii) Demonstrated experience, education, or training in lead or asbestos abatement, painting, carpentry, renovation, remodeling, occupational safety, and health, or industrial hygiene;
- (C) If an applicant does not use Environmental Protection Agency recommended model training materials or training materials approved by a State or Indian Tribe that has been authorized by the Environmental Protection Agency, the material used must be equivalent to the model training materials;
- (D) Have a course test blueprint for each program or review course that accurately evaluates the trainee's performance of work practices and procedures associated with the program topics contained in this chapter;
- (E) Each program must meet the requirements in this chapter for the program offered;
- (F) Have a quality control plan that meets the requirements of this chapter; and
- (G) Have an adequate assessment plan for hands-on skills for each program.

003.02 TRAINING PROGRAM REQUIREMENTS. A training program must meet the minimum training curriculum requirements contained in 178 NAC 23-003.03 and the following training hour requirements:

- (A) The abatement worker initial program must last a minimum of 16 training hours, with a minimum of eight hours devoted to hands-on training activities;
- (B) The supervisor initial program must last a minimum of 32 training hours, with a minimum of eight hours devoted to hands-on activities;
- (C) The inspector initial program must last a minimum of 24 training hours, with a minimum of eight hours devoted to hands-on training activities;
- (D) The project designer initial program must last a minimum of eight training hours;
- (E) The risk assessor initial program must last a minimum of 16 training hours, with a minimum of four hours devoted to hands-on training activities;
- (F) The visual lead hazard advisor initial program must last a minimum of eight training hours, with a minimum of two hours devoted to hands-on training activities; and
- (G) The elevated blood lead level inspector initial program must last a minimum of eight training hours, with a minimum of two hours devoted to hands-on training activities.

003.03 REQUIRED COURSE OF STUDY. Courses of study are to include, at a minimum, the following relevant program topics. Requirements ending in an asterisk (*) indicate areas that require hands-on activities as an integral component of the program.

- (A) Abatement worker initial program:
 - (i) Role and responsibilities of an abatement worker;
 - (ii) Background information on lead and its adverse health effects;
 - (iii) Background information on Federal, State, and local regulations and guidance that pertain to lead-based paint abatement;
 - (iv) Lead-based paint hazard recognition and control; *
 - (v) Lead-based paint abatement and lead-based paint hazard reduction methods, including restricted practices; *
 - (vi) Interior dust abatement methods, cleanup, or lead-based paint hazard reduction; * and;
 - (vii) Soil and exterior dust abatement methods or lead-based paint hazard reduction.*
- (B) Supervisor initial program:
 - (i) Role and responsibilities of a supervisor;
 - (ii) Liability and insurance issues relating to lead-based paint abatement;
 - (iii) Risk assessment and inspection report interpretation; *
 - (iv) Development and implementation of an occupant protection plan and abatement report;
 - (v) Clearance standards and testing;
 - (vi) Cleanup and waste disposal;
 - (vii) Record keeping, and
 - (viii) Areas listed in 178 NAC 23-003.03A(ii) to (vii).
- (C) Inspector initial program:
 - (i) Role and responsibilities of an inspector;
 - (ii) Background information on lead and its adverse health effects;
 - (iii) Areas listed 178 NAC 23-003.03A(iii) and 003.03(B)(vii);
 - (iv) Lead-based paint inspection methods, including selection of rooms and components for sampling or testing; *
 - (v) Paint, dust, and soil sampling methodologies; *
 - (vi) Clearance standards and testing, including random sampling; * and
 - (vii) Preparation of the final inspection report. *
- (D) Project designer initial program:
 - (i) Role and responsibilities of a project designer;
 - (ii) Development and implementation of an occupant protection plan for large-scale abatement projects;
 - (iii) Lead-based paint abatement and lead-based paint hazard reduction methods, including restricted practices for large-scale abatement projects;
 - (iv) Interior dust abatement and cleanup or lead hazard control and reduction methods for large-scale abatement projects;
 - (v) Clearance standards and testing for large-scale abatement projects; and
 - (vi) Integration of lead-based paint abatement methods with modernization and rehabilitation projects for large-scale abatement projects.
- (E) Risk assessor initial program:

- (i) Role and responsibilities of a risk assessor;
 - (ii) Collection of background information to perform a risk assessment;
 - (iii) Sources of environmental lead contamination such as paint, surface dust and soil, water, air, packaging, and food;
 - (iv) Visual inspection for the purposes of identifying potential sources of lead-based paint hazards; *
 - (v) Lead hazard screen protocol; *
 - (vi) Sampling for other sources of lead exposure; *
 - (vii) Interpretation of lead-based paint and other lead sampling results, including all applicable state or federal guidance or regulations pertaining to lead-based paint hazards; *
 - (viii) Development of hazard control options, the role of interim controls, and operations and maintenance activities to reduce lead-based paint hazards; and
 - (ix) Preparation of a final risk assessment report.
- (F) Visual lead hazard advisor initial program:
- (i) Role and responsibilities of a visual lead hazard advisor;
 - (ii) Collection of background information to perform a visual lead hazard screen;
 - (iii) Sources of environmental lead contamination such as paint, surface dust and soil, water, air, packaging, and food;
 - (iv) Visual inspection for the purposes of identifying potential sources of lead-based paint hazards;
 - (v) Visual lead hazard assessment protocol;
 - (vi) Evaluating other sources of lead exposure;
 - (vii) Interpretation of lead-based paint and other lead observations, including all applicable guidance pertaining to lead-based paint hazards;
 - (viii) Review of hazard control options, the role of interim controls, and operations and maintenance activities to reduce lead-based paint hazards; and
 - (ix) Preparation of a visual lead hazard assessment report.
- (G) Elevated blood lead level inspector initial program:
- (i) Role and responsibilities of an elevated blood lead level inspector;
 - (ii) Collection of background information to perform an elevated blood lead level investigation;
 - (iii) Sources of environmental lead contamination such as paint, surface dust and soil, water, air, packaging, and food;
 - (iv) Visual inspection for the purposes of identifying potential sources of lead-based paint hazards;
 - (v) Elevated blood lead level investigation protocol;
 - (vi) Evaluating other sources of lead exposure;
 - (vii) Areas listed 178 NAC 23-003.03(F)(vii) and (viii); and
 - (viii) Preparation of an elevated blood lead level investigation report.

003.04 REVIEW COURSE ACCREDITATION. A training provider may seek accreditation of review training courses in any of the following disciplines: abatement worker, supervisor, inspector, project designer, risk assessor, visual lead hazard advisor, and elevated blood lead inspector. A training provider must meet the following minimum requirements:

- (A) Each review course must contain a review of the curriculum topics of the full-length initial programs listed in this chapter as appropriate. All review courses must include the following:
 - (i) An overview of current safety practices relating to lead-based paint activities in general, as well as specific information pertaining to the appropriate discipline;
 - (ii) Current laws and regulations relating to lead-based paint activities in general, as well as specific information pertaining to the appropriate discipline; and
 - (iii) Current technologies relating to lead-based paint professions in general, as well as specific information pertaining to the appropriate discipline;
- (B) Each abatement worker, supervisor, Inspector, and risk assessor review course must last a minimum of eight training hours. The project designer, and visual lead hazard advisor review course must last a minimum of four training hours; and
- (C) For each course offered a hands-on assessment must be conducted and at the completion of the review course a course test must be given.

003.05 TRAINING PROVIDER APPLICATION. To obtain an accreditation as a training provider an applicant must submit a complete application provided by the Department and provide documentation demonstrating that the applicant meets statutory requirements and the requirements of this chapter.

003.06 NOTIFICATION. A training provider must file a notice of all lead-based paint activities courses offered to the Department. The notification must include the date, time, instructor, and location of any scheduled lead professions training initial program or review course. The notification must be received by the Department at least five business days prior to offering any lead-based paint activities course. If notification is not made within five days, the training certificates will not be accepted by the Department.

003.07 FACILITIES – EQUIPMENT. The training provider must have adequate facilities for the delivery of the lecture, course test, hands-on training, and assessment activities. This includes providing training equipment that reflect current work practices and maintaining or updating the equipment and facilities as needed.

003.08 COURSE TEST. For each program offered, the training provider must conduct a course test at the completion of the program, and a hands-on skills assessment, for that discipline. Each individual must successfully pass the hands-on skills assessment and the course test to pass any program.

- (A) A training provider is responsible for maintaining the validity and integrity of the hands-on skills assessment or proficiency test to ensure that it accurately evaluates the trainees' performance of the work practices and procedures associated with the program topics contained in 178 NAC 23-003.02.
- (B) The training provider is responsible for maintaining the validity and integrity of the course test to ensure that it accurately evaluates the trainees' knowledge and retention of the program topics.
- (C) The course test must be developed in accordance with the test blueprint submitted with the training accreditation application.

003.09 CERTIFICATES. A training provider must issue unique training program or review course completion certificates to each individual who passes the training program or review course. The certificate must include:

- (A) The name, a unique certificate identification number, and address of the individual.
- (B) The name of the particular program or review course that the individual completed.
- (C) Dates of program completion and test score.
- (D) The name, current address, and telephone number of the training provider.

003.10 QUALITY CONTROL PLAN. The training provider must develop and implement a quality control plan. The plan will be used to maintain and improve the quality of the training provider over time. This plan must contain at least the following elements:

- (A) Procedures for periodic revision of training materials and the course test to reflect innovations in the field.
- (B) Procedures for the training manager's annual review of principal instructor competency.

003.11 STANDARDS. The training provider must teach the work practice standards for conducting lead-based paint professions contained in this chapter. These standards must be taught in the appropriate courses to provide trainees with the knowledge needed to perform the lead-based paint activities they are responsible for conducting.

003.12 COMPLIANCE. The training provider is responsible for ensuring that the training provider complies with all of the requirements in this chapter.

003.13 AUDIT. The training provider must allow the Department to audit the training provider.

003.14 TRAINING PROVIDER RECORD KEEPING REQUIREMENTS. Accredited training providers must maintain at the address on the application for a minimum of three years and six months, and make available to the Department, upon request, the following records:

- (A) All documents that demonstrate the qualifications of the training program manager and principal instructors;
- (B) Current curriculum and course materials and documents reflecting any changes made to these materials;
- (C) The course test blueprint;
- (D) Information regarding how the hands-on assessment is conducted including, but not limited to:
 - (i) Who conducts the assessment;
 - (ii) How the skills are graded; and
 - (iii) What facilities are used;
- (E) The pass and fail rate;
- (F) The type of training date time and location of each training class offered in the State;
- (G) The quality control plan;
- (H) Results of the students' hands-on skills assessments and course tests;
- (I) A record of each student's program completion certificate; and
- (J) Any other material not listed that was submitted to the Department as part of the provider's application for accreditation.

004. LICENSURE OF INDIVIDUALS. An individual may not engage in lead-based paint activities unless the individual holds a license issued by the Department. To obtain a license, an applicant must submit a complete application provided by the Department and provide documentation demonstrating that the applicant meets licensing requirements set out in statute, 172 NAC 10, and this chapter. All applicants must have successfully completed an accredited initial training program for the credential requested. Applicants for all credentials except project designer, visual lead hazard advisor, and elevated blood lead level inspector, must have been examined within the preceding 12 months and be capable of working while wearing a respirator. An applicant for a license as a supervisor, risk assessor or inspector must successfully pass a Department approved or administered licensure examination. An applicant for a license as a risk assessor or elevated blood lead level inspector must have successfully completed an accredited initial training program for lead inspector and lead risk assessor. An applicant applying based on training obtained in another jurisdiction must have successfully completed an accredited initial training program for the license requested and all accredited review training courses since initial licensing in the other jurisdiction.

004.01 INITIAL LICENSE. Applicants must submit the following:

- (A) The original of a certificate showing successful completion of an accredited initial training program for the credential requested. An applicant applying based on training received in another jurisdiction must submit the original of a certificate from the jurisdiction or the Environmental Protection Agency showing successful completion of an accredited initial training and all subsequent review training programs successfully completed since the initial training;
- (B) Documentation of having been examined by a physician within the preceding 12 months and declared by the physician capable of working while wearing a respirator, as applicable; and
- (C) Documentation of successfully passing the licensure examination approved or administered by the Department.

004.02 LICENSURE EXAMINATIONS. Licensure examinations may not be administered by training providers. No applicant may take the licensure examination more than three times within six months of receiving a program completion certificate from an accredited initial or review training program. An applicant who does not pass the licensure examination within six months of taking the initial or review training program must retake the appropriate program before being allowed to retake the licensure examination.

004.03 TERM OF LICENSE. A license is valid for two years from the date of issuance. An applicant must meet the requirements set out in 172 NAC 10 and this chapter. An applicant must successfully complete an accredited review course or initial training program for the credential requested. An applicant for a worker or supervisor license must have been examined by a physician within the preceding 12 months and be declared by the physician to be capable of working while wearing a respirator. An applicant must submit the following:

- (A) The original of a certificate showing successful completion of an accredited initial training program or review course for the credential requested; and

- (B) Documentation of having been examined by a physician within the preceding 12 months and declared by the physician capable of working while wearing a respirator, as applicable.

004.04 REINSTATEMENT. Any licensee who fails to renew by the expiration date and desires to resume practice of the profession shall meet the requirements of section 004, and 172 NAC 10.

005. INITIAL LICENSE OF FIRMS. Applicants must submit the following:

A firm may not engage in lead-based paint activities unless the firm holds a license issued by the Department. To obtain a license, an applicant must submit a complete application provided by the Department and provide documentation demonstrating that the applicant meets licensing requirements set out in statute and this chapter. An applicant for a license to operate a lead abatement firm must own or have immediate access to the equipment described in the Housing and Urban Development Guidelines for the Evaluation and Control of Lead Based Paint Hazards in Housing 2012 edition, maintain the equipment in operable condition, have a minimum of one employee licensed as a Nebraska Lead Supervisor or contract with a Nebraska licensed Lead Supervisor. An applicant for a license to operate a consulting firm to provide consultation on lead abatement activities must have a minimum of one employee licensed as a Nebraska Lead Risk Assessor or have a contract with a Nebraska licensed Lead Risk Assessor.

005.01 APPLICATION FOR FIRM LICENSURE. Applicants must submit a complete application for licensure and a copy of all citations and disciplinary actions issued against the firm within the past ten years by any federal, state, or local government agency for violations related to lead abatement projects, including the names and locations of the projects, the dates, and a description of how the allegations were resolved.

005.02 RENEWAL. A license is valid for one year from the date of issuance. To renew a license, an applicant must submit a complete application provided by the Department as required in section 005 and provide documentation of any updated information that may have changed from the previous application.

005.03 INCOMPLETE APPLICATION. If the Department determines that an application is incomplete, the Department will notify the firm of the information necessary to complete the application and retain the application submitted pending receipt of such additional information. The Department will either approve or disapprove the firm's certification within 30 business days of receipt of a complete application.

005.04 RETURNED APPLICATION. The Department will return to a firm whose application for a license is rejected the amount of \$100. The other \$100 will be retained by the Department for an administrative fee of \$100. Application for licensed firm will be rejected if after 15 business days from notification of any missing information if the missing information is not received, or if the firm does not meet the qualifications for license.

006. WORK PRACTICE STANDARDS. Licensed individuals and firms shall comply with the following when performing any lead-based paint activity.

006.01 GUIDELINES. Every licensed individual and firm shall comply with Department standards and all the requirements as stated in the United States Department of Housing and Urban Development Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing 2012 edition. A copy may be inspected at the Division of Public Health of the Department of Health and Human Services, 301 Centennial Mall South, Lincoln, Nebraska 68509 or available on our website. All actions that say “should be conducted” in the United States Department of Housing and Urban Development Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing 2012 edition are required to be completed under these regulations.

006.02 CLEARANCE LEVELS. For post-abatement clearance the maximum level of lead in dust on horizontal surfaces are as follows: floors 10 micrograms per square foot, interior windowsills 100 micrograms per square foot, and window troughs into which the sash fits and exterior surfaces 400 micrograms per square foot using dust wipe sampling methodology.

006.03 CLEARANCE EXAMINATION. A clearance examination can only be conducted by a licensed Inspector, or licensed Risk Assessor.

006.04 ABATEMENT. An abatement shall comply with the requirements in 006.01 and the following:

006.04(A) REQUIRED PERSONNEL. A licensed supervisor is required for each abatement project and must be onsite during all work site preparation and during the post-abatement cleanup of work areas. At all other times when abatement activities are being conducted, the licensed supervisor must be onsite or available by telephone, pager or answering service, and able to be present at the work site in no more than two hours.

006.04(B) PROJECT NOTIFICATION. Notification of the commencement of lead-based paint abatement activities in a residential dwelling or child-occupied facility or as a result of a Federal, State, or local order must be given to the Department prior to the commencement of abatement activities.

006.04(C) OCCUPANT PROTECTION PLAN. A written occupant protection plan must be developed for all abatement projects, the occupants must be notified of its availability and it must:

- (i) Be unique to each residential dwelling or child-occupied facility and be developed prior to the abatement. It must describe the measures and management procedures that will be taken during the abatement to protect the building occupants from exposure to any lead-based paint hazards.
- (ii) Be prepared by a licensed supervisor or project designer, and
- (iii) Be available to occupants.

006.04(D) POST ABATEMENT. The following post-abatement clearance procedures can only be performed by a licensed inspector or risk assessor:

- (i) Following an abatement, a visual inspection must be performed to determine if deteriorated painted surfaces, or visible amounts of dust, debris or residue are still present. If deteriorated painted surfaces or visible amounts of dust, debris or

residue are present, these conditions must be eliminated prior to the continuation of the clearance procedures.

- (ii) Following the visual inspection and any post-abatement cleanup required by 178 NAC 23-006.04(D) item (i). Clearance sampling for lead in dust must be conducted. Clearance sampling may be conducted by employing single-surface sampling or composite sampling techniques.
- (iii) Dust samples for clearance purposes must be taken using procedures contained in the Housing and Urban Development Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing 2012 edition.
- (iv) Dust samples for clearance purposes must be taken a minimum of one hour after completion of final post-abatement cleanup activities.
- (v) The following post-abatement clearance activities must be conducted as appropriate based upon the extent or manner of abatement activities conducted in or to the residential dwelling or child-occupied facility:
 - (1) After conducting an abatement with containment between abated and unabated areas, one dust sample must be taken from one interior windowsill and from one window trough, if present, and one dust sample must be taken from the floor of no less than four rooms, hallways, or stairwells within the containment area. In addition, one dust sample must be taken from the floor outside the containment area. If there are less than four rooms, hallways or stairwells within the containment area, then all rooms, hallways or stairwells must be sampled.
 - (2) After conducting an abatement with no containment, two dust samples must be taken from no less than four rooms, hallways or stairwells in the residential dwelling or child-occupied facility. One dust sample must be taken from one window, if available, and one dust sample must be taken from the floor of each room, hallway or stairwell selected. If there are less than four rooms, hallways or stairwells within the residential dwelling or child-occupied facility then all rooms, hallways or stairwells must be sampled.
 - (3) Following an exterior paint abatement, a visible inspection must be conducted. All horizontal surfaces in the outdoor living area closest to the abated surface must be cleaned of visible dust and debris. In addition, a visual inspection must be conducted to determine the presence of paint chips on the dripline or next to the foundation below any exterior surface abated. If paint chips are present, they must be removed from the site and properly disposed of, according to all applicable Federal, State and local requirements.
- (vi) The rooms, hallways or stairwells selected for sampling must be selected according to documented methodologies.
- (vii) A licensed inspector or risk assessor must compare the residual lead level, as determined by the laboratory analysis, from each single surface dust sample with clearance levels in 178 NAC 23-006.02 for lead in dust on floors, interior windowsills and window troughs or from each composite dust sample with the applicable clearance levels for lead in dust on floors, interior windowsills, and window troughs divided by half the number of subsamples in the composite sample. If the residual lead levels in a single surface dust sample equals or exceeds the

applicable clearance level or if the residual lead level in a composite dust sample equal or exceeds the applicable clearance level divided by half the number of subsamples in the composite sample, the components represented by the failed sample must be re-cleaned and retested until clearance levels are met.

- (viii) The clearance levels for lead in dust are 10 $\mu\text{g}/\text{ft}^2$ for floors, 100 $\mu\text{g}/\text{ft}^2$ for interior windowsills, and 400 $\mu\text{g}/\text{ft}^2$ for window troughs.

006.04(E) MULTI-FAMILY DWELLINGS. In a multi-family dwelling with similarly constructed and maintained residential dwellings, random sampling for the purposes of clearance may be conducted provided:

- (i) The licensed individuals who abate or clean the residential dwellings do not know which residential dwelling will be selected for the random sample.
- (ii) A sufficient number of residential dwellings are selected for dust sampling to provide a 95% level of confidence that no more than 5% or 50 of the residential dwellings (whichever is smaller) in the randomly sampled population exceed the appropriate clearance levels.
- (iii) The randomly selected residential dwellings must be sampled and evaluated for clearance according to the procedures found in 178 NAC 23-006.04(D).

006.04(F) ABATEMENT REPORT. An abatement report must be prepared by a licensed supervisor or project designer, and include the following information:

- (i) Start and completion dates of abatement.
- (ii) The name and address of each licensed firm conducting the abatement and the name of each supervisor assigned to the abatement project.
- (iii) The occupant protection plan prepared pursuant to 178 NAC 23-006.04(C).
- (iv) The name, address, and signature of each licensed risk assessor or inspector conducting clearance sampling and the date of clearance testing.
- (v) The results of clearance testing and all soil analyses, if applicable, and the name of each recognized laboratory that conducted the analyses.
- (vi) A detailed written description of the abatement, including abatement methods used, locations of rooms and components where abatement occurred, reason for selecting abatement methods for each component, and any suggested monitoring of encapsulants or enclosures.

006.04(G) SAMPLES. Collection and laboratory analysis of samples: Any paint chip, dust, or soil samples collected pursuant to the work practice standards contained in 178 NAC 23-006 must be:

- (i) Collected by persons licensed as an inspector or risk assessor; and
- (ii) Analyzed by a laboratory recognized by Environmental Protection Agency pursuant to section 405(b) of Toxics Substance Control Act as being capable of performing analyses for lead compounds in paint chip, dust, and soil samples.

006.05 COMPOSITE DUST SAMPLING. Composite dust sampling may only be conducted in the situations specified in a lead hazard screen, risk assessment, or abatement. If such sampling is conducted, the following must apply:

- (A) Composite dust samples must consist of at least two subsamples;
- (B) Every component that is being tested must be included in the sampling; and
- (C) Composite dust samples must not consist of subsamples from more than one type of component. If the residual lead level in a composite dust sample equals or exceeds the applicable clearance level for lead in dust on floors, interior windowsills, or window troughs, after this clearance level has been divided by half the number of subsamples in the composite sample, the component represented by the failed sample must be cleaned and retested.

006.06 DETERMINING THE PRESENCE OF LEAD AND LEAD-BASED PAINT HAZARDS.

Lead and lead-based paint hazards must meet the following:

- (A) LEAD PAINT. Lead-based paint is present:
 - (i) On any surface that is tested and found to contain lead equal to or in excess of 1.0 milligrams per square centimeter or equal to or in excess of 0.5% by weight; and
 - (ii) On any surface that is similar to one tested in the same room equivalent that has a similar painting history and that is found to be lead-based paint.
- (B) LEAD PAINT HAZARD. A lead paint hazard is present:
 - (i) On any friction surface that is subject to abrasion and where the lead dust levels on the nearest horizontal surface underneath the friction surface, are equal to or greater than the dust hazard levels identified in 178 NAC 23-006.06(C);
 - (ii) On any chewable lead-based paint surface on which there is evidence of teeth marks;
 - (iii) Where there is damage or otherwise deteriorated lead-based paint on an impact surface that is caused by impact from a related building component; and
 - (iv) If there is any other deteriorated lead-based paint in any residential building or child-occupied facility or on the exterior of any residential building or child-occupied facility.
- (C) DUST LEAD HAZARD. A dust-lead hazard is present:
 - (i) In a residential dwelling on floors and interior windowsills when the weighted arithmetic mean lead loading for all single surface or composite samples of floors and interior windowsills are equal to or greater than 10 $\mu\text{g}/\text{ft}^2$ for floors and 100 $\mu\text{g}/\text{ft}^2$ for interior windowsills, respectively;
 - (ii) On floor or interior windowsills in an unsampled residential dwelling in a multi-family dwelling, if a dust-lead hazard is present on floors or interior windowsills, respectively, in at least one sampled residential unit on the property; and
 - (iii) On floors or interior windowsills in an unsampled common area in a multi-family dwelling, if a dust-lead hazard is present on floors or interior windowsills, respectively, in at least one sampled common area in the same common area group on the property.
- (D) SOIL LEAD HAZARD. A soil-lead hazard is present:
 - (i) In a play area when the soil-lead concentration from a composite play area sample of bare soil is equal to or greater than 400 parts per million; or
 - (ii) In the rest of the yard when the arithmetic mean lead concentration from a composite sample, or arithmetic mean of composite samples, or bare soil from

the rest of the yard, for each residential building on a property is equal to or greater than 1,200 parts per million.

006.07 RECORDKEEPING. All reports or plans required in 178 NAC 23-006 must be maintained by the licensed firm or individual who prepared the report for no fewer than three years. The licensed firm or individual also must provide copies of these reports to the building owner who contracted for its services.

007. PROJECT REVIEWS, INSPECTIONS, AND RECORDS. All licensed individuals and firms must comply with the following:

007.01 PROJECT NOTIFICATION. Before initiating any lead abatement project, a licensed firm, must submit to the Department a written project notification.

007.01(A) NOTIFICATION REQUIREMENTS. The Department must be notified at least ten days before the start of a project. The notice must include:

- (i) The name, address, and telephone number of the licensed firm that will carry out the lead abatement project;
- (ii) The name, address, and telephone number of the owner of the structure on which the lead abatement project is to be carried out;
- (iii) The building number and street address of the project site, and if either is unavailable, directions to the project;
- (iv) All locations within the building where the lead abatement project will be carried out;
- (v) The type of lead abatement project proposed;
- (vi) The date when the licensed firm will start the lead abatement project and date when the project will be finished;
- (vii) For a lead abatement project around or within residential property or a child-occupied facility, the names and ages of all persons dwelling in the residential property or occupying the facility;
- (viii) The volume or square footage of surface of lead to be abated; and
- (ix) The person authorized to make binding legal agreements on behalf of the firm must sign the notification and send it to the Department by certified mail, return receipt requested, or hand-deliver it the original of the notification to Department.

007.01(B) CHANGES TO NOTIFICATION. If the licensed firm deviates from or changes the work schedule identified in the notification sent to the Department for a reason other than a legal holiday, the firm must notify the Department of such changes within 24 hours of learning of or making such changes and 24 hours before work being done on the project. The firm may mail this notice to: dhhs.asbestoslead@nebraska.gov, by telephone, facsimile FAX [402-471-8833], or letter. If the firm desires a verified record that it gave notice, it must submit a written letter by certified mail, return receipt requested.

- (i) Notice under 178 NAC 23-007 must include, as applicable:
 - (1) A new start date for the project, which date cannot be less than 24 hours after the Department receives notice of the new start date;
 - (2) A new work schedule for the project, either days, work shift, or both;

- (3) Typographical or clerical errors which would affect the Department's ability to perform an inspection of the project, such as an incorrect street address; and
 - (4) Any increase in the size of the project because a new location within a structure has been added, such as adding work in a new room on the same floor as the original project or adding work on a different floor.
- (ii) Increasing the size of a project may require the licensed firm to submit a project review fee even though the project was not formerly subject to such a fee.

007.01(C) PROJECT FEE. For a project review of each lead abatement project equal to or greater than 100 square feet or any combination which is equal to or greater than 100 square feet, notification must be accompanied by an administrative fee of \$200.00. All projects require written notification.

007.02 INITIAL INSPECTION. The Department may inspect an abatement project and related documents at any time.

007.02(A) ONSITE INSPECTION. The Department may conduct an initial on-site inspection upon receiving notification that a lead abatement project is about to commence. The Department may conduct a re-inspection of a lead abatement project and the licensed firm will pay a re-inspection fee of \$150 if:

- (i) If any on-site inspection reveals the need for re-inspection for any violation of Residential Lead-Based Paint Professions Certification Act or these regulations; and
- (ii) An on-site inspection could not be accomplished because:
 - (1) The licensed firm provided an incorrect or inadequate address or failed to provide adequate directions to a lead abatement project when a building number or street address is unavailable;
 - (2) The lead abatement project was not underway during a time when the notification indicated work would be in progress;
 - (3) The actions of the licensed firm conducting the lead abatement project prevented the inspector(s) from taking photographs of the work area or taking bulk samples within the work area; or
 - (4) The actions of the licensed firm conducting the lead abatement project prevented access to the work area.

007.03 RECORD KEEPING REQUIREMENTS. Any licensed firm or individual must keep records as follows:

- (A) Retain documents showing:
 - (i) The name and address of the premises at which the lead abatement project, inspection, screen, or risk assessment was conducted and the name and address of the owner of the structure in which the project occurred;
 - (ii) A description of the activity, including a summary of the procedures that were used to comply with these and other applicable regulations;
 - (iii) The start and completion dates of the activity;

- (iv) The name, address, and certificate number of each licensed individual in each of the lead occupations who worked as any part of the activity in any capacity and for any duration; and
- (v) If lead-containing waste was generated as part of the activity, where and in what manner the lead waste was disposed.
- (B) Keep a separate record for each activity, project, inspection screen, or risk assessment and make those documents available in a form suitable for the Department's inspection.
- (C) Retain all documents required by 178 NAC 23-007 for at least three years from the ending date of the activity.
- (D) Keep the Department informed of the location of the records required by 178 NAC 23-007.

008. SCHEDULE OF FEES. The following fees have been set by the Department:

- (A) The initial and renewal license fee for individuals is listed below:
 - (i) Worker \$102;
 - (ii) Supervisor \$202;
 - (iii) Inspector \$202;
 - (iv) Project Designer \$202;
 - (v) Risk Assessor \$202; and
 - (vi) An applicant for reinstatement must pay the renewal license fee and a reinstatement fee of \$35;
- (B) The firm license initial and renewal fee is \$200 per year;
- (C) For a project review of each lead abatement project equal to or greater than 100 square feet or any combination which is equal to or greater than 100 square feet, notification must be accompanied by a fee of \$200.00;
- (D) For an on-site inspection other than an initial inspection \$150. This fee will not be assessed for more than three on-site inspections per year during the period an actual lead abatement project is in progress;
- (E) For accreditation of a training program \$1000; and
- (F) For accreditation of a review course or a course on Nebraska law, rules, and regulations \$500.

009. COPIES. Copies of all documents, guidelines, and similar items referenced in this chapter are available and may be inspected at the Division of Public Health of the Department of Health and Human Services, 301 Centennial Mall South, Lincoln, Nebraska 68509 or on the Department's website.