

EFFECTIVE DATE
APRIL 10, 2005

NEBRASKA HEALTH AND HUMAN SERVICES
REGULATION AND LICENSURE

178 NAC 23

CHAPTER 23 LEAD-BASED PAINT ACTIVITIES

TITLE 178 ENVIRONMENTAL HEALTH

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Contact the Agency for forms at:
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1-(888)242-1100 Ext. 1
Website: <http://www.hhs.state.ne.us/puh/enh/leadpaint/leadindex.htm>

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TITLE 178 ENVIRONMENTAL HEALTH

CHAPTER 23 LEAD-BASED PAINT ACTIVITIES

23-001 SCOPE AND AUTHORITY: These regulations, standards and fees implement the provisions of the Residential Lead-based Paint Professions Certification Act, Neb. Rev. Stat. §§71-6318 to 71-6331.01, and will apply to the certification of firms involved in lead-based paint activities in Nebraska; the accreditation of training courses for workers, supervisors, inspectors, elevated blood lead level inspector, visual lead hazard advisors and project designers engaged in lead-based paint activities performed in Nebraska; and the certification of lead-based paint professions in Nebraska.

Additional authority is found in the Uniform Licensing Law at, Neb. Rev. Stat. §§71-162 to 71-162.05, the Administrative Procedure Act and 184 NAC 1.

23-002 EXEMPTIONS: These regulations, standards and fees will not apply in the following circumstances or to the following individuals: Persons who perform lead-based paint activities within residential dwellings that they own, unless the residential dwelling is occupied by a person or persons other than the owner or the owner's immediate family while these activities are being performed or unless a child residing in the building has been identified as having an elevated blood-lead level.

23-003 DEFINITIONS

Abatement or abatement project means any measure or set of measures designed to permanently eliminate lead-based paint hazards. Abatement includes, but is not limited to:

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 covering of lead-contaminated soil;
2. All preparation, cleanup, disposal, and post-abatement clearance testing activities associated with such measures; and
3. Projects for which there is a written contract or other documentation which provides that a firm or an individual will be conducting activities in or to a residential dwelling or child-occupied facility that (i) will result in the permanent elimination of lead-based paint hazards or (ii) are designed to permanently eliminate lead-based paint hazards and are described in 178 NAC 23-003, items 1. And 2. under abatement or abatement project;

4. Projects resulting in the permanent elimination of lead-based paint hazards conducted by firms or individuals certified in accordance with the Department unless such projects are excluded from the definition of abatement or abatement project under 178 NAC 23-003;
5. Projects resulting in the permanent elimination of lead-based paint hazards conducted by firms or individuals who or which, through company name or promotional literature, hold themselves out to be in the business of performing lead-based paint activities unless such projects are excluded from the definition of abatement or abatement project under 178 NAC 23-003; or
6. Projects resulting in the permanent elimination of lead-based paint hazards that are conducted in response to state or local abatement orders.

Abatement does not include renovation, remodeling, landscaping, or other activities when such activities are not designed to permanently eliminate lead-based paint hazards but instead are designed to repair, restore, or remodel a structure or dwelling even if such activities may incidentally result in a reduction or elimination of lead-based paint hazards. Abatement does not include interim controls, operations, and maintenance activities or other measures and activities designed to temporarily but not permanently reduce lead-based paint hazards.

Accredited review course means a review course that has been accredited by the Department to provide review training for individuals engaged in lead-based paint activities.

Accredited training program means a training program that has been accredited by the Department to provide training for individuals engaged in lead-based paint activities.

Accredited training provider means a company, partnership, corporation, sole proprietorship, association, or other business entity that conducts an accredited training program or accredited review course.

Certificate of accreditation means a letter from the Department signed by the Director or the director's designee allowing a training program to provide accredited training for the lead-based paint professions specified on the certificate.

Certification examination for elevated blood lead level inspector and visual lead hazard advisor means an examination written and administered by the Department or an authorized representative of the Department.

Certification examination for lead-based paint inspector, risk assessor, and abatement supervisor means the US Environmental Protection Agency National Certification Examination administered by the Department or an authorized representative of the Department.

Certified abatement worker means an individual who has been trained by an accredited training program and certified by the Department to perform abatement projects.

Certified elevated blood lead level inspector means an individual who has been trained by an accredited training program and certified by the Department to perform elevated blood lead level investigations.

Certified firm means a firm to which the Department has issued a certificate of approval.

Certified inspector means an individual who has been trained by an accredited training program and certified by the Department to conduct inspections and sample for the presence of lead in dust and soil for the purposes of abatement clearance testing.

Child-occupied facility means a building or portion of a building, constructed prior to 1978, visited regularly by the same child six years of age or under, on at least two different days within any seven-day period running from Sunday through Saturday, if each daily visit lasts at least three hours, the combined weekly visits last at least six hours, and the combined annual visits last at least sixty hours. Child-occupied facility may include, but is not limited to, a day-care center, a preschool, or a kindergarten classroom.

Clearance examination means 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.

Clearance levels means the maximum allowable concentrations of lead on environmental surfaces. For post-abatement clearance the maximum level of lead in dust on horizontal surfaces are as follows: floors 40 micrograms per square foot, interior window sills 250 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.

Common area means a portion of a building that is generally accessible to all occupants and may include, but is not limited to, a hallway, stairway, laundry or recreational room, playground, community center, garage, or boundary fence.

Component or building component means a specific design or structural element or a fixture of a building, residential dwelling, or child-occupied facility that is distinguished from others by form, function, and location and may include, but is not limited to, interior components such as ceilings, crown moldings, walls, chair rails, doors, door trim, floors, fireplaces, radiators and other heating units, shelves, shelf supports, stair treads, stair risers, stair stringers, newel posts, railing caps, balustrades, windows and trim including sashes, window heads, jambs, or sills or stools and troughs, built-in cabinets, columns, beams, bathroom vanities, counter tops, and air conditioners and exterior components such as painted roofing, chimneys, flashing, gutters and downspouts, ceilings, soffits, fascia, rake boards, cornerboards, bulkheads, doors and door trim, fences, floors, joists, lattice work, railings and railing caps, siding, handrails, stair risers and treads, stair stringers, columns, balustrades, window sills or stools and troughs, casings, sashes, and wells, and air conditioners.

Containment means a process to protect workers and the environment by controlling exposure to the lead-contaminated dust and debris created during an abatement project.

Course test blueprint means a written document identifying the proportion of the course test questions devoted to each major topic in the course curriculum.

Department means the Department of Health and Human Services Regulation and Licensure.

Deteriorated paint means paint that is cracking, flaking, chipping, peeling, or otherwise separating from the substrate of a building component.

Director means the Director of Regulation and Licensure or his/her designee.

Elevated blood-lead level means a confirmed concentration of lead in whole blood of twenty micrograms of lead per deciliter of whole blood for a single venous test or of fifteen to nineteen micrograms of lead per deciliter of whole blood in two consecutive tests taken three to four months apart.

Encapsulant means a substance that forms a barrier between lead-based paint and the environment using a liquid-applied coating, with or without reinforcement materials, or an adhesively bonded covering material.

Encapsulation means the application of an encapsulant.

Enclosure means the use of rigid, durable construction materials that are mechanically fastened to the substrate in order to act as a barrier between lead-based paint and the environment.

EPA means the United States Environmental Protection Agency.

Firm means a company, partnership, corporation, sole proprietorship, association, or other business entity that conducts lead-based paint abatement or abatement projects.

Guest instructor means an individual designated by the training program manager or principal instructor to provide instruction specific to the lecture, hands-on activities, or work practice components of a course.

Inspection means a surface-by-surface investigation to determine the presence of lead-based paint and the provision of a report explaining the results of the investigation.

Interim controls means a set of measures designed to temporarily reduce human exposure or likely exposure to lead-based paint hazards, including specialized cleaning, repairs, maintenance, painting, temporary containment, ongoing monitoring of lead-based paint hazards or potential hazards, and the establishment and operation of management and resident education programs.

Lead-based paint means paint or other surface coatings that contain lead equal to or in excess of one milligram per square centimeter or more than five-tenths of one (0.5%) percent by weight in a residential dwelling or child-occupied facilities.

Lead-based paint activities means, in the case of target housing and child-occupied facilities, inspection, risk assessment, and abatement.

Lead-based paint hazard means any condition that causes exposure to lead from lead-contaminated dust, lead-contaminated soil, or lead-contaminated paint that is deteriorated paint or is present in accessible surfaces, friction surfaces, or impact surfaces that would result in adverse human health effects as identified by the Director.

Lead-based paint profession means one of the specific types or categories of lead-based paint activities identified in the Residential Lead-Based Paint Professions Certification Act for which individuals may receive training from an accredited training program and become certified by the Department.

Lead-contaminated dust means surface dust in a residential dwelling or child-occupied facility that contains an area or mass concentration of lead at or in excess of levels identified by the Director.

Lead-contaminated soil means bare soil on residential real property or on the property of a child-occupied facility that contains lead at or in excess of levels identified by the Director.

Permanently covered soil means soil which has been separated from human contact by the placement of solid barrier consisting of solid, relatively impermeable materials, such as pavement or concrete. Grass mulch, and other landscaping materials are not considered permanent coverings.

Person means any natural or judicial person, including any individual, corporation, partnership, or association, any state, or political subdivision thereof, any interstate body, and any Department, agency, or instrumentality of the United States Government.

Principal instructor means the individual who has the primary responsibility for organizing and teaching a particular course.

Reduction means measures designed to reduce or eliminate human exposure to lead-based paint hazards through methods including interim controls and abatement.

Residential dwelling means a detached single-family dwelling unit, including attached structures such as porches and stoops, or a single-family dwelling unit in a structure that contains more than one separate residential dwelling unit which is used or occupied or intended to be used or occupied, in whole or in part, as the home or residence of one or more persons.

Risk assessment means an onsite investigation to determine the existence, nature, severity, and location of lead-based paint hazards and the provision of a report by the individual or the

firm conducting the risk assessment, explaining the results of the investigation and options for reducing lead-based paint hazards.

Successfully pass means answering correctly seventy percent of the exam questions on either the certification examination or the end of course examination.

Target housing means any housing constructed prior to 1978, except housing for the elderly or persons with disabilities unless one or more children six years of age or under resides or is expected to reside in such housing for the elderly or persons with disabilities or any zero-bedroom dwelling.

Training curriculum means an established set of course topics for instruction in an accredited training program for a particular lead-based paint profession designed to provide specialized knowledge and skills.

Training program manager means the individual responsible for administering an accredited training program and monitoring the performance of principal instructors and guest instructors.

Visual assessment means looking for, as applicable: deteriorated paint, visible surface dust, debris and residue as part of a clearance examination.

Visual lead-hazard screen means a visual assessment to determine the presence of deteriorated paint or other potential sources of lead-based paint hazards in a residential dwelling or child-occupied facility. Visual lead-hazard screen includes a written report explaining the results and limitations of the assessment. The written report will be provided to the person requesting the inspection, the residents of the dwelling, and the owner of the dwelling or child-occupied facility. A certified visual lead-hazard advisor shall retain a copy of the report in his/her files for three years

23-004 ACCREDITATION OF TRAINING PROVIDERS, TRAINING PROGRAMS AND REVIEW COURSES

23-004.01 General Procedures for Training Providers

23-004.01A A training provider may seek accreditation to offer lead-based paint professions programs in any of the following disciplines: certified inspector, certified risk assessor, certified supervisor, certified project designer, certified visual lead hazard advisor, certified elevated blood lead level inspector, and certified abatement worker. A training provider may also seek accreditation to offer review courses for each of the above listed disciplines.

23-004.01B A training provider must not provide, offer, or claim to provide the Department accredited lead-based paint professions programs without applying for and receiving accreditation from the Department.

23-004.01C The training provider must notify the Department in writing within 30 days of changing the address specified on its training provider accreditation application or transferring the records from that address.

23-004.01D The training provider must notify the Department in writing, or by fax, of lead-based paint activities courses offered. The notification must include the date, time, instructor, and location of any scheduled lead professions training initial program or review course.

23-004.01E The training provider must provide notice of all lead-based paint activities courses offered. The original 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 certifications issued by the training provider will not be accepted by this Department.

23-004.01F The training provider must provide the Department updated notices when lead-based paint activities courses will begin on a date other than the one specified in the original notification, as follows:

1. For lead-based paint activities courses beginning prior to the original start date an updated notice must be received by the Department at least five business days before the revised start date.
2. For lead based paint activities courses beginning after the original start date an updated notice must be received by the Department at least two business days before the revised start date.

23-004.01G The training provider must update the Department of any change in location of lead-based paint activities courses at least five business days prior to the scheduled course start date.

23-004.01H The training provider must also update the Department regarding any course cancellations, or any other changes to the original notice. Update notices, must be received by the Department at least 24 hours prior to the scheduled start date.

23-004.02 Training Provider Application Process

23-004.02A A training provider seeking accreditation must submit a written application to the Department containing the following information:

1. The training provider's name, address, and telephone number.
2. A list of programs and or review courses for which it is applying for accreditation.
3. A statement signed by the training provider manager certifying that the training provider meets the requirements established in 178 NAC 23-004.03. If a training provider uses EPA-recommended model-training

- materials, or training materials approved by a State or Indian Tribe that has been authorized by the EPA the training provider manager must include a statement certifying that, as well.
4. If a training provider does not use the EPA-recommended model training materials or training materials approved by a State or Indian Tribe that has been authorized by the EPA, its application for accreditation must also include:
 - a. A copy of the student and instructor manuals, or other materials to be used for each program.
 - b. A copy of each program agenda.

23-004.02B All training providers must include in their application for accreditation the following:

1. A description of the facilities and equipment to be used for lecture and hands-on training including the street address the facilities to be used for lecture and hands-on training.
2. A copy of the course test blueprint for each program or review course.
3. A description of the activities and procedures that will be used for conducting the assessment of hands-on skills for each program.
4. A copy of the quality control plan as described in 178 NAC 023-004.03F.
5. The prescribed fee of \$1,000 for each lead-based paint professions program and the fee of \$500 for each review training course to be accredited.

23-004.02C If a training provider meets the requirements in 178 NAC 23-004.03, then the Department will approve the application for accreditation no more than 90 days after receiving a complete application from the training provider.

1. In the case of approval, a certificate of accreditation will be sent to the applicant.
2. In the case of disapproval, a letter describing the reasons for disapproval will be sent to the applicant. Prior to disapproval, the Department may, at its discretion, work with the applicant to address inadequacies in the application for accreditation. The Department may also request additional materials. If a training provider's application is disapproved, the provider may reapply for accreditation at any time.

23-004.02D A training provider may apply for accreditation to offer initial lead-based paint professions program or review courses in as many program disciplines as it chooses. An accredited training provider may seek accreditation for additional lead-based paint professions programs or review courses at any time as long as the provider can demonstrate that it meets the requirements.

23-004.03 Requirements for the Accreditation of Training Providers

23-004.03A For a training provider to obtain accreditation from the Department to offer lead-based paint professions training programs or review courses, the provider must meet the following requirements:

1. The training provider must employ a training program manager who has 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:
 - a. At least two years of experience, education, or training in teaching workers or adults; or
 - b. 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
 - c. Two years of experience in managing a training provider specializing in environmental hazards.
2. The training program manager must designate a qualified principal instructor for each professions training programs or review courses who has:
 - a. Demonstrated experience, education, or training in teaching workers or adults; and
 - b. Successfully completed at least 16 hours of lead-specific training from any training provider that is EPA-accredited or State-accredited by an EPA authorized state; and
 - c. Demonstrated experience, education, or training in lead or asbestos abatement, painting, carpentry, renovation, remodeling, occupational safety and health, or industrial hygiene.
3. The principal instructor will be responsible for the organization of the professions training programs or review course and oversight of the teaching of all course material. The training program manager may designate guest instructors as needed to provide instruction specific to the lecture, hands-on activities, or work practice components of a program or course.

23-004.03B The following documents will be recognized by the Department as evidence that training managers and principal instructors have the education, work experience, training requirements or demonstrated experience, specifically listed in 178 NAC 23-004.03A items 1. and 2. This documentation need not be submitted with the accreditation application, but, if not submitted, must be retained by the

training provider as required by the record keeping requirements contained in 178 NAC 23-004.08. Those documents include the following:

1. Official academic transcripts or diploma as evidence of meeting the education requirements.
2. Resumes, letters of reference, or documentation of work experience, as evidence of meeting the work experience requirements.
3. Certificates from train-the-trainer courses and lead-specific training courses, as evidence of meeting the training requirements.

23-004.03C The training provider must ensure the availability of, and provide adequate facilities for, the delivery of the lecture, course test, hands-on training, and assessment activities. This includes providing training equipment that reflects current work practices and maintaining or updating the equipment and facilities as needed.

23-004.03D 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 complete the hands-on skills assessment and receive a passing score on the course test to pass any program.

1. The training program manager 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 23-004.05.
2. The training program manager 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.
3. The course test will be developed in accordance with the test blueprint submitted with the training accreditation application.

23-004.03E The training provider must issue unique program or review course completion certificates to each individual who passes the training program or review course. The certificate must include:

1. The name, a unique certificate identification number, and address of the individual.
2. The name of the particular program or review course that the individual completed.
3. Dates of program completion/test passage.
4. The name, current address, and telephone number of the training provider.

23-004.03F The training program manager 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:

1. Procedures for periodic revision of training materials and the course test to reflect innovations in the field.
2. Procedures for the training manager's annual review of principal instructor competency.

23-004.03G The training provider must teach the work practice standards for conducting lead-based paint professions contained in 178 NAC 23-007, and other standards developed by the Department. 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.

23-004.03H The training program manager will be responsible for ensuring that the training provider complies at all times with all of the requirements in 178 NAC 23-004.

23-004.03I The training program manager must allow the Department to audit the training provider to verify the contents of the application for accreditation as described in 178 NAC 23-004.

23-004.04 Program Accreditation

23-004.04A To receive program accreditation for the following disciplines lead-based paint professions training programs, the training provider must provide training programs that meet the minimum training curriculum requirements contained in 178 NAC 23-004.05 and the following training hour requirements:

1. The inspector initial program must last a minimum of 24 training hours, with a minimum of eight hours devoted to hands-on training activities. The minimum curriculum requirements for the inspector initial program are contained in 178 NAC 23-004.05A item 1.
2. 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. The minimum curriculum requirements for the risk assessor initial program are contained in 178 NAC 23-004.05A item 2.
3. The supervisor initial program must last a minimum of 32 training hours, with a minimum of eight hours devoted to hands-on activities. The minimum curriculum requirements for the supervisor initial program are contained in 178 NAC 23-004.05A item 3.

4. The project designer initial program must last a minimum of eight training hours. The minimum curriculum requirements for the project designer initial program are contained in 178 NAC 23-004.05A item 4.
5. 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. The minimum curriculum requirements for the abatement worker initial program are contained in 178 NAC 23-004.05A item 5.
6. 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. The minimum curriculum requirements for the visual lead hazard advisor initial program are contained in 178 NAC 23-004.05A item 6.
7. 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. The minimum curriculum requirements for the elevated blood lead level inspector initial program are contained in 178 NAC 23-004.05A item 7.

23-004.05 Minimum Training Curriculum Requirements

23-004.05A To become accredited lead-based paint professions programs of instruction in any one of the specific disciplines, training providers must ensure that their courses of study 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.

1. Inspector
 - a. Role and responsibilities of an inspector.
 - b. Background information on lead and its adverse health effects.
 - c. Background information on Federal, State, and local regulations and guidance that pertains to lead-based paint and lead-based paint activities.
 - d. Lead-based paint inspection methods, including selection of rooms and components for sampling or testing. *
 - e. Paint, dust, and soil sampling methodologies. *
 - f. Clearance standards and testing, including random sampling. *
 - g. Preparation of the final inspection report. *
 - h. Recordkeeping.
2. Risk Assessor
 - a. Role and responsibilities of a risk assessor.

- b. Collection of background information to perform a risk assessment.
 - c. Sources of environmental lead contamination such as paint, surface dust and soil, water, air, packaging, and food.
 - d. Visual inspection for the purposes of identifying potential sources of lead-based paint hazards. *
 - e. Lead hazard screen protocol. *
 - f. Sampling for other sources of lead exposure. *
 - g. 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. *
 - h. Development of hazard control options, the role of interim controls, and operations and maintenance activities to reduce lead-based paint hazards.
 - i. Preparation of a final risk assessment report.
3. Supervisor
- a. Role and responsibilities of a supervisor.
 - b. Background information on lead and its adverse health effects.
 - c. Background information on Federal, State, and local regulations and guidance that pertain to lead-based paint abatement.
 - d. Liability and insurance issues relating to lead-based paint abatement.
 - e. Risk assessment and inspection report interpretation. *
 - f. Development and implementation of an occupant protection plan and abatement report.
 - g. Lead-based paint hazard recognition and control. *
 - h. Lead-based paint abatement and lead-based paint hazard reduction methods, including restricted practices. *
 - i. Interior dust abatement/cleanup or lead-based paint hazard control and reduction methods. *
 - j. Soil and exterior dust abatement or lead-based paint hazard control and reduction methods. *
 - k. Clearance standards and testing.
 - l. Cleanup and waste disposal.
 - m. Record keeping.
4. Project Designer
- a. Role and responsibilities of a project designer.
 - b. Development and implementation of an occupant protection plan for large-scale abatement projects.
 - c. Lead-based paint abatement and lead-based paint hazard reduction methods, including restricted practices for large-scale abatement projects.

- d. Interior dust abatement/cleanup or lead hazard control and reduction methods for large-scale abatement projects.
 - e. Clearance standards and testing for large-scale abatement projects.
 - f. Integration of lead-based paint abatement methods with modernization and rehabilitation projects for large-scale abatement projects.
5. Abatement Worker
- a. Role and responsibilities of an abatement worker.
 - b. Background information on lead and its adverse health effects.
 - c. Background information on Federal, State and local regulations and guidance that pertain to lead-based paint abatement.
 - d. Lead-based paint hazard recognition and control. *
 - e. Lead-based paint abatement and lead-based paint hazard reduction methods, including restricted practices. *
 - f. Interior dust abatement methods/cleanup or lead-based paint hazard reduction. *
 - g. Soil and exterior dust abatement methods or lead-based paint hazard reduction. *
6. Visual Lead Hazard Advisor
- a. Role and responsibilities of a visual lead hazard advisor.
 - b. Collection of background information to perform a visual lead hazard screen.
 - c. Sources of environmental lead contamination such as paint, surface dust and soil, water, air, packaging, and food.
 - d. Visual inspection for the purposes of identifying potential sources of lead-based paint hazards.
 - e. Visual lead hazard assessment protocol.
 - f. Evaluating other sources of lead exposure.
 - g. Interpretation of lead-based paint and other lead observations, including all applicable guidance pertaining to lead-based paint hazards.
 - h. Review of hazard control options, the role of interim controls, and operations and maintenance activities to reduce lead-based paint hazards.
 - i. Preparation of a visual lead hazard assessment report.
7. Elevated Blood Lead Level Inspector
- a. Role and responsibilities of a elevated blood lead level inspector.
 - b. Collection of background information to perform elevated blood lead level investigation.

- c. Sources of environmental lead contamination such as paint, surface dust and soil, water, air, packaging, and food.
- d. Inspection for the purposes of identifying potential sources of lead hazards.
- e. Elevated Blood Lead Level Investigation protocol.
- f. Evaluating all sources of lead exposure.
- g. Interpretation of observations, including all applicable guidance pertaining to lead-based paint hazards.
- h. Review of hazard control options, the role of interim controls, and operations and maintenance activities to reduce lead-based paint hazards.
- i. Preparation of a elevated blood lead level investigation report.

23-004.05B Program Accreditation Application: An accredited training provider seeking accreditation of training programs, must submit a written application to the Department containing the following information:

1. The training provider's name, address, and telephone number.
2. A list of programs for which it is applying for accreditation.
3. A statement signed by the training provider manager certifying that the training provider meets the minimum requirements established in 178 NAC 23-004.03. If a training provider uses EPA-developed model training materials, or training materials approved by a State or Indian Tribe that has been authorized by EPA, the training program manager must include a statement certifying that, as well.
4. If the training program materials are not based on EPA-developed model training materials or training materials approved by an authorized State or Indian Tribe, the training provider's application for accreditation must include:
 - a. A copy of the student and instructor manuals to be used for each course.
 - b. A copy of the course agenda for each program.
5. All training providers must include in their application for program accreditation the following:
 - a. A description of the facilities and equipment to be used for lecture and hands-on training.
 - b. A copy of the course test blueprint for each program.
 - c. A description of the activities and procedures that will be used for conducting the assessment of hands-on skills for each course (if applicable).

- d. A copy of the quality control plan as described in 178 NAC 23-004.03F.
6. If a training provider meets the requirements listed in 178 NAC 23-004.03, then the Department will approve the application for accreditation no more than 90 days after receiving a complete application from the review training provider. In the case of approval, a certificate of accreditation will be sent to the applicant. In the case of disapproval, a letter describing the reasons for disapproval will be sent to the applicant. Prior to disapproval, the Department may, at its discretion, work with the applicant to address inadequacies in the application for accreditation. The Department may also request additional materials retained by the review training provider. If a review training provider's application is disapproved, the provider may reapply for accreditation at any time.

23-004.06 Review Course Accreditation

23-004.06A A training provider may seek accreditation of review training courses in any of the following disciplines: Inspector, Risk Assessor, Supervisor, Project Designer, Visual Lead Hazard Advisor, Elevated Blood Lead Level Inspector and Abatement Worker. To obtain the Department accreditation of review training, a training provider must meet the following minimum requirements:

1. Each review course must contain review the curriculum topics of the full-length initial programs listed under 178 NAC 23-004.04 as appropriate. In addition, training providers must ensure that their review courses include, at a minimum, the following:
 - a. An overview of current safety practices relating to lead-based paint activities in general, as well as specific information pertaining to the appropriate discipline.
 - b. Current laws and regulations relating to lead-based paint activities in general, as well as specific information pertaining to the appropriate discipline.
 - c. Current technologies relating to lead-based paint professions in general, as well as specific information pertaining to the appropriate discipline.
2. Each Inspector, Risk Assessor, Supervisor and Abatement Worker review course must last a minimum of eight training hours. The Project Designer, Elevated Blood Level Inspector and Visual Lead Hazard Advisor review course must last a minimum of four training hours.

3. For each course offered, the training provider will conduct a hands-on assessment (if applicable), and at the completion of the review course, a course test.
4. A training provider may apply for accreditation of a review course concurrently with its application for accreditation of the corresponding training initial program. If so, the Department will use the approval procedure described in 178 NAC 23-004.07D. In addition, the minimum requirements contained in 178 NAC 23-004.03 must also apply.

23-004.07 Review Course Accreditation Application

23-004.07A An accredited training provider seeking accreditation of review training courses, must submit:

1. The review training provider's name, address, and telephone number.
2. A list of courses for which it is applying for accreditation.
3. A statement signed by the training provider manager certifying that the review training provider meets the minimum requirements established in 178 NAC 23-004.03 except for the requirements in 178 NAC 23-004.03D. If a training provider uses EPA-developed model training materials, or training materials approved by a State or Indian Tribe that has been authorized by EPA, the training program manager must include a statement certifying that, as well.

23-004.07B If the review training course materials are not based on EPA-developed model training materials or training materials approved by an authorized State or Indian Tribe, the training provider's application for accreditation must include:

1. A copy of the student and instructor manuals to be used for each course.
2. A copy of the course agenda for each review course.

23-004.07C All review training providers must include in their application for course accreditation the following:

1. A description of the facilities and equipment to be used for lecture and hands-on training.
2. A copy of the course test blueprint for each review course.
3. A description of the activities and procedures that will be used for conducting the assessment of hands-on skills for each course (if applicable).
4. A copy of the quality control plan as described in 178 NAC 23-004.03F.
5. The requirements in 178 NAC 23-004.02A and 23-004.02B.

23-004.07D If a review training provider meets the requirements listed in this 178 NAC 23-004.03, then the Department will approve the application for accreditation no more than 90 days after receiving a complete application from the review training provider. In the case of approval, a certificate of accreditation will be sent to the applicant. In the case of disapproval, a letter describing the reasons for disapproval will be sent to the applicant. Prior to disapproval, the Department may, at its discretion, work with the applicant to address inadequacies in the application for accreditation. The Department may also request additional materials retained by the review training provider. If a review training provider's application is disapproved, the provider may reapply for accreditation at any time.

23-004.08 Training Provider Record Keeping Requirements

23-004.08A Accredited training providers must maintain, and make available to the Department, upon request, the following records:

1. All documents specified in 178 NAC 23-004.02 that demonstrate the qualifications listed in 178 NAC 23-004.03A items 1. and 2. of the training program manager and principal instructors.
2. Current curriculum/course materials and documents reflecting any changes made to these materials.
3. The course test blueprint.
4. Information regarding how the hands-on assessment is conducted including, but not limited to:
 - a. Who conducts the assessment.
 - b. How the skills are graded.
 - c. What facilities are used.
 - d. The pass/fail rate.
 - e. The type of training date time and location of each training class offered in the state.
5. The quality control plan as described in 178 NAC 23-004.03F.
6. Results of the students' hands-on skills assessments and course tests, and a record of each student's program completion certificate.
7. Any other material not listed above in 178 NAC 23-004.08A items 1. through 6. that was submitted to the Department as part of the provider's application for accreditation.

23-004.08B The training provider must retain these records at the address specified on the training provider accreditation application (or as modified in accordance with 178 NAC 23-004.01C for a minimum of three years and six months from the date of the certificate of accreditation.)

23-005 CERTIFICATION OF INDIVIDUALS IN LEAD-BASED PAINT PROFESSIONS

23-005.01 Requirements for the certification of individuals in the lead-based paint professions: A person will not be eligible to engage in lead-based paint activities unless the person holds a certificate issued by the Department. The Department will issue certificates to the following classes of lead-based paint professions: certified worker; certified supervisor; certified inspector; certified risk assessor; certified visual lead hazard advisor; certified elevated blood lead level inspector and certified project designer.

23-005.02 Qualifications for Certification in the Lead Professions

23-005.02A Certified Worker: To qualify for a certificate as a certified lead abatement worker, an individual must:

1. Successfully complete a program approved by the Department for lead abatement workers and receive a certificate or letter from the training provider to document this successful completion.
2. Successfully pass an end of course examination approved or administered by the Department; and
3. Have been examined by a physician within the preceding 12 months and declared by the physician capable of working while wearing a respirator.

23-005.02B Certified Inspector: To qualify for a certificate as a certified Inspector, an individual must:

1. Successfully complete a program accredited by the Department for certified Inspector and receive a certificate or letter from the training provider to document this successful completion;
2. Successfully pass a certification examination approved or administered by the Department.

23-005.02C Certified Risk Assessor: To qualify for a certificate as a certified risk assessor, an individual must:

1. Successfully complete a program accredited by the Department for certified inspector and receive a certificate or letter from the training provider to document this successful completion.
2. Successfully complete a program accredited by the Department for risk assessors and receive a certificate or letter from the training provider to document this successful completion.
3. Successfully pass a certification examination approved or administered by the Department.

23-005.02D Certified Supervisor: To qualify for a certificate as a lead abatement supervisor, an individual must:

1. Successfully complete a program approved by the Department for certified supervisors and receive a certificate or letter from the training provider to document this successful completion; and
2. Successfully pass a certification examination approved or administered by the Department.
3. Have been examined by a physician within the preceding 12 months and declared by the physician capable of working while wearing a respirator.

23-005.02E Certified Project Designer: To qualify for a certificate as a lead abatement project designer, an individual must:

1. Successfully complete a program approved by the Department for certified supervisors and receive a certificate or letter from the training provider to document this successful completion;
2. Successfully pass an end of program examination approved or administered by the Department.

23-005.02F Certified Visual Lead Hazard Advisor: To qualify for a certificate as a Visual Lead Hazard Advisor, an individual must:

1. Successfully complete a program approved by the Department for certified Visual Lead Hazard Advisor and receive a certificate or letter from the training provider to document this successful completion; and
2. Successfully pass a certification examination approved or administered by the Department.

23-005.02G Certified Elevated Blood Lead Level Inspector: To qualify for a certificate as a Certified Elevated Blood Lead Level Inspector, an individual must:

1. Successfully complete a program approved by the Department for certified elevated blood lead level inspector, lead inspector, and risk assessor, and receive a certificate or letter from each training provider to document their successful completion; and
2. Successfully pass a certification examination approved or administered by the Department.

23-005.03 Application for Initial and Renewal Certificate

23-005.03A Application for Initial Certificate: A person must apply for an initial certificate by providing to the Department documentation of the qualifications listed in 178 NAC 23-005.02 for the certified profession requested.

1. Schedule of Fees: The following fees have been set by the Department:

- a. The initial license and licensee renewal fee by an applicant for certification is listed below plus \$3(\$1.00 per year) for the Licensee Assistance Program:
 - (1) Worker $\$100 + \$3 = \$103$
 - (2) Supervisor $\$200 + \$3 = \$203$
 - (3) Inspector $\$200 + \$3 = \$203$
 - (4) Risk assessor $\$200 + \$3 = \$203$
 - (5) Project designer $\$200 + \$3 = \$203$
 - (6) Visual lead hazard advisor $\$100 + \$3 = \$103$
 - b. Certification of Certificate Fee: For issuance of a certification of a lead credential, the fee of \$25. The certification includes information regarding:
 - (1) The basis on which a lead credential was issued;
 - (2) The date of issuance;
 - (3) Whether disciplinary action has been taken against the lead credential; and
 - (4) The current status of the credential.
 - c. Verification of Certificate Fee: For issuance of a verification of a credential, the fee of \$5. The verification includes written confirmation as to whether a credential was valid at the time the request was made.
 - d. Duplicate Certification Fee: For a duplicate of original certification document or reissued certificate, the fee of \$10.
 - e. Administrative Fee: For a denied credential or a withdrawn application, the administrative fee of \$25 will be retained by the Department.
2. Term of certificate: A certificate is valid for three years from the date it is issued by the Department.
 3. Certification Examinations
 - a. A certification examination will not be administered by accredited training providers.
 - b. Certification examinations will be required for initial certification for the professions of: certified inspector, certified risk assessor,

- certified supervisor, certified elevated blood lead level inspector, and certified visual lead hazard advisor.
- c. Restrictions: No applicant for certification will be permitted to take the certification examination more than three times within six months of receiving a program completion certificate from an approved training or review program.
 - d. If an applicant for certification does not pass the certification examination within six months of taking the initial program, that individual must retake the appropriate program.
4. Individuals and Firms Certified in Other States: Individuals must submit with the certification application as prescribed in 178 NAC 23-005.03 the original of their current state or EPA certification and the original of the training or review training certification in lieu of the requirements listed in 178 NAC 23-005.02A through 23-005.02E. Individuals must submit information required in 178 NAC 23-005.03A item 6. Firms must submit information required in 178 NAC 23-006.02B. Originals submitted to the Department will be returned. Individuals issued a certificate or accreditation for training in another state which has a reciprocity agreement with the State of Nebraska and has a program approved by the federal Environmental Protection Agency will be issued an equivalent certificate or accreditation in Nebraska for the remaining duration of the certification not to exceed three years from the date application is made to the department.
 5. Individuals and Firms Certified in Nebraska by the EPA: Individuals must submit with the certification application as prescribed in 178 NAC 23-005.03 the original of their current EPA certification and the original of the training or review training certification in lieu of the requirements listed in 178 NAC 23-005.02A through 23-005.02E. Persons must submit information required in 178 NAC 23-005.03A item 6 for individuals and 178 NAC 23-006.02B for firms. Originals submitted to the Department will be returned. Persons issued a certificate or accreditation for training in the State of Nebraska by the federal Environmental Protection Agency will be issued an equivalent certificate or accreditation in Nebraska for the remaining duration of the EPA certification. Fees for certification in Nebraska will be reduced by the certification or accreditation fee paid to the U.S. Treasury for EPA certification in Nebraska.
 6. The individual applicant for certification must provide the Department with the following information:
 - a. Name of individual applying for certification;
 - b. Current home address, city, state, and zip code of individual applying for certification;

- c. Social Security Number;
- d. Current phone number if available;
- e. Current employer;
- f. Current employer's address;
- g. Type of certification(s) requesting;
- h. Date of Birth;
- i. Country of Legal Residence;
- j. Green Card Number (if applicable);
- k. Height;
- l. Weight;
- m. Hair Color;
- n. Race/Ethnicity;
- o. Submit two identical passport-sized photographs of you alone, recent enough to be a good likeness (normally taken within the last six months). The photographs should be 2 x 2 inches in size with an image of your head and shoulders taking up the majority of the area. Photographs must be clear, front view, full face, taken in normal street clothing without a hat or dark glasses, and printed on thin paper with a plain light (white or off-white) background. Photographs retouched so that your appearance is changed are unacceptable.
- p. If you are applying for risk assessor, supervisor, or project designer certification or re-certification provide: name, location, highest grade completed (GED if applicable). Name of any technical, vocational, or special trade schools, colleges, and/or graduate schools you have attended. Indicate highest level completed, major course of study, degrees received, and year graduated, if applicable. Attach additional sheets of paper if necessary.
- q. If you are applying for risk assessor, supervisor, or project designer certification or re-certification. Provide the following for all periods of experience relating to the lead professions: Title or Occupation: Supervisor's Name, Business Name, Street Address, Suite No., City, State, Zip Code, Business Phone, and Period of Employment.
- r. Provide the following information about the training you received in the discipline(s) for which you are seeking certification or re-certification:
 - (1) Name of Trainer.
 - (2) Name of Training Center:
 - (3) Training Center Address: Street Address, City, State, Zip Code
 - (4) Training Center Phone, Date Training Completed. If training was conducted in a language other than English, please specify language

- (5) Training Certificate Identification Number
 - (6) Indicate the type of test you took: Course test, Hands-on assessment
 - (7) If you took your training course in Nebraska, submit originals (originals will be returned) of training certificates and subsequent review training certificates if applicable.
OR
If you took your EPA approved training from another state then submit an original (originals will be returned) of the certificate or note of successful completion from a training or review course and a original of the current certificate or letter of certification granted to the applicant by a federal or state agency (if available).
 - (8) Indicate if you had past, present or pending lead based paint activity violation of EPA, State, Territory or Indian Tribe regulations. If you had such a violation, attach a written explanation.
 - (9) Include any additional information or comments that you want considered with your application.
- s. Original documentation signed by a physician of an examination completed by the physician per 178 NAC 23.005.02A item 3 or 178 NAC 23.005.02D items 2 if a certified supervisor or certified worker.
7. If you are applying for inspector, risk assessor, supervisor, or project designer certification or re-certification. Provide a signed statement that you have read, understand and will only use work practice standards in 178 NAC 23-007 and comply with record keeping requirements outlined in 178 NAC 23-008. If you are applying for inspector, risk assessor, or certification or re-certification. Provide the Department the address of the location where records required under 178 NAC 23-008 will be maintained.
8. In addition to providing the documentation required, an applicant for certification must also meet the qualifications for the lead professions certification requested.

23-005.03B A person who wishes to renew his/her certificate must:

- 1. Successfully complete an approved review course or approved initial program for the certification level they are applying;
- 2. Pay the renewal fee as prescribed in 178 NAC 23-005.03A item 1;

3. Have been examined by a physician within the preceding 12 months and declared by the physician capable of working while wearing a respirator if the applicant is a certified worker or certified supervisor; and
4. Submit to the Department;
 - a. The completed renewal notice that the Department sent to the certificate holder at least 30 days before the certificate expiration date;
 - b. The renewal fee;
 - c. Documentation of an original certificate of completion for an approved review course or approved initial program for the profession they are applying;
 - d. Original documentation signed by a physician of an examination completed by the physician as specified in 23-005.03B, item 3 if a certified worker or certified supervisor.
5. Term of Renewal Certificate: A renewal certificate is valid for three years from the date it is issued by the Department.
6. Individuals may renew their certification any time up to one year after its expiration. After one year they need to re-apply for initial certification.

23-006 CERTIFICATION OF FIRMS

23-006.01 Requirements for the Certification of Firms

23-006.01A No firm will engage in a lead abatement project unless the firm holds a certificate for that purpose. A firm must be validly certified by the Department at the time it submits a bid for a lead abatement project to any state agency, county, city, village, school district, or other political subdivision.

23-006.01B To have a certificate issued, renewed or remain in good standing, a firm must:

1. Own or demonstrate immediate and continuing access to and maintain in operable condition modern and effective equipment which is designed for use in lead abatement projects.
2. Ensure that each employee or agent of the firm who will participate in a lead abatement project is certified as required by the Residential Lead-Based Paint Professions Certification Act, Neb. Rev. Stat. §§71-6318 to 71-6332, and these regulations.
3. Demonstrate to the satisfaction of the Department that the firm is capable of complying with all applicable requirements, procedures and standards pertaining to lead abatement projects. This demonstration includes but is not limited to:

- a. Owning or having immediate access to the equipment described in the HUD Guidelines, and maintaining owned equipment in operable condition;
 - b. Having met all state and federal worker health and safety standards.
 - c. Provide to the Department copies of all citations 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.
4. Meet any other state and federal health and safety standards which the Department may deem necessary to protect the welfare of lead abatement workers and supervisors and the general public.

23-006.02 Application for Firm Certification

23-006.02A To apply for a certificate, a firm must submit to the Department the information listed below along with a certificate application fee of \$200 per year.

23-006.02B The application must include at least the following information:

1. The name, address, legal structure (e.g., partnership, corporation, sole proprietorship, limited liability company or partnership, etc.), and nature of the firm;
2. A signed statement that all persons who will engage in lead abatement projects for the certified firm will be certified as required by this regulation;
3. A signed statement that the firm will only use work practice standards for lead abatement projects as outlined in this regulation;
4. A description of the procedures that the firm will use for handling lead-containing waste;
5. A description of the procedures that the firm will use in cleaning up the lead abatement project or projects;
6. A list of current employees certified in the lead professions;
7. The signature of the owner, chief executive officer, or shareholder authorized to bind the firm to legal agreements or his/her designee; and:
8. A firm may submit additional documents or information it considers relevant to the application and compliance with the provisions of these regulations.

23-006.02C 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.

23-006.02D A certificate will expire one year from the date of issuance of that certificate unless the certified firm renews their certification for an additional one year period.

23-006.02E At least 60 days before the certificate renewal date, the Department will send to the certified firm at its last-known address a renewal notice and application. The renewal notice will state the following:

1. The date on which the current certificate will be renewed;
2. The date by which the renewal application must be received by the Department; and
3. The amount of the certificate renewal fee.

23-006.02F A firm may renew its certificate if the certified firm:

1. Continues to be qualified to be certified under these regulations;
2. Submits the renewal application to the Department prior to the renewal date of the certificate;
3. Has complied with all information and inspection requests by the Department or its representatives;
4. Has paid all inspection and other administrative fees assessed by the Department; and
5. Pays the certificate application fee.

23-006.02G The Department will return to a firm whose application for a certificate is rejected the amount of \$100. The other \$100 will be retained by the Department for an administrative fee of \$100. Application for certified 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 certification.

23-007 WORK PRACTICE STANDARDS

23-007.01 All lead-based paint activities must be performed pursuant to the work practice standards contained in 178 NAC 23-007.

23-007.01A When performing any lead-based paint activity described by the certified individual as an inspection, lead-hazard screen, clearance examination, elevated blood level investigation, risk assessment or abatement, a certified individual must perform that activity in compliance with the appropriate requirements below.

23-007.01B Procedures that are appropriate for 178 NAC 23-007 are found in the following: The U.S. Department of Housing and Urban Development (HUD)

Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing dated June 1995 and the 1997 Revision of Chapter 7: Lead-Based Paint Inspection which replaces Chapter 7 of the 1995 HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing, and referred to here as “the HUD Guidelines”; incorporated by this reference. Copies of these guidelines may be obtained on the Internet at http://www.hud.gov/offices/lead/guidelines/hudguidelines/Chap7_2.pdf or by calling HUD USER at 1-800-245-2691.

23-007.01C Clearance levels must be appropriate for the lead-based paint activities accomplished and at or less than the levels established by the Department.

23-007.02 Inspection

23-007.02A An inspection must be conducted only by a person certified by the Department as an inspector or risk assessor and, must be conducted according to the procedures in this paragraph. An inspection may involve only a portion of residential dwelling and child-occupied facility. The areas inspected must be clearly indicated on the inspection report.

23-007.02B When conducting an inspection, the following locations must be selected according to procedures contained in the HUD Guidelines and tested for the presence of lead-based paint:

1. In a residential dwelling and child-occupied facility, each component with a distinct painting history and each exterior component with a distinct painting history must be tested for lead-based paint, except those components that the inspector or risk assessor determines to have been replaced after 1978, or to not contain lead-based paint; and
2. In a multi-family dwelling or child-occupied facility, each component with a distinct painting history in every common area, except those components that the inspector or risk assessor determines to have been replaced after 1978, or to not contain lead-based paint.

23-007.02C Paint must be sampled in the following manner:

1. The analysis of paint to determine the presence of lead must be conducted using procedures contained in the HUD Guidelines which incorporate adequate quality control procedures; and/or
2. All collected paint chip samples must be analyzed according to 178 NAC 23-007.08K item 2. to determine if they contain detectable levels of lead that can be quantified numerically.

23-007.02D The certified inspector or risk assessor prepares an inspection report which must include the following information:

1. Date of each inspection.
2. Address of building.
3. Date of construction.
4. Apartment numbers (if applicable).
5. Name, address, and telephone number of the owner or owners of each residential dwelling or child-occupied facility.
6. Name, signature, and certification number of each certified inspector and/or risk assessor conducting testing.
7. Name, address, and telephone number of the certified firm employing each inspector and/or risk assessor, if applicable.
8. Each testing method and device and/or sampling procedure employed for paint analysis, including quality control data and, if used, the serial number of any x-ray fluorescence (XRF) device and date of most recent calibration.
9. Specific locations of each painted component tested for the presence of lead-based paint.
10. The results of the inspection expressed in terms appropriate to the sampling method used.

23-007.03 Lead Hazard Screen

23-007.03A A lead hazard screen must be conducted only by a person certified by the Department as a risk assessor.

23-007.03B If conducted, a lead hazard screen must be conducted as follows:

1. Background information regarding the physical characteristics of the residential dwelling or child-occupied facility and occupant use patterns that may cause lead-based paint exposure to one or more children age six years and under must be collected.
2. A visual inspection of the residential dwelling or child occupied facility will be conducted to:
 - a. Determine if any deteriorated paint is present, and
 - b. Locate at least two dust sampling locations.
3. If deteriorated paint is present, each surface with deteriorated paint, which is determined, using documented methodologies, to be in poor condition and to have a distinct painting history, must be tested for the presence of lead.
4. In residential dwellings, two composite dust samples must be collected, one from the floors and the other from the windows, in rooms, hallways or stairwells where one or more children, age six and under, are most likely to come in contact with dust.

5. In multi-family dwellings and child-occupied facilities, in addition to the floor and window samples required in 178 NAC 23-007.03B item 4 the risk assessor must also collect composite dust samples from common areas where one or more children, age six and under, are most likely to come into contact with dust.

23-007.03C Dust samples must be collected and analyzed in the following manner:

1. All dust samples must be taken using procedures contained in the HUD Guidelines that incorporate adequate quality control procedures.
2. All collected dust samples must be analyzed according to 178 NAC 23-007.08K item 2. to determine if they contain detectable levels of lead that can be quantified numerically.

23-007.03D Paint must be sampled in the following manner:

1. The analysis of paint to determine the presence of lead must be conducted using procedures contained in the HUD Guidelines which incorporate adequate quality control procedures; and/or
2. All collected paint chip samples must be analyzed according to 178 NAC 23-007.08K item 2. to determine if they contain detectable levels of lead that can be quantified numerically.

23-007.03E The risk assessor must prepare a lead hazard screen report, which must include:

1. The information required in a risk assessment report as specified in 178 NAC 23-007.04 including 178 NAC 23-007.04K items 1. through 14. Additionally, any background information collected pursuant to 178 NAC 23-007.04C must be included in the risk assessment report; and
2. Recommendations, if warranted, for a follow-up risk assessment, and as appropriate, any further actions.

23-007.04 Risk Assessment

23-007.04A A risk assessment must be conducted only by a person certified by the Department as a risk assessor and, if conducted, must be conducted according to the procedures in this paragraph.

23-007.04B A visual inspection for risk assessment of the residential dwelling or child-occupied facility must be undertaken to locate the existence of deteriorated paint, assess the extent and causes of the deterioration, and other potential lead-based paint hazards.

23-007.04C Background information regarding the physical characteristics of the residential dwelling or child-occupied facility and occupant use patterns that may cause lead-based paint exposure to one or more children age six years and under must be collected.

23-007.04D Surfaces that have a distinct painting history must be tested for the presence of lead using documented methodologies:

1. Each friction surface or impact surface with visibly deteriorated paint and
2. All other surfaces with visibly deteriorated paint.

23-007.04E In residential dwellings, dust samples (either composite or single-surface samples) from the interior window sill(s) and floor must be collected and analyzed for lead concentrations in all living areas where one or more children, age six and under, are most likely to come into contact with dust.

23-007.04F For multi-family dwellings and child-occupied facilities, the samples required in 178 NAC 23-007.04D must be taken. In addition, interior window sills and floor dust samples (either composite or single-surface samples) must be collected and analyzed for lead concentration in the following locations:

1. Common areas adjacent to the sampled residential dwelling or child-occupied facility; and
2. Other common areas in the building where the risk assessor determines that one or more children, age six and under, are likely to come into contact with dust.

23-007.04G For child-occupied facilities, interior window sill(s) and floor dust samples (either composite or single-surface samples) must be collected and analyzed for lead concentration in each room, hallway or stairwell utilized by one or more children, age six and under, and in other common areas in the child-occupied facility where the risk assessor determines one or more children, age six and under, are likely to come into contact with dust.

23-007.04H Soil samples must be collected and analyzed for lead concentrations in the following locations:

1. Exterior play areas where bare soil is present; and
2. The rest of the yard (i.e. non-play areas) where bare soil is present.

23-007.04I Any paint, dust, or soil sampling or testing must be conducted using procedures contained in the HUD Guidelines that incorporate adequate quality control procedures.

23-007.04J Any collected paint chip, dust, or soil samples must be analyzed according to 178 NAC 23-007.08K item 2. to determine if they contain detectable levels of lead that can be quantified numerically.

23-007.04K The certified risk assessor prepares a risk assessment report which must include the following information:

1. Date of assessment.
2. Address of each building.
3. Date of construction of buildings.
4. Apartment number (if applicable).
5. Name, address, and telephone number of each owner of each building.
6. Name, signature, and certificate number of the certified risk assessor conducting the assessment.
7. Name, address, and telephone number of the certified firm employing each certified risk assessor if applicable.
8. Name, address, and telephone number of each recognized laboratory conducting analysis of collected samples.
9. Results of the visual inspection.
10. Testing method and sampling procedure for paint analysis employed.
11. Specific locations of each painted component tested for the presence of lead.
12. All data collected from on-site testing, including quality control data and, if used, the serial number of any XRF device and the date of the most recent calibration.
13. All results of laboratory analysis on collected paint, soil, and dust samples.
14. Any other sampling results.
15. Any background information collected pursuant to 178 NAC 23-007.04C
16. To the extent that they are used as part of the lead-based paint hazard determination, the results of any previous inspections or analyses for the presence of lead-based paint, or other assessments of lead-based paint-related hazards.
17. A description of the location, type, and severity of identified lead-based paint hazards and any other potential lead hazards.
18. A description of interim controls and/or abatement options for each identified lead-based paint hazard and a suggested prioritization for addressing each hazard. If the use of an encapsulant or enclosure is recommended, the report will recommend a maintenance and monitoring schedule for the encapsulant or enclosure.

23-007.05 Visual Lead Hazard Screen

23-007.05A A visual lead hazard screen must only be performed by persons certified by the Department as a Certified Visual Lead Hazard Advisor, Certified Inspector, or Certified Risk Assessor.

23-007.05B The Visual Lead Hazard Advisor will determine the presence of deteriorated paint or other potential sources of lead-based paint hazards a residential dwelling or child-occupied facility. This will include written report explaining the results and limitations of the assessment. The written report will be provided to the person requesting the inspection, the adult residents of the dwelling, and the owner of the dwelling or child-occupied facility. The certified visual lead-hazard advisor must retain a copy of the report in his/her files for three years. A certified visual lead hazard advisor must prepare a written report for each residential dwelling or child-occupied facility where a visual lead hazard screen is conducted. The report must include, at least:

1. Date of each visual lead hazard screen;
2. Address of building;
3. Date of construction;
4. Apartment numbers (if applicable);
5. The name, address, and telephone number of the owner(s) of each residential dwelling or child-occupied facility;
6. Name, signature, and certificate number of the certified visual advisor conducting the visual lead hazard screen;
7. Specific locations of potential lead hazards identified as likely to contain lead-based paint and likely to be lead hazards; and
8. Information for the owner and occupants on how to reduce lead hazards in the residential dwelling or child-occupied facility.
9. Reports of visual lead hazard screenings will contain the following statement:

“This is a report of a visual lead hazard screen. This report does not verify the presence or absence of lead in the soil, paint, water or dust. This report only serves to aid the owner or occupant of the dwelling in identifying potential sources of lead hazards in the dwelling(s) screened. Potential sources of lead contamination indicated in this report are determined from confirmed occurrences of lead hazards in similar type dwellings of similar age and condition. This report is not a lead inspection report.”

23-007.06 Elevated Blood Lead Level (EBL) Investigation

23-007.06A An EBL investigation will only be performed by persons certified by the state to accomplish elevated blood lead level investigations.

23-007.06B An Elevated Blood Lead Level (EBL) Investigation is an investigation of dwellings housing children with elevated blood lead levels using The U.S. Department of Housing and Urban Development (HUD) Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing, Chapter 16.

23-007.06C EBL investigations apply to the dwellings of children with blood lead levels greater than or equal to 20 µg/dl (or two tests within six weeks of 15 to 19 µg/dl).

23-007.06D EBL investigation include the following procedures:

1. Coordinate with the child's parents and the appropriate public health, environmental, and housing agencies to avoid duplication of efforts and to determine how the investigation should best be conducted.
2. Review the findings of any risk assessment, reevaluation, or lead-based paint inspection that has already been completed for the property.
3. Conduct a comprehensive interview using the questionnaire in Chapter 16 of the HUD Guidelines or an equivalent questionnaire. If a clear lead hazard is identified, recommend the hazard be corrected within two weeks. If necessary, conduct environmental sampling to confirm the presence of the hazard.
4. If no clear lead hazard source can be identified from the interview, conduct targeted environmental testing using the protocol contained in Chapter 16 of the HUD Guidelines. Even if a source becomes apparent during environmental testing, it may not be the true or only source of exposure. Environmental testing in the case of a dwelling housing an EBL child may include:
 - a. Paint testing of all surfaces with defective paint (including painted furniture and play structures).
 - b. Paint testing of all chewable surfaces.
 - c. Paint testing of all friction surfaces.
 - d. Dust testing.
 - e. Soil testing.
 - f. Water testing.
 - g. Testing of glazed pottery or dinnerware that may contain lead glazes.
 - h. Testing other site-specific, lead hazard sources.
 - i. Where lead hazard control measures are indicated, recommend relocation the child until the work is completed. If time elapses prior to environmental intervention, temporary lead hazard control measures should be immediately taken to protect the child living in the dwelling unit.
5. Recommend re-occupancy if results of testing are acceptable.

23-007.07 Clearance Examination: A clearance examination must be conducted only by a Certified Inspector, or Certified Risk Assessor.

23-007.08 Abatement

23-007.08A An abatement must be conducted only by a certified individual, and if conducted, must be conducted according to the procedures in 178 NAC 23-007.08.

23-007.08B A certified 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 certified 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.

23-007.08C The certified supervisor and the certified firm employing that supervisor must ensure that all abatement activities are conducted according to the requirements and all other Federal, State and local requirements.

23-007.08D 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

23-007.08E A written occupant protection plan must be developed for all abatement projects and must be prepared according to the following procedures:

1. The occupant protection plan must be unique to each residential dwelling or child-occupied facility and be developed prior to the abatement. The occupant protection plan 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.
2. A certified supervisor or project designer must prepare the occupant protection plan.
3. The plan will be made available to occupants and the occupants will be notified of its availability.

23-007.08F The work practices listed below must be restricted during an abatement as follows:

1. Open-flame burning or torching of lead-based paint is prohibited;
2. Machine sanding or grinding or abrasive blasting or sandblasting of lead-based paint is prohibited unless used with High Efficiency Particulate Air (HEPA) exhaust control which removes particles of 0.3 microns or larger from the air at 99.97% or greater efficiency;
3. Dry scraping of lead-based paint is permitted only in conjunction with heat guns or around electrical outlets or when treating defective paint spots totaling no more than two square feet in any one room, hallway or

- stairwell or totaling no more than 20 square feet on exterior surfaces;
and
4. Operating a heat gun on lead-based paint is permitted only at temperatures below 1100° Fahrenheit.

23-007.08G If conducted, soil abatement must be conducted in one of the following ways:

1. If soil is removed:
 - a. The soil must be replaced by soil with a lead concentration as close to local background as practicable, but not greater than 400 ppm.
 - b. The soil that is removed must not be used as top soil at another residential property or child-occupied facility.
2. If soil is not removed, the soil must be permanently covered.

23-007.08H The following post-abatement clearance procedures must be performed only by a certified inspector or certified risk assessor:

1. Following an abatement, a visual inspection must be performed to determine if deteriorated painted surfaces and/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.
2. Following the visual inspection and any post-abatement cleanup required by 178 NAC 23-007.08H item 1. clearance sampling for lead in dust must be conducted. Clearance sampling may be conducted by employing single-surface sampling or composite sampling techniques.
3. Dust samples for clearance purposes must be taken using procedures contained in the HUD Guidelines that incorporate adequate quality control procedures.
4. Dust samples for clearance purposes must be taken a minimum of one hour after completion of final post-abatement cleanup activities.
5. 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:
 - a. After conducting an abatement with containment between abated and unabated areas, one dust sample must be taken from one

- interior window sill 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.
- b. 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.
 - c. 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.
6. The rooms, hallways or stairwells selected for sampling must be selected according to documented methodologies.
 7. The certified 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 23-007.08H for lead in dust on floors, interior window sills and window troughs or from each composite dust sample with the applicable clearance levels for lead in dust on floors, interior window sills, 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 recleaned and retested until clearance levels are met.
 8. The clearance levels for lead in dust are 40 $\mu\text{g}/\text{ft}^2$ for floors, 250 $\mu\text{g}/\text{ft}^2$ for interior window sills, and 400 $\mu\text{g}/\text{ft}^2$ for window troughs.

23-007.08I In a multi-family dwelling with similarly constructed and maintained residential dwellings, random sampling for the purposes of clearance may be conducted provided:

1. The certified individuals who abate or clean the residential dwellings do not know which residential dwelling will be selected for the random sample.
2. 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.
3. The randomly selected residential dwellings must be sampled and evaluated for clearance according to the procedures found in 178 NAC 23-007.08H

23-007.08J An abatement report must be prepared by a certified supervisor or project designer. The abatement report must include the following information:

1. Start and completion dates of abatement.
2. The name and address of each certified firm conducting the abatement and the name of each supervisor assigned to the abatement project.
3. The occupant protection plan prepared pursuant to 178 NAC 23-007.08E.
4. The name, address, and signature of each certified risk assessor or inspector conducting clearance sampling and the date of clearance testing.
5. The results of clearance testing and all soil analyses (if applicable) and the name of each recognized laboratory that conducted the analyses.
6. A detailed written description of the abatement, including abatement methods used, locations of rooms and/or components where abatement occurred, reason for selecting particular abatement methods for each component, and any suggested monitoring of encapsulants or enclosures.

23-007.08K Collection and laboratory analysis of samples: Any paint chip, dust, or soil samples collected pursuant to the work practice standards contained in 178 NAC 23-007 must be:

1. Collected by persons certified as an inspector or risk assessor; and
2. Analyzed by a laboratory recognized by EPA 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.

23-007.09 Composite Dust Sampling: Composite dust sampling may only be conducted in the situations specified in 178 NAC 23-007.03, 23-007.04, and 23-007.08. If such sampling is conducted, the following conditions must apply:

1. Composite dust samples must consist of at least two subsamples;
2. Every component that is being tested must be included in the sampling; and
3. 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 window sills, 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.

23-007.10 Determining the presence of Lead and Lead-Based Hazards

23-007.10A Lead-based paint is present:

1. 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
2. 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.

23-007.10B A paint-lead hazard is present:

1. On any friction surface that is subject to abrasion and where the lead dust levels on the nearest horizontal surface underneath the friction surface (e.g., the window sill or floor) are equal to or greater than the dust hazard levels identified in 178 NAC 23-007.02;
2. On any chewable lead-based paint surface on which there is evidence of teeth marks;
3. Where there is damage or otherwise deteriorated lead-based paint on an impact surface that is caused by impact from a related building component (such as a door knob that knocks into a wall or a door that knocks against a door frame; and
4. 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.

23-007.10C A dust-lead hazard is present in a residential dwelling or child occupied facility:

1. In a residential dwelling on floors and interior window sills when the weighted arithmetic mean lead loading for all single surface or composite samples of floors and interior window sills are equal to or greater than 40 $\mu\text{g}/\text{ft}^2$ for floors and 250 $\mu\text{g}/\text{ft}^2$ for interior window sills, respectively;
2. On floor or interior window sills in an unsampled residential dwelling in a multi-family dwelling, if a dust-lead hazard is present on floors or interior window sills, respectively, in at least one sampled residential unit on the property; and
3. On floors or interior window sills in an unsampled common area in a multi-family dwelling, if a dust-lead hazard is present on floors or interior window sills, respectively, in at least one sampled common area in the same common area group on the property.

23-007.10D A soil-lead hazard is present:

1. 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
2. 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 (i.e., non-play areas) for each residential building on a property is equal to or greater than 1,200 parts per million.

23-007.11 Recordkeeping: All reports or plans required in 178 NAC 23-007 must be maintained by the certified firm or individual who prepared the report for no fewer than three years. The certified firm or individual also must provide copies of these reports to the building owner who contracted for its services.

23-008 PROJECT REVIEWS, INSPECTIONS, AND RECORDS

23-008.01 Notification of a Project

23-008.01A Before initiating any lead abatement project, a certified firm, must submit to the Department written project notification that the certified firm is about to begin a lead abatement project. The purpose of the project notification will allow the Department to conduct a project review of the proposed lead abatement project.

23-008.01B A certified firm must notify the Department at least ten days before it is to start a project. The notice must include, but not be limited to:

1. The name, address, and telephone number of the certified firm that will carry out the lead abatement project;
2. The name, address, and telephone number of the owner of the structure on which the lead abatement project is to be carried out;
3. The building number and street address of the project site, and if either is unavailable, directions to the project

4. All locations (floor, room number, et.) where the lead abatement project will be carried out;
5. The type of lead abatement project proposed;
6. The date when the certified firm will start the lead abatement project and date when the project will be finished;
7. 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;
8. The volume or square footage of surface of lead to be abated,
9. The person authorized to make binding legal agreements on behalf of the certified 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.

23-008.01C Notification of Changes: If the certified 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 certified 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 certified firm may give this notice by telephone, facsimile (FAX) [402-471-8833], or letter. If the certified firm desires a verified record that it gave notice, it must submit a written letter by certified mail, return receipt requested.

1. Notice under 178 NAC 23-008 must include, as applicable:
 - a. 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;
 - b. A new work schedule for the project, either days, work shift, or both;
 - c. Typographical or clerical errors which would affect the Department's ability to perform an inspection of the project, such as an incorrect street address;
 - d. 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.
2. Increasing the size of a project may require the certified firm to submit a project review fee even though the project was not formerly subject to such a fee.

23-008.01D 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.

23-008.02 Initial Inspection

23-008.02A The Department may conduct an initial on-site inspection upon receiving notification that a lead abatement project is about to commence.

23-008.02B Inspections of Lead Abatement Projects

1. At least once a year during the continuation of a lead abatement project, but more frequently if circumstances demand, the Department will conduct an on-site inspection of a certified firm's records and, while a lead abatement project is in progress, procedures used for performing lead abatement projects.
2. The Department may enter into agreements or contracts with public agencies to conduct any inspections required under 178 NAC 23-008.
3. For an on-site inspection other than an initial inspection, the Department may assess an administrative fee of \$150.
4. 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.
5. Inspections will be conducted at reasonable times during normal business hours, except that an inspection to investigate an alleged violation of the Residential Lead-Based Paint Professions Certification Act or Departmental regulations may be conducted at any time.
6. Inspectors will abide by all reasonable safety and security rules, regulations, practices, and procedures governing the project.

23-008.02C Re-inspections

1. The Department may conduct a re-inspection of a lead abatement project and the certified firm will pay a re-inspection fee of \$150 if:
 - a. 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;
 - b. An on-site inspection could not be accomplished because:
 - (1) The certified 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 certified 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 certified firm conducting the lead abatement project prevented access to the work area.

23-008.03 Record Keeping Requirements: Any certified firm or individual must keep records as follows:

1. Retain documents showing:
 - a. 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;
 - b. A description of the activity, including a summary of the procedures that were used to comply with these and other applicable regulations;
 - c. The start and completion dates of the activity;
 - d. The name, address, and certificate number of each certified individual in each of the lead occupations who worked as any part of the activity in any capacity and for any duration;
 - e. If lead-containing waste was generated as part of the activity, where and in what manner the lead waste was disposed.
2. 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.
3. Retain all documents required by 178 NAC 23-008 for at least three years from the ending date of the activity.
4. Keep the Department informed of the location of the records required by 178 NAC 23-008.