

# Welcome!

**The meeting will begin soon.**

**Renovate, Repair, and Paint Rulemaking  
Stakeholder Meeting**

**August 22, 2023**

**9 – 10:30 a.m.**



## **Renovate, Repair, and Paint Rulemaking**

- ❖ Brief Discussion of RRP Program
- ❖ 2023 Legislation
- ❖ RRP rule draft
- ❖ MDH vs EPA Differences
- ❖ Anticipated Timeline
- ❖ Dual Notice of Intent to Adopt Rules
- ❖ How to Participate in this Rulemaking
- ❖ Questions

# Land Acknowledgement


Every community owes its existence and vitality to generations from around the world who contributed their hopes, dreams, and energy to making the history that led to this moment. Some were brought here against their will, some were drawn to leave their distant homes in hope of a better life, and some have lived on this land for more generations than can be counted. Truth and acknowledgment are critical to building mutual respect and connection across all barriers of heritage and difference.

We begin this effort to acknowledge what has been buried by honoring the truth. We are standing on the ancestral lands of the Dakota people. We want to acknowledge the Dakota, the Ojibwe, the Ho Chunk, and the other nations of people who also called this place home. We pay respects to their elders past and present. Please take a moment to consider the treaties made by the Tribal nations that entitle non-Native people to live and work on traditional Native lands. Consider the many legacies of violence, displacement, migration, and settlement that bring us together here today. Please join us in uncovering such truths at any and all public events.\*

\*This is the acknowledgment given in the USDAC Honor Native Land Guide – edited to reflect this space by Shannon Geshick, MTAG, Executive Director Minnesota Indian Affairs Council

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# **What is the Renovate, Repair, and Paint Program?**



# Renovate, Repair, and Paint Program

- The Environmental Protection Agency's (EPA) 2008 lead-based paint rule aims to protect the public from lead-based paint hazards associated with renovation, repair and painting activities in pre-1978 housing, including child-occupied facilities.
- These activities can create hazardous lead dust when surfaces with lead paint, even from many decades ago, are disturbed.
- The rule requires workers to be trained in the use of lead-safe work practices, and requires renovation, repair, and painting firms to be EPA-certified.
- These requirements became fully effective in April 2010.

# Renovate, Repair, and Paint Program

- EPA enforces RRP nationally from one of its 10 regional offices. For Minnesota, this is Region 5 in Chicago.
- Currently, 15 states, and the Minnesota Chippewa Tribe – Bois Forte, have received EPA authorization to operate and enforce RRP.

# 2023 Legislation



- The Legislature amended certain sections of the Lead Poisoning Prevention Act to align Minnesota Statutes provisions with EPA regulations.
- [Laws 2023, Chapter 70](#), Article 3, Sections 20-28
- With these changes in place, MDH has resumed the rulemaking and will proceed with self-certification so that MDH can administer the RRP program.

## **Definitions.**

### § 144.9501, Subd. 17. **Lead hazard reduction.**

The definition was amended by:

- Clarifying that lead hazard reduction work does not include renovation activity that is primarily intended to remodel, repair, or restore a given structure or dwelling rather than abate or control lead-based paint hazards.
- Including the minimum threshold amounts that are not subject to regulation.
- Adding “swab team services”.

## § 144.9501, Subd. 26a. **Regulated lead work.**

The definition was amended by:

- Adding “lead hazard reduction” to the types of regulated lead work.
- Striking “community health board” and replacing with “assessing agency”.
- Striking the minimal threshold amounts for lead hazard reduction and renovation. Corrected amounts were added separately to the definitions of “lead hazard reduction” and “renovation”.

## § 144.9501, Subd. 26b. **Renovation.**

The definition was amended by:

- Adding “for compensation”.
- Adding the minimum threshold amounts of “minor repair and maintenance” activities that are not subject to regulation - with the exception of window replacement or demolition of a painted surface, building component, or portion of a structure.
- Clarifying that renovation does not include total demolition of a freestanding structure.

The following definitions were added:

§ 144.9501, Subd. 33. **Compensation.** "Compensation" means money or other mutually agreed upon form of payment given or received for regulated lead work, including rental payments, rental income, or salaries derived from rental payments.

§ 144.9501, Subd. 33. **Individual.** "Individual" means a natural person.

## **Credentialing of lead firms and professionals.**

### **§ 144.9505, Subdivision 1. Licensing, certification, and permitting.**

The amendments to this subdivision clarify that individual residential property owners who perform regulated lead work on their own residence, *or* an adult individual who is related to the property owner, are exempt from licensure and firm certification requirements.

This exemption does not include renovation for compensation, regulated lead work in response to an elevated blood lead level, or regulated lead work in a residence when one or more individuals are not related to the property owner.

§ 144.9505, Subd. 1g. **Certified lead firm.** This provision was amended by:

- Clarifying that certification is required for a person who *performs or* employs individuals to perform regulated lead work.
- Removing the exception that certification is not required for the person's property.

§ 144.9505, Subd. 1h. **Certified renovation firm.** This provision was amended by:

- Clarifying that certification is required for a person who *performs or* employs individuals to perform renovation.
- Removing the exception that certification is not required for the person's property.
- Clarifying that the renovation work is performed for compensation.

## § 144.9505, Subd. 3. **Licensed building contractor; information.**

This subdivision was repealed.

## § 144.9508, Subd. 2. **Regulated lead work standards and methods.**

The amendments to this subdivision clarify the department's rulemaking authority and removed the reference to "where a child or pregnant female resides".



# RRP Rule Draft

# Where to Find the Rule Draft

The latest version of the rule draft is available at:

[Minnesota Lead Renovation, Repair, and Paint \(RRP\) Rule Revision - MN Dept. of Health \(state.mn.us\)](https://www.health.state.mn.us/communities/environment/lead/rules/rrp/index.html)

([www.health.state.mn.us/communities/environment/lead/rules/rrp/index.html](https://www.health.state.mn.us/communities/environment/lead/rules/rrp/index.html) )

## **Also available:**

- ❖ Summary of Changes (describes changes since the last version of the rule draft)
- ❖ Rule draft (1/18/22)

## **General (4620.6000)**

- Updated internal references in subparts 2 and 3

## **Definitions (4620.6025)**

- Revised definition of “Affected Property”
- Added new definition of “Child”
- Clarifying changes definition of “Common area”
- Clarifying changes to “Emergency Renovation”
- Revised definitions of “Lead inspector” and “Lead risk assessor”
- Corrected statutory reference in definition of “Owner”

## **Renovation Firm Certification (4620.6050)**

- Clarifying changes in subparts 1 and 5.

## **Use of Qualified Individuals (4620.6050)**

- Clarifying changes in subp. 2.

## **Records (4620.6150)**

- Updated internal references and clarifying changes in subparts 1 and 4.

## **Disclosure Pamphlet; Distribution Requirements (4620.6175)**

- Updated internal references in subparts 1 to 6 and clarifying change in subpart 8.

## **Work Practices (4620.6200)**

- Clarifying changes in subparts 3, 4, 10, and 12.

## **Cleaning Verification and Dust Sampling (4620.6225)**

- Clarifying changes in subp. 6.

## **Application for Training Course Permit (4620.6250)**

- Updated internal references and clarifying changes in subparts 1, 3 and 5.

## **Training Course Advance Notices and Amendments (4620.6300)**

- Updated internal references and clarifying changes in subparts 1 and 3.

## **Training course conditions (4620.6375)**

- Revised subp. 12. Training course location.

## **Recordkeeping For a Training Course Provider (4620.6425)**

- Clarifying changes in subparts 2 and 3.

# **What Changes to Expect - MDH vs EPA**

# What Changes to Expect - MDH vs EPA?

## Fees

- Annual certification and permit fees under Minnesota Statutes, section 144.9505 will apply once MDH begins administering the program.
- These fees are set in statute by the Legislature and cannot be amended in rule.
- EPA will notify existing license and certification holders in Minnesota of the change.



# What Changes to Expect - MDH vs EPA?

<u>Fee</u>	<u>MN/EPA</u>	<u>MN/EPA</u>
Certified renovation firm	\$100/\$300	2 yrs/5 yrs
Initial training course permit (initial)	\$500/\$560	2 yrs/4 yrs
Initial training course permit (renewal)	\$250/\$340	2 yrs/4 yrs
Refresher training course (initial)	\$250/\$400	2 yrs/4 yrs
Refresher training course (renewal)	\$250/\$310	2 yrs/4 yrs
Lost certificate fee	\$0/\$15	

# What Changes to Expect - MDH vs EPA?

## Records

- MDH is requiring that certified renovation firms maintain the same records as EPA, with some exceptions.
- Most of the documentation is maintained in a **work plan** that must be available on-site.
- At the end of the project, all documentation must be kept in a **project report**.
- Sign-in/sign-out sheet

# What Changes to Expect - MDH vs EPA?

## On-site inspections

On-site inspections will occur from time to time. For this reason, certified renovation firms must have project documentation on-site for review by MDH inspectors. Documentation can be in hard copy, or provided electronically (tablet/iPad, laptop).

### *MDH will perform on-site inspections:*

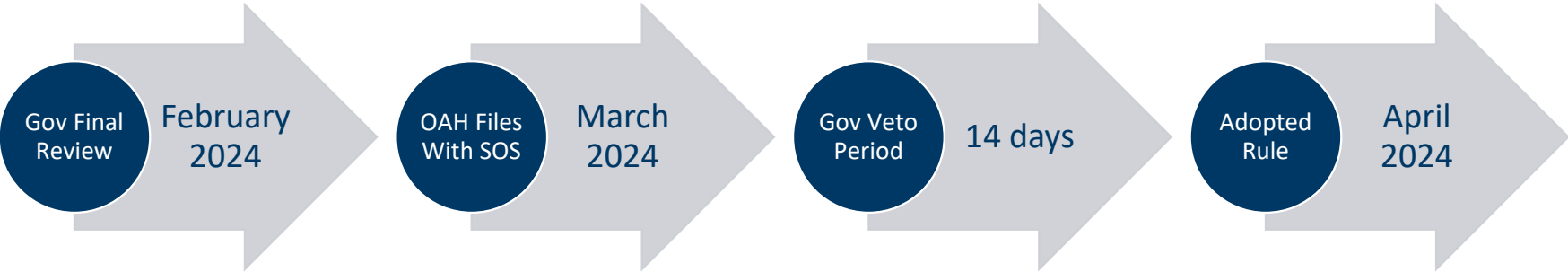
- When asked by a certified renovation firm.
- If MDH receives a complaint or tip.
- If MDH is otherwise informed of improper work practices or other concerns at a project site.

# Anticipated Timeline

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# Dual Notice of Intent To Adopt Rules



# Dual Notice of Intent to Adopt Rules

## What is the Purpose of a Dual Notice of Intent to Adopt Rules?

- It is legal notification that the Department is planning to adopt the proposed rules and wants to hear comments about them.
- The Dual Notice contains information pertinent to that rulemaking including contact person, subject of rules, rule draft, deadlines, how to obtain a Statement of Need and Reasonableness, how to comment or request a hearing, etc.
- A Dual Notice is where MDH provides notice of a hearing date but states that we will cancel the hearing and adopt the rules without a hearing if fewer than 25 persons request a hearing.



# Dual Notice of Intent to Adopt Rules

- You and/or your organization will be notified by email.
- Publication of the Notice starts the official 30-day comment period.

## **Minnesota State Register website**

[Minnesota State Register / Minnesota.gov \(mn.gov\)](https://mn.gov/admin/bookstore/register.jsp)  
(<https://mn.gov/admin/bookstore/register.jsp>)

## **MDH RRP Rulemaking website**

[Minnesota Lead Renovation, Repair, and Paint \(RRP\) Rule Revision - MN Dept. of Health \(state.mn.us\)](https://www.health.state.mn.us/communities/environment/lead/rules/rrp/index.html)  
(<https://www.health.state.mn.us/communities/environment/lead/rules/rrp/index.html>)

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# How to Participate in the Rulemaking

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# How to Participate

Office of Administrative Hearings website (<https://mn.gov/oah/>)

[Rulemaking e-Comments / Office of Administrative Hearings \(OAH\) \(mn.gov\)](https://mn.gov/oah/forms-and-filing/ecomments/)

[\(https://mn.gov/oah/forms-and-filing/ecomments/ \)](https://mn.gov/oah/forms-and-filing/ecomments/)

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## Forms & Filing

Home > Forms & Filing > Rulemaking eComments

### FORMS & FILING

- > Forms
- > How to File
- > eFiling
- > Filing Fees and Rates
- > Rulemaking eComments

### Rulemaking eComments Website

OAH has launched a user-friendly and centralized rulemaking [eComments](#) website to enable the public to better participate in an efficient and open rulemaking process.

The rulemaking [eComments](#) website allows the public to:

- **Find** rulemaking matters open for comment
- **Download** an agency's rulemaking materials (e.g. proposed rules, applicable public notices, the agency's Statement of Need and Reasonableness, and related exhibits)
- **Review** comments submitted by the public on pending rulemaking matters
- **Submit** comments on pending rulemaking matters

To locate rules open for comment, visit the rulemaking [eComments](#) website at: <https://minnesotaoah.granicusideas.com/>.

## eComments mainpage

[Office of Administrative Hearings Comments On Rules \(granicusideas.com\)](https://minnesotaoah.granicusideas.com)

<https://minnesotaoah.granicusideas.com>

The screenshot displays the top navigation bar with 'Home' and 'Discussions' links, a 'Select Language' dropdown, and 'Sign In' and 'Sign Up' buttons. Below the navigation is the Minnesota Office of Administrative Hearings logo and contact information: a phone icon with '(651) 361-7900' and an email icon with 'oah.webmaster@state.mn.us'. The main content area features a 'COMMENT ON PROPOSED RULES' section with the following text:

**Your Views Are Important.** Your comments let the agency know what you support, what you oppose, and any improvements you'd like to make to proposed rule language.

**Timing Matters.** In most cases, you have one, and sometimes two, opportunities to make comments:

- **Initial Comments** - You can comment on the proposed rules for a specified number of days until 4:30 pm on the final specified day.
- **Rebuttal Comments** - For an additional number of days, you can file comments in response to the comments filed by others during the Initial Comment period until 4:30 pm on the final specified day.

To the right of the main content is a 'SIGN UP' section with a 'Connect' button and an email address input field with a 'Sign Up' button. Below this is a 'RECENT ACTIVITY' section listing recent discussions:

- Ian Lewenstein answered a Discussion
- Bonnie LaPlante answered a Discussion
- Phil Duran answered a Discussion

# How to Participate

Then click on **Discussions** tab and search for the rulemaking that interests you.

[Office of Administrative Hearings Comments On Rules \(granicusideas.com\)](https://minnesotaoah.granicusideas.com)

<https://minnesotaoah.granicusideas.com/discussions>

The screenshot displays the website interface for the Minnesota Office of Administrative Hearings. At the top, there is a navigation bar with 'Home' and 'Discussions' tabs, a language selection dropdown, and 'Sign In' and 'Sign Up' links. Below the navigation bar, the Minnesota OAH logo is on the left, and contact information including a phone number '(651) 361-7900' and an email address 'oah.webmaster@state.mn.us' is on the right. The main content area features two tabs: 'Open Discussions' (selected) and 'Closed Discussions'. A discussion card is visible with the title 'Discussion: 38469 Minnesota Department of Labor and Industry Notice of Hearing (Initial Comment Period)'. The card includes the text 'NOTICE OF HEARING', 'Possible Amendments to Rules Governing the Minnesota Residential Energy Code, Minnesota Rules, Chapter 1322', and 'OAH Docket No. 8-9001-38469'. At the bottom of the card, it shows '1 Topics', '1 Attachments', '0 Answers', and a 'Closes 2022-09-12' date, along with a 'View Discussion' button. To the right of the discussion card, there is a 'SIGN UP' section with a 'Connect' button and an email address input field. Below that is a 'RECENT ACTIVITY' section listing several users who have answered discussions: Ian Lewenstein, Bonnie LaPlante, Phil Duran, and Katelyn Huberty.

Scroll down to “***How to Use the Rulemaking eComments Website***” for step-by-step instructions and Frequently Asked Questions document

[Rulemaking e-Comments / Office of Administrative Hearings \(OAH\) \(mn.gov\)](#)

[\(https://mn.gov/oah/forms-and-filing/ecomments/ \)](https://mn.gov/oah/forms-and-filing/ecomments/)

## *How to Use the Rulemaking eComments Website*

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Click on these overviews of the eComments process:

- [Step-by-step Instructions](#)
- [Frequently Asked Questions](#)



**Important:** All comments will be made available to the public. Please only submit information that you wish to make available publicly. The Office of Administrative Hearings does not edit or delete submissions that include personal information. **We reserve the right to remove any comments we deem offensive, intimidating, belligerent, harassing, bullying, or that contain any other inappropriate or aggressive behavior without prior notification.**

## Providing Comments

- At a minimum, you can state that you support or oppose the whole rule.
- For specific comments, it is helpful to provide the specific citation(s).
- Describe what concerns you and why.
- Provide, if possible, alternative language that addresses your concern.

## Things to remember when commenting

- Comments accepted during the 30-day comment period after the Dual Notice of Intent to Adopt Rules has been published are part of the public record.
- Administrative Law Judge reviews all comments when preparing the Order on Review of Rules.

# Hearing Requests

- If you think a hearing is needed, you must request a hearing in writing (includes email) and send it to the contact person listed on the Dual Notice of Intent to Adopt Rules before the end of the comment period.
- **DO NOT submit a hearing request on the OAH eComments website as a comment.**
- MDH will hold a hearing on the date and in the manner described in the Dual Notice if the Department receives 25 or more requests.





# Thank You!

**Jacque Cavanagh, Rules & Policy Coordinator**

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