

CHAPTER 70
LEAD PROFESSIONAL CERTIFICATION

641—70.1(135) Applicability. This chapter applies to all persons who are certified lead professionals in Iowa.

641—70.2(135) Definitions.

“Approved course” means a course that has been approved by the department for the training of lead professionals.

“Certified elevated blood lead (EBL) inspection agency” means an agency that has met the requirements of 641—70.5(135) and that has been certified by the department.

“Certified elevated blood lead (EBL) inspector” means a person who has met the requirements of 641—70.5(135) and who has been certified by the department.

“Certified lead abatement contractor” means a person who has met the requirements of 641—70.5(135) and who has been certified by the department.

“Certified lead abatement worker” means a person who has met the requirements of 641—70.5(135) and who has been certified by the department.

“Certified lead inspector” means a person who has met the requirements of 641—70.5(135) and who has been certified by the department.

“Certified lead professional” means a person who has been certified by the department as a lead inspector, elevated blood lead (EBL) inspector, lead abatement contractor, lead abatement worker, or visual risk assessor.

“Certified visual risk assessor” means a person who has met the requirements of 641—70.5(135) and who has been certified by the department.

“Child-occupied facility” means a building, or portion of a building, constructed prior to 1978, visited by the same child six years of age or under, on at least two different days within any week (Sunday through Saturday period, provided that each day’s visit lasts at least three hours and the combined weekly visit lasts at least six hours). Child-occupied facilities may include, but are not limited to, day-care centers, preschools and kindergarten classrooms.

“Department” means the Iowa department of public health.

“Elevated blood lead (EBL) child” means any child who has had one venous blood lead level greater than 20 micrograms per deciliter or at least two venous blood lead levels of 15 to 19 micrograms per deciliter.

“Elevated blood lead (EBL) inspection” means an inspection to determine the sources of lead exposure for an elevated blood lead (EBL) child and the provision within ten working days of a written report explaining the results of the investigation to the owner and occupant of the residential dwelling or child-occupied facility being inspected and to the parents of the elevated blood lead (EBL) child.

“Interim controls” means a set of measures designed to temporarily reduce human exposure or likely exposure to lead-based paint hazards, including repairing deteriorated lead-based paint, specialized cleaning, 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 abatement” means any measure or set of measures designed to permanently eliminate lead-based paint hazards in a residential dwelling or child-occupied facility. 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 and (2) all preparation, cleanup, disposal, and postabatement clearance testing activities associated with such measures.

“Lead-based paint” means paint or other surface coatings that contain lead equal to or in excess of 1.0 milligrams per square centimeter or more than 0.5 percent by weight.

“Lead inspection” means a surface-by-surface investigation to determine the presence of lead-based paint and a determination of the existence, nature, severity, and location of lead-based paint hazards in a

residential dwelling or child-occupied facility and the provision of a written report explaining the results of the investigation to the person requesting the lead inspection.

“Lead professional” means a person who conducts lead abatement, lead inspections, elevated blood lead (EBL) inspections, or visual risk assessments.

“Occupant protection plan” means a plan developed by a certified lead abatement contractor prior to the commencement of lead abatement in a residential dwelling or child-occupied facility that describes the measures and management procedures that will be taken during lead abatement to protect the building occupants from exposure to any lead-based paint hazards.

“Residential dwelling” means (1) a detached single-family dwelling unit, including the surrounding yard, attached structures such as porches and stoops, and detached buildings and structures including, but not limited to, garages, farm buildings, and fences, or (2) 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 part, as the home or residence of one or more persons.

“Visual risk assessment” means a visual assessment to determine the presence of lead-based paint hazards in a residential dwelling or child-occupied facility and the provision of a written report explaining the results of the assessment to the person requesting the visual risk assessment.

“X-ray fluorescence analyzer (XRF)” means an instrument that determines lead concentrations in milligrams per square centimeter (mg/cm²) using the principle of x-ray fluorescence.

641—70.3(135) Certification allowed. Lead professionals may be certified by the department. Lead professionals shall not state that they have been certified by the state of Iowa unless they have met the requirements of 641—70.5(135) and been issued a certificate by the department. Elevated blood lead (EBL) inspection agencies may be certified by the department. Elevated blood lead (EBL) inspection agencies shall not state that they have been certified by the state of Iowa unless they have met the requirements of 641—70.5(135) and been issued a certificate by the department.

641—70.4(135) Course approval and standards. Lead professional training courses may be approved by the department.

70.4(1) If a person or organization sponsoring a lead professional training course desires approval of a course by the department, the person or organization shall apply to the department for approval of the course at least 30 days before the course is scheduled to begin. The application shall include:

- a. Sponsoring organization name, contact person, address, and telephone number.
- b. Course dates and times.
- c. Course location.
- d. Course outline, including approximate times allotted to each training segment.
- e. A copy of each reference material, text and audio-visual material used in the course.
- f. The name(s) and qualifications of the instructor(s).
- g. A copy of the course test blueprint.
- h. Maximum class size.

70.4(2) To be approved for the training of lead inspectors, a course must be at least 24 instructional hours and shall cover at least the following subjects:

- a. Role and responsibilities of an inspector.
- b. Background information on lead and its adverse health effects, how children and adults are exposed to lead, and how to prevent lead exposure in children and adults.
- 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 to determine if a property is free of lead-based paint as specified in the Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing (1995, U.S. Department of Housing and Urban Development), and methods to determine if lead-based paint hazards are present in a property.
- e. Paint, dust, and soil sampling methodologies.

- f.* Clearance standards and testing, including random sampling.
- g.* Identification of lead-based paint hazards.
- h.* Preparation of the final inspection report.
- i.* Record keeping.
- j.* The course shall conclude with a written examination. The student must achieve a passing mark on the examination to successfully complete the course.

70.4(3) To be approved for the training of elevated blood lead (EBL) inspectors, a course must be at least 32 instructional hours and shall cover at least the following subjects:

- a.* Role and responsibilities of an elevated blood lead (EBL) inspector.
- b.* Background information on lead and its adverse health effects, how children and adults are exposed to lead, and how to prevent lead exposure in children and adults.
- 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.* Identification of lead-based paint hazards.
- h.* Environmental case management of elevated blood lead (EBL) children.
- i.* Preparation of the final inspection report.
- j.* Record keeping.
- k.* The course shall conclude with a written examination. The student must achieve a passing mark on the examination to successfully complete the course.

70.4(4) To be approved for the training of lead abatement contractors, a course must be at least 32 instructional hours and shall cover at least the following subjects:

- a.* Role and responsibilities of a lead abatement contractor.
- b.* Background information on lead and its adverse health effects, how children and adults are exposed to lead, and how to prevent lead exposure in children and adults.
- c.* Background information on federal, state, and local regulations and guidance that pertains to lead-based paint and lead-based paint activities.
- d.* Liability and insurance issues relating to lead-based paint abatement.
- e.* Identification of lead-based paint and lead-based paint hazards.
- f.* Interpretation of lead inspection reports.
- g.* Development and implementation of an occupant protection plan and abatement report.
- h.* Respiratory protection and protective clothing.
- i.* Employee information and training.
- j.* Approved methods for conducting lead-based paint abatement and interim controls.
- k.* Prohibited methods for conducting lead-based paint abatement and interim controls.
- l.* Interior dust abatement and cleanup.
- m.* Soil and exterior dust abatement and cleanup.
- n.* Clearance standards and testing, including random sampling.
- o.* Cleanup and waste disposal.
- p.* Record keeping.
- q.* The course shall conclude with a written examination. The student must achieve a passing mark on the examination to successfully complete the course.

70.4(5) To be approved for the training of lead abatement workers, a course must be at least 32 instructional hours and shall cover at least the following subjects:

- a.* Role and responsibilities of a lead abatement worker.
- b.* Background information on lead and its adverse health effects, how children and adults are exposed to lead, and how to prevent lead exposure in children and adults.
- c.* Background information on federal, state, and local regulations and guidance that pertains to lead-based paint and lead-based paint activities.

- d.* Identification of lead-based paint and lead-based paint hazards.
- e.* Approved methods for conducting lead-based paint abatement and interim controls.
- f.* Prohibited methods for conducting lead-based paint abatement and interim controls.
- g.* Interior dust abatement and cleanup.
- h.* Soil and exterior dust abatement and cleanup.
- i.* Cleanup and waste disposal.
- j.* Respiratory protection.
- k.* Personal hygiene.
- l.* The course shall conclude with a written examination. The student must achieve a passing mark on the examination to successfully complete the course.

70.4(6) To be approved for the training of visual risk assessors, a course must be at least 16 instructional hours and shall cover at least the following subjects:

- a.* Role and responsibilities of a visual risk assessor.
- b.* Background information on lead and its adverse health effects, how children and adults are exposed to lead, and how to prevent lead exposure in children and adults.
- c.* Background information on federal, state, and local regulations and guidance that pertains to lead-based paint and lead-based paint activities.
- d.* Methods of conducting visual risk assessments.
- e.* Paint, dust, and soil sampling methodologies.
- f.* Clearance standards and testing, including random sampling.
- g.* Identification of lead-based paint hazards.
- h.* Preparation of the final assessment report.
- i.* Record keeping.
- j.* The course shall conclude with a written examination. The student must achieve a passing mark on the examination to successfully complete the course.

641—70.5(135) Certification.

70.5(1) A person wishing to become a certified lead professional shall apply on forms supplied by the department. The applicant must submit:

- a.* A completed application form.
- b.* Documentation of successful completion of an approved course for the discipline in which the applicant wishes to become certified.
- c.* A person wishing to become a certified lead inspector or a certified elevated blood lead (EBL) inspector shall provide documentation of successful completion of the manufacturer's training course or equivalent for the x-ray fluorescence (XRF) analyzer that the inspector will use to conduct lead inspections.
- d.* A \$50 nonrefundable filing fee.

70.5(2) A person who has completed a course of training prior to September 1, 1996, or has completed a training course in another state may be certified in Iowa. The person shall submit:

- a.* A completed Iowa application form.
- b.* Documentation showing that the training course met the hour and subject requirements for an approved course for the discipline in which the person wishes to become certified.
- c.* Documentation of successful completion of the training course for the discipline in which the person wishes to become certified.
- d.* A person wishing to become a certified lead inspector or a certified elevated blood lead (EBL) inspector shall provide documentation of successful completion of the manufacturer's training course or equivalent for the x-ray fluorescence (XRF) analyzer that the inspector will use to conduct lead inspections.
- e.* A \$50 nonrefundable filing fee.

70.5(3) Certifications under these rules shall expire on August 1, 1999. At that time, lead professionals must be recertified according to the requirements of U.S. Environmental Protection Agency (EPA)-authorized Iowa regulations or the U.S. EPA, whichever is applicable at that time.

70.5(4) An agency wishing to become a certified elevated blood lead (EBL) inspection agency shall apply on forms supplied by the department. The agency must submit:

- a.* A completed application form.
- b.* Documentation that the agency has the authority to require the repair of lead hazards identified through an elevated blood lead (EBL) inspection.
- c.* Documentation that the agency employs or intends to contract with a certified elevated blood lead (EBL) inspector to provide environmental case management of all elevated blood lead (EBL) children in the agency's service area, including follow-up to ensure that lead-based paint hazards identified as a result of elevated blood lead (EBL) inspections are corrected.

641—70.6(135) Standards of conduct.

70.6(1) A certified lead professional shall comply with these standards of conduct.

70.6(2) A certified lead inspector shall use only the approved methods of x-ray fluorescence and laboratory analysis to determine the presence of lead-based paint on a surface. A certified lead inspector shall use a laboratory certified by the National Lead Laboratory Accreditation Program to conduct laboratory analysis. A certified lead inspector shall maintain a written record for each residential dwelling or child-occupied facility inspected for no fewer than three years. The inspection record shall include, at least:

- a.* Date of each inspection;
- b.* Address of building;
- c.* Date of construction;
- d.* Apartment numbers (if applicable);
- e.* The name, address and telephone number of the owner or owners of each residential dwelling or child-occupied facility;
- f.* Name, signature, and certification number of each certified inspector conducting the investigation;
- g.* Name, address, and telephone number of each laboratory conducting an analysis of collected samples;
- h.* Each testing method and device and sampling procedure employed for paint analysis, including quality control data and, if used, the serial number of any x-ray fluorescence (XRF) device;
- i.* Specific locations of each painted component tested for the presence of lead-based paint; and
- j.* The results of the inspection expressed in terms appropriate to the sampling method used.

70.6(3) A certified elevated blood lead (EBL) inspector shall maintain a written record for each residential dwelling or child-occupied facility inspected for no fewer than 10 years. The inspection record shall include, at least:

- a.* Date of each inspection;
- b.* Address of building;
- c.* Date of construction;
- d.* Apartment numbers (if applicable);
- e.* The name, address and telephone number of the owner or owners of each residential dwelling or child-occupied facility;
- f.* The name, address, telephone number and, if available, blood lead levels of the occupants of each residential dwelling or child-occupied facility;
- g.* Name, signature, and certification number of each certified elevated blood lead (EBL) inspector conducting the investigation;
- h.* Name, address, and telephone number of each laboratory conducting an analysis of collected samples;
- i.* Each testing method and device and sampling procedure employed for paint analysis, including quality control data and, if used, the serial number of any x-ray fluorescence (XRF) device;
- j.* Specific locations of each painted component tested for the presence of lead-based paint;
- k.* The results of the inspection expressed in terms appropriate to the sampling method used;

l. A list of the lead-based paint hazards found and recommended actions to repair these lead-based paint hazards;

m. A record of conversations held with the owners and occupants of each residential dwelling or child-occupied facility prior to, during, and after the inspection; and

n. Records of follow-up visits made to each residential dwelling or child-occupied facility where lead-based paint hazards are identified to ensure that lead-based paint hazards are safely repaired.

70.6(4) A certified lead abatement contractor shall ensure that lead abatement is conducted according to all federal, state, and local requirements and must:

a. Be on site during all work site preparation and during the postabatement cleanup of work areas. At all other times when lead abatement is being conducted, the certified lead abatement contractor shall be on site or available by telephone, pager, or answering service, and be able to be present at the work site in no more than two hours.

b. Utilize certified abatement workers to conduct lead abatement.

c. Notify the Iowa department of public health at least seven days prior to the commencement of lead abatement in a residential dwelling or child-occupied facility.

d. Develop an occupant protection plan for all lead abatement projects prior to starting lead abatement and implement the occupant protection plan during the lead abatement project.

e. Ensure that approved methods are used to conduct lead abatement and that prohibited work practices are not used to conduct lead abatement. The following are prohibited work practices:

(1) Open-flame burning or torching of lead-based paint.

(2) Machine sanding or grinding or abrasive blasting or sandblasting of lead-based paint unless used with High Efficiency Particulate Air (HEPA) exhaust control that removes particles of 0.3 microns or larger from the air at 99.97 percent or greater efficiency.

(3) Uncontained water blasting of lead-based paint.

(4) Dry scraping or dry sanding of lead-based paint except in conjunction with the use of a heat gun or around electrical outlets.

(5) Operating a heat gun at a temperature at or above 1100 degrees Fahrenheit.

f. Ensure that approved methods are used to conduct soil abatement.

g. Ensure that postabatement clearance procedures are conducted by a certified lead inspector.

h. Prepare an abatement report containing the following information:

(1) Starting and completion dates of the lead abatement project.

(2) The name and address of each certified lead abatement contractor and lead abatement worker conducting the abatement.

(3) The occupant protection plan required by 641—70.6(4) “*d.*”

(4) The date on which the clearance testing was conducted and the results of all postabatement clearance testing.

(5) The name and address of each laboratory that conducted the analysis of clearance samples.

(6) The name, address, and signature of each certified lead inspector conducting clearance testing.

(7) A detailed written description of the lead abatement project, including lead abatement methods used, locations of rooms and components where lead abatement occurred, reasons for selecting particular lead abatement methods, and any suggested monitoring of encapsulants or enclosures.

(8) Maintain all reports and plans required in this subrule for a minimum of three years.

(9) Provide a copy of all reports required by this subrule to the building owner who contracted for the lead abatement.

70.6(5) A certified lead abatement worker shall conduct lead abatement according to all federal, state, and local requirements and must:

a. Follow the provisions of the occupant protection plan for all lead abatement projects.

b. Use approved methods to conduct lead abatement. The following are prohibited work practices:

(1) Open-flame burning or torching of lead-based paint.

(2) Machine sanding or grinding or abrasive blasting or sandblasting of lead-based paint unless used with High Efficiency Particulate Air (HEPA) exhaust control that removes particles of 0.3 microns or larger from the air at 99.97 percent or greater efficiency.

(3) Uncontained water blasting of lead-based paint.
(4) Dry scraping or dry sanding of lead-based paint except in conjunction with the use of a heat gun or around electrical outlets.

(5) Operating a heat gun at a temperature at or above 1100 degrees Fahrenheit.

c. Use approved methods to conduct soil abatement.

70.6(6) A certified visual risk assessor shall maintain a written record for each residential dwelling or child-occupied facility inspected for no fewer than three years. The inspection record shall include, at least:

a. Date of each visual assessment;

b. Address of building;

c. Date of construction;

d. Apartment numbers (if applicable);

e. The name, address and telephone number of the owner or owners of each residential dwelling or child-occupied facility;

f. Name, signature, and certification number of each certified visual assessor conducting the investigation;

g. Name, address, and telephone number of each laboratory conducting an analysis of collected samples;

h. Each testing method and device and sampling procedure employed for paint analysis, including quality control data and, if used, the serial number of any x-ray fluorescence (XRF) device;

i. Specific locations of painted components identified as likely to contain lead-based paint and likely to be lead-based paint hazards; and

j. Information for the owner and occupants on how to reduce lead hazards in the residential dwelling or child-occupied facility.

70.6(7) A certified elevated blood lead (EBL) inspection agency shall maintain the written records for all elevated blood lead (EBL) inspections conducted by persons that the agency employs or contracts with to provide elevated blood lead (EBL) inspections in the agency's service area.

70.6(8) A person may be certified as a lead inspector, visual risk assessor, or elevated blood lead (EBL) inspector and as a lead abatement contractor or lead abatement worker. However, a person who is certified both as a lead inspector, visual risk assessor, or elevated blood lead (EBL) inspector and as a lead abatement contractor or lead abatement worker shall not provide both lead inspection or visual risk assessment and lead abatement services at the same site unless a written consent or waiver, following full disclosure by the person, is obtained from the owner or manager of the site.

641—70.7(135) Quality assurance of work done by certified lead professionals.

70.7(1) An authorized representative of the department may review written records of work done by certified lead professionals during normal business hours.

70.7(2) An authorized representative of the department may accompany a certified lead inspector or certified visual risk assessor on a lead inspection or visual risk assessment during normal business hours and may visit sites where certified lead abatement contractors and certified lead abatement workers are conducting lead abatement during normal business hours.

641—70.8(135) Denial, suspension or revocation of certification and denial or revocation of course approval.

70.8(1) The department may deny an application for certification, or may suspend or revoke a certification, when it finds that the applicant or certified lead professional has committed any of the following acts:

a. Negligence or incompetence in the performance of a lead inspection, a visual risk assessment, or lead abatement.

b. Fraud in obtaining certification.

c. Falsification of the inspection records required by rule 70.6(135).

d. Failure to follow the standards of conduct required by rule 70.6(135).

70.8(2) The department may deny or revoke the approval for a course when it finds:

- a. Falsification of the information required to be submitted by rule 70.4(135).
- b. The course did not comply with the course content required by rule 70.4(135).

70.8(3) Complaints. Complaints regarding a certified lead professional or an approved course shall be submitted in writing to the Iowa Department of Public Health, Lead Poisoning Prevention Program, 321 East 12th Street, Des Moines, Iowa 50319-0075. The complainant shall provide:

- a. The name of the certified lead professional and the specific details of the action(s) by the certified lead professional that did not comply with the rules, or
- b. The name of the sponsoring person or organization of an approved course and the specific way(s) that an approved course did not comply with the rules.

70.8(4) Appeals.

a. Notice of denial, suspension or revocation of certification, or denial or revocation of course approval shall be sent to the affected individual or organization by restricted certified mail, return receipt requested, or by personal service. The affected individual or organization shall have a right to appeal the denial, suspension or revocation.

b. An appeal of a denial, suspension or revocation shall be submitted by certified mail, return receipt requested, within 30 days of the receipt of the department's notice to the Iowa Department of Public Health, Lead Poisoning Prevention Program, 321 East 12th Street, Des Moines, Iowa 50319-0075. If such a request is made within the 30-day time period, the notice of denial, suspension or revocation shall be deemed to be suspended. Prior to or at the hearing, the department may rescind the notice upon satisfaction that the reason for the denial, suspension or revocation has been or will be removed. After the hearing, or upon default of the applicant or alleged violator, the administrative law judge shall affirm, modify or set aside the denial, suspension or revocation. If no appeal is submitted within 30 days, the denial, suspension or revocation shall become the department's final agency action.

c. Upon receipt of an appeal that meets contested case status, the appeal shall be transmitted to the department of inspections and appeals within five working days of receipt pursuant to the rules adopted by that agency regarding the transmission of contested cases. The information upon which the denial, suspension or revocation is based shall be provided to the department of inspections and appeals.

d. The hearing shall be conducted according to the procedural rules of the department of inspections and appeals found in 481—Chapter 10, Iowa Administrative Code.

e. When the administrative law judge makes a proposed decision and order, it shall be served by restricted certified mail, return receipt requested, or delivered by personal service. The proposed decision and order then becomes the department's final agency action without further proceedings ten days after it is received by the aggrieved party unless an appeal to the director is taken as provided in subrule 70.8(4)“f.”

f. Any appeal to the director for review of the proposed decision and order of the administrative law judge shall be filed in writing and mailed to the director by certified mail, return receipt requested, or delivered by personal service within ten days after the receipt of the administrative law judge's proposed decision and order by the aggrieved party. A copy of the appeal shall also be mailed to the administrative law judge. Any request for appeal shall state the reason for appeal.

g. Upon receipt of an appeal request, the administrative law judge shall prepare the record of the hearing or submission to the director. The record shall include the following:

- (1) All pleadings, motions, and rulings.
- (2) All evidence received or considered and all other submissions by recording or transcript.
- (3) A statement of all matters officially noticed.
- (4) All questions and offers of proof, objection, and rulings thereon.
- (5) All proposed findings and exceptions.
- (6) The proposed findings and order of the administrative law judge.

h. The decision and order of the director becomes the department's final agency action upon receipt by the aggrieved party and shall be delivered by restricted certified mail, return receipt requested, or by personal service.

i. It is not necessary to file an application for a rehearing to exhaust administrative remedies when appealing to the director or the district court as provided in Iowa Code section 17A.19. The aggrieved party to the final agency action of the department who has exhausted all administrative remedies may petition for judicial review of that action pursuant to Iowa Code chapter 17A.

j. Any petition for judicial review of a decision and order shall be filed in the district court within 30 days after the decision and order becomes final. A copy of the notice of appeal shall be sent to the department by certified mail, return receipt requested, or by personal service to the Iowa Department of Public Health, Lead Poisoning Prevention Program, 321 East 12th Street, Des Moines, Iowa 50319-0075.

k. The party who appeals a final agency action to the district court shall pay the cost of the preparation of a transcript of the contested case hearing for the district court.

These rules are intended to implement Iowa Code section 135.105A.

[Filed emergency 9/16/96—published 10/9/96, effective 9/16/96]

[Filed 1/9/97, Notice 10/9/96—published 1/29/97, effective 3/5/97]

[Filed emergency 5/16/97 after Notice 4/9/97—published 6/4/97, effective 5/16/97]