

**PROPOSED ORDER OF THE
DEPARTMENT OF HEALTH AND FAMILY SERVICES
REPEALING AND RECREATING RULES**

To repeal and recreate chapter HFS 163, relating to certification for the identification, removal and reduction of lead-based paint hazards, accreditation of training courses that prepare individuals for certification, and approval of training course managers, principal instructors and guest instructors.

Analysis Prepared by the Department of Health and Family Services

The Department is authorized under s. 254.176, Stats., to establish by rule certification requirements for persons who perform or supervise lead-based paint activities, including lead hazard reduction or lead management activities. Under s. 254.178, Stats., any training course that is represented as qualifying persons for certification must be accredited by the Department and the instructors approved by the Department. Subject to review by a technical advisory committee under s. 254.174, Stats., the Department is authorized under s. 254.167, Stats., to establish procedures for conducting lead inspections and, under s. 254.172, Stats., to promulgate rules governing lead hazard reduction. In addition, the Department is given broad responsibility and authority under s. 250.04, Stats., to protect the public's health.

The Department's rules for certification to perform lead abatement, other lead hazard reduction and lead management activities and for accreditation of training courses are in ch. HFS 163, Wis. Adm. Code. The rules were first issued in 1993 as ch. HSS 163 to establish certification requirements, including training, for lead abatement workers and lead supervisors, accreditation requirements for the corresponding training courses and criteria for approval of instructors.

The Department amended ch. HSS 163 by emergency order effective February 18, 1997. The emergency order added the certification disciplines of lead inspector, lead project designer and lead risk assessor for persons engaged in lead management activities and added accreditation requirements for the corresponding training courses. In addition, the order added certification fees for the new disciplines and course accreditation application fees. The emergency rules were replaced by similar permanent rules numbered ch. HFS 163 effective November 1, 1997.

On September 5, 1997, the Department published notice in the Wisconsin State Journal of its intent to seek U.S. Environmental Protection Agency (EPA) approval under 40 CFR 745, Subparts L and Q, of the Wisconsin lead certification program. The notice outlined the major changes needed to bring the state program into compliance with EPA approval criteria. In addition the public was invited to submit comments or request a hearing. No comments were received in response to this notice, so the Department proceeded to revise ch. HFS 163 to comply with EPA requirements for program authorization and approval.

Work practice standards, which are required by EPA, were then developed, reviewed and approved by a technical advisory committee appointed by the Department in accordance with ss. 254.167, 254.172 and 254.174, Stats.

On August 29, 1998, the Department published an emergency order revising ch. HFS 163 to qualify the state lead training and certification program for EPA approval. For EPA approval, the following major revisions were made to ch. HFS 163:

Certification

- Adds certification requirements for lead companies in addition to individuals.
- Changes the current optional certification examination to a mandatory certification examination for supervisors, inspectors and risk assessors.
 - Adds a limited term certification called "interim certification" for individuals waiting to take the certification exam.
 - Provides for a maximum 3-year certification period from the completion date of the most recent training course instead of a one-year or 2-year period from the date certification is issued.
 - Revises how worker-safety training is received by requiring that worker-safety training be completed as a prerequisite to lead training rather than be required as part of a lead training course.
 - Reduces the required frequency of refresher training from every 2 years to every 3 years.
 - Adds work practice standards for lead-based paint activities.

Accreditation

- Adds a mandatory hands-on skills assessment for hands-on activities.
- Adds a requirement for work practice standards to be incorporated into training.
- Revises topics and reduces hours for worker and supervisor courses, designed as prerequisite worker-safety training, followed by a 16-hour worker course, with an additional 16-hour supervisor course to follow when supervisor certification is desired.
 - Adds a requirement for renewal of accreditation, with accreditation issued for a maximum of 4 years, in place of the current no-expiration accreditation.

Enforcement and oversight

- Expands details on potential enforcement actions in response to EPA's requirement for flexible and effective enforcement actions.
 - Adds a requirement for reporting information about lead management activities to the Department to allow the Department to conduct targeted enforcement.

In addition to the changes specifically required by EPA, the emergency order established a new discipline called worker-homeowner to meet the needs of homeowners who EPA requires be certified in order to conduct abatement in their own homes when a child has an elevated blood lead level. This special certification category allows the Department to establish minimum training and work practice requirements that will encourage more homeowners with lead poisoned children to

permanently abate the lead hazards in their homes than is likely to occur when certified companies must be hired.

This order includes replacement permanent rules for the emergency rules published on August 29, 1998. In addition, this order makes the following changes in ch. HFS 163.

- The rules are reordered and renumbered to improve the logical flow of information and wording and format revisions are made to clarify, but not change, current policy.
- Fees are added for the following: worker-homeowner certification, lead (Pb) company certification, principal instructor approval and renewal of approval, guest instructor approval and renewal of approval, course accreditation and reaccreditation.
- Fees are reduced for the following: project designer and risk assessor certification, and initial course accreditation application.
- Fees are increased for the following: supervisor certification and certification examination registration.
- An additional 3 months are allowed to complete refresher training when training expires within the 3-month period prior to expiration of certification.
- Principal instructor qualifications are revised to require certification in fewer disciplines and allow an instructor to receive credit for taking a course that the instructor also teaches. In exchange, principal instructors are required to attend 2 meetings with Department staff within a 3 year period.
- The length of time that some approvals are in effect are revised to simplify procedures. Lead (Pb) company certification and guest instructor approval expire annually on November 1. Course accreditation allows for either a 2-year or a 4-year term. Principal instructor approval may be granted for a maximum of 12 months, not to exceed the date the instructor's qualifying certification expires.

The Department's authority to repeal and recreate these rules is found in ss. 227.11(2), 250.04(7), 254.167, 254.172, 254.176(1) and (3) and 254.178(2), Stats. The rules interpret ss. 254.167, 254.172, 254.176, and 254.178.

CHAPTER HFS 163
CERTIFICATION FOR THE IDENTIFICATION, REMOVAL
AND REDUCTION OF LEAD-BASED PAINT HAZARDS

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SUBCHAPTER I - GENERAL PROVISIONS

HFS 163.01 AUTHORITY AND PURPOSE. This chapter is promulgated under the authority of ss. 250.04 (7), 254.167, 254.172, 254.176 (1) and (3) and 254.178 (2) Stats., to ensure that persons who perform lead-based paint activities do so safely to prevent exposure of building occupants to hazardous levels of lead. This is accomplished by requiring that before a person performs, supervises or offers to perform or supervise a lead-based paint activity involving target housing or a child-occupied facility or the real property on which the target housing or child-occupied facility stands, the person shall successfully meet the requirements of this chapter and have documentation of certification issued by the department. A homeowner is not required to be certified except as specified under s. HFS 163.10 (1) (a) 3. or 4., (b) or (c). This chapter also requires that a training course that is represented as qualifying any person for certification in this state as a lead (Pb) inspector, project designer, risk assessor, supervisor, worker or worker-homeowner be accredited by the department before the training course is offered, advertised or conducted and that training managers and instructors be separately approved by the department.

HFS 163.02 SCOPE. (1) **APPLICABILITY.** (a) This subchapter, subch. II and subch. IV apply to any person performing, supervising or offering to perform or supervise a lead-based paint activity involving target housing or a child-occupied facility or the real property on which the target housing or child-occupied facility stands, when certification is required under s. HFS 163.10 (1), and to any person performing any activity involving lead-based paint or a lead hazard when certification is required under a contract or under an order issued by a court, the department, another state agency or a local agency.

(b) This subchapter, subch. III, subch. IV and Appendix A apply to any person or organization that offers, advertises, conducts or teaches a lead (Pb) inspector, project designer, risk assessor, supervisor, worker or worker-homeowner training course leading to certification by the department.

(2) **APPROVED ALTERNATIVE TO A REQUIREMENT.** The department may approve an alternative to any requirement in this chapter that is not a statutory requirement when the department is provided with satisfactory written proof that the alternative is as protective of human health and the environment as the original requirement. A request for approval of an alternative shall be in writing, shall be sent to the department and shall include justification for the alternative and how it is as protective as the requirement. The department shall approve or deny the alternative or request additional information within 20 days of receipt of the request for approval. If granted, the department shall send the applicant a written notice of approval which may include limits on the approval.

Note: Submit your request for approval of an alternative to a requirement to the Asbestos and Lead Section, Bureau of Occupational Health, Room 117, 1414 E. Washington Avenue, Madison, WI 53703-3043; (608) 261-6876 or fax (608) 266-9711.

HFS 163.03 DEFINITIONS. In this chapter:

(1) "Abatement" means any measure, set of measures or project designed or intended to permanently eliminate lead-based paint hazards, and is further defined as follows:

(a) "Abatement" includes, but is not limited to, one or more of the following activities:

1. Removal of lead-based paint or lead-contaminated dust.
2. Enclosure or encapsulation of lead-based paint.
3. Replacement of lead-based painted surfaces or fixtures.
4. Removal or covering of lead-contaminated soil.
5. All preparation associated with an abatement.
6. Cleanup associated with an abatement.
7. Preparation for disposal of waste from an abatement.

(b) An abatement project includes, but is not limited to, one of the following projects:

1. A project for which there is a written contract or other documentation which provides that a person will be conducting an activity in or to target housing or a child-occupied facility when the contract or other documentation indicates the project meets one of the following criteria:

- a. The project will result in the permanent elimination of a lead-based paint hazard.
- b. The project is designed to permanently eliminate a lead-based paint hazard and includes one or more of the activities described in this paragraph or par. (a).

2. A project resulting in the permanent elimination of a lead-based paint hazard, conducted by a person certified by the department under this chapter, unless the project is covered by par. (c).

3. A project resulting in the permanent elimination of a lead-based paint hazard,

conducted by a person who, through their name or promotional literature, represent, advertise or hold themselves out to be in the business of performing lead-based paint activities as identified and defined by this section, unless the project is covered by par. (c).

4. A project conducted in response to a state or local government abatement order that results in the permanent elimination of a lead-based paint hazard.

5. A project conducted in response to a request for an abatement activity or which the contractor claims to be an abatement.

(c) "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. Furthermore, "abatement" does not include renovation, remodeling, landscaping or other activities, when the activities are not designed to permanently eliminate a lead-based paint hazard but, instead, are designed solely to repair, restore or remodel a given structure or dwelling, even though these activities may incidentally result in a reduction or elimination of lead-based paint hazards.

Note: While not an abatement activity, under s. HFS 163.14(6) clearance must be conducted by a certified lead (Pb) inspector or risk assessor and clearance levels met before abatement is considered finished.

(2) "Accreditation" means an approval status granted by the department to a training course meeting the requirements under subchs. I and III and Appendix A. Accreditation may be either contingent accreditation or full accreditation.

(3) "Accreditation audit" means an audit of a training course or training course provider conducted by department staff to review for compliance with this chapter.

(4) "Adequate quality control" means a plan or design which ensures the authenticity, integrity and accuracy of samples, including dust, soil and paint chip or paint film samples and includes provisions for representative sampling.

(5) "Certification" means an approval status granted by the department to an individual or lead (Pb) company meeting the conditions for certification under subchs. I and II.

(6) "Certification examination" means a written, closed-book examination administered to an applicant for certification by the department or under the authority of the department, but not administered by a training provider, which evaluates the applicant's knowledge of information necessary to properly perform work in a specific discipline.

(7) "Certification period" means the period of time for which certification is granted by the department.

(8) "Child-occupied facility" means a facility licensed by the department to provide day care services, any public or private school or preschool attended by children younger than 6 years of age, including a state-operated residential treatment center, or a building or portion of a building constructed prior to 1978, visited by the same child, under 6 years of age, on at least 2 different days within any week, Sunday through Saturday, provided that each day's visit lasts at least 3 hours and the combined annual visits last at least 60 hours.

(9) "Clearance" means the visual examination or sampling conducted after a lead abatement or other lead hazard reduction activity to determine whether or not the activity and cleanup have been successfully completed.

(10) "Clearance level" means the value that indicates the maximum amount of lead permitted in dust on a surface following completion of an abatement activity.

(11) "Common area" means a portion of a building or the building's real property that is generally accessible to all occupants.

Note: Examples of common areas are a hallway, stairway, laundry room, recreation room, playground, community center, garage and boundary fence.

(12) "Component" or "building component" means a specific design or structural element or fixture of a building, residential dwelling or child-occupied facility that is distinguished from another by form, function or location.

Note: Examples of an interior component are ceiling, crown molding, wall, chair rail, door, door trim, floor, fireplace, radiator or other heating unit, shelf, shelf support, stair tread, stair riser, stair stringer, newel post, railing cap, balustrade, window and trim (including sash, window head, jamb, sill or stool and trough), built-in cabinet, column, beam, bathroom vanity, counter top and air conditioner.

Examples of an exterior component are painted roofing, chimney, flashing, gutter, downspout, ceiling, soffit, fascia, rake board, cornerboard, bulkhead, door and door trim, fence, floor, joist, lattice work, railing, railing cap, siding, handrail, stair riser, stair tread, stair stringer, column, balustrade, window sill, window stool, window trough or well, casing, sash and air conditioner.

(13) "Containment" means a process to protect workers, occupants and the environment by controlling exposures to the lead-contaminated dust and debris created during a lead hazard reduction activity.

Note: Examples of containment are a temporary structure built around an abatement site and a restricted area marked off with plastic, tape or signs.

(14) "Contingent accreditation" means a temporary approval status granted by the department to a training course for a specific discipline on the basis of a desk audit of accreditation application materials for compliance with subchs. I and III and Appendix A.

(15) "Course agenda" means an outline of the key topics to be covered during a training course, including the time allotted to teach each topic.

(16) "Course test" means a written, closed-book test administered by a training provider at the end of a course which is intended to evaluate trainees' knowledge and retention of the topics covered during the training course.

(17) "Course test blueprint" means written documentation identifying the proportion of course test questions devoted to each major topic in the course curriculum.

(18) "Department" means the Wisconsin department of health and family services.

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

(20) "Direct supervision" means supervision by an individual who is on-site and readily available to observe and assist.

(21) "Discipline" means one of the specific job categories in s. HFS 163.10 (2) in which individuals are trained and become certified by the department.

(22) "Distinct paint history" means the paint application history, as indicated by its visual appearance or a record of the application of paint or other surface coatings to a component or room.

(23) "Documented methodologies" means generally used and accepted methods or protocols for lead hazard reduction and lead management.

Note: Documented methodologies include the following: The U.S. Department of Housing and Urban Development (HUD) Guidelines for the Evaluation and Control for Lead-Based Paint Hazards in Housing; the EPA Guidance on Residential Lead-Based Paint Hazards in Housing; the EPA Guidance on Residential Lead-Based Paint, Lead-Contaminated Dust and Lead-Contaminated Soil; the EPA Residential Sampling for Lead: Protocols for Dust and Soil Sampling (EPA report number 7474-R-95-001); regulations, guidance, methods or protocols issued by States and Indian Tribes that have been authorized by EPA; and other equivalent methods and guidelines. To request federal documents, contact HUD USER by telephone at 800-245-2691 or the National Lead Information Clearinghouse by telephone at 800-424-5323 or by fax at (202) 659-1192.

(24) "Dwelling" means any structure, all or part of which is designed or used for human habitation.

(25) "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.

(26) "Encapsulation" means the process of making lead-based paint inaccessible by the application of a special substance that forms a barrier between lead-based paint and the environment. This is done by using an adhesively bonded covering material or a liquid-applied coating, with or without reinforcement materials.

(27) "Enclosure" means the use of rigid, durable construction materials that are mechanically fastened to the substrate, with all edges and seams sealed with caulk or other sealant in order to act as a barrier between lead-based paint and the environment.

(28) "EPA" means the U.S. environmental protection agency.

(29) "Full accreditation" means an approval status granted by the department to a training course for a specific discipline subsequent to contingent accreditation, which is granted on the basis of an on-site accreditation audit finding of compliance with subchs. I and III and Appendix A.

(30) "General supervision" means assistance and oversight provided by a person who is either on site or in contact with and readily available to the person being supervised.

(31) "Guest instructor" means an individual who teaches under the direct supervision of a principal instructor or assists the principal instructor with hands-on activities or work practice components of a course.

(32) "Hands-on skills assessment" means an evaluation which tests a trainee's ability to satisfactorily perform work practices and hands-on activities, as well as any other skill taught in a training course.

(33) "Hazardous waste" means a solid waste that fits the definition of hazardous waste in s. NR 605.04 and that is not excluded by the provisions of s. NR 605.05.

(34) "HUD" means the U.S. department of housing and urban development.

(35) "HUD LBP grant-funded" means funded by a lead-based paint hazard control grant from the HUD office of lead-based paint abatement and poisoning prevention, which was awarded to fund lead-based paint hazard reduction or lead management activities.

(36) "Initial certification" means the first certification that an individual is granted by the department for a specific discipline or a certification granted after a lapse in certification of 12 months or more.

(37) "Interim certification" means a temporary status the department may grant to an individual who has applied for lead (Pb) supervisor, inspector or risk assessor certification and is qualified to take a certification examination but is not yet eligible for initial certification.

(38) "Interim control activity" means any measure or set of measures designed to temporarily reduce human exposure or likely exposure to a lead-based paint hazard.

(39) "Lead-based paint" or "LBP" means paint or any other surface coating material containing more than 0.06% lead by weight or more than 0.7 milligrams lead per square centimeter.

Note: This definition means that Wisconsin considers paint to be lead-based paint when it contains a lower amount of lead than the amount of lead in the U.S. EPA/HUD definition of lead-based paint.

(40) "Lead-based paint activity" means an abatement, HUD LBP grant-funded lead hazard reduction activity, clearance, inspection, lead hazard screen, risk assessment or project design activity, including development of an occupant protection plan.

(41) "Lead-based paint hazard" means any condition that causes exposure to lead from lead-contaminated dust, lead-contaminated soil or lead-based paint that is deteriorated or present in accessible surfaces, friction surfaces or impact surfaces that would result in adverse human health effects.

(42) "Lead (Pb) company" means a company, partnership, corporation, sole proprietorship, association, governmental agency or other entity that performs, supervises, advertises, claims to provide or offers to perform or supervise a lead-based paint activity.

(43) "Lead-contaminated dust" means surface dust that contains lead.

Note: The maximum amount of lead allowed in dust following an abatement project is specified in s. HFS 163.14(6)(h).

(44) "Lead-contaminated soil" means bare soil that contains lead at or in excess of levels established by the Wisconsin department of natural resources under s. NR 720.11.

Note: The Department recommends soil with lead levels above 5,000 $\mu\text{g/g}$ be removed or paved over. The Wisconsin Department of Natural Resources (DNR) standard for nonindustrial lead in soil under NR 720.11, Table 2, is 50 parts per million. For additional information, contact the DNR at (608) 266-5425.

(45) "Lead hazard" means any substance, surface or object that contains lead and that, due to its condition, location or nature, may contribute to the lead poisoning or lead exposure of a child under 6 years of age.

(46) "Lead hazard reduction activity" means any action designed to permanently or temporarily reduce or eliminate human exposure to lead-based paint hazards through methods that include abatement or interim control activities.

(47) "Lead hazard screen" means a risk assessment activity to determine whether a dwelling or child-occupied facility in good condition should have a full risk assessment. A lead hazard screen involves less paint or dust sampling or testing than in a risk assessment.

(48) "Lead inspection" means the on-site, surface-by-surface investigation of painted, varnished or other coated surfaces to determine the presence of lead.

(49) "Lead (Pb) inspector" means an individual who conducts lead inspections or clearances or writes inspection reports.

(50) "Lead management activity" means all or part of a lead inspection, lead hazard screen, risk assessment, clearance or project design, including development of an occupant protection plan.

(51) "Lead poisoning" means a level of lead in the blood of 10 or more micrograms per 100 milliliters of blood.

(52) "Lead (Pb) project designer" means an individual who designs abatement or HUD LBP grant-funded hazard reduction projects and who may also write occupant protection plans or abatement reports.

(53) "Lead risk assessment" or "risk assessment" means an on-site investigation of paint, dust, water or other environmental media to determine the existence, nature, severity and location of lead hazards.

(54) "Lead (Pb) risk assessor" means an individual who conducts lead hazard screens or lead risk assessments, provides options to reduce specific lead hazards, writes lead risk assessment reports or who is an employer of individuals performing lead management activities and who may perform the duties of a lead (Pb) inspector.

(55) "Lead (Pb) supervisor" means an individual who supervises lead (Pb) workers, writes occupant protection plans or abatement reports, is authorized by the lead company to require changes in performance practices or to halt the project, or is an employer of individuals performing lead hazard reduction activities and who may perform on-site lead hazard reduction activities.

(56) "Lead (Pb) worker" means an individual who performs on-site lead abatement or HUD LBP grant-funded lead hazard reduction activities, including but not limited to preparation, cleanup, or any waste generation and preparation for transporting to disposal.

(57) "Living area" means any area of a residential dwelling or child-occupied facility used by one or more residents.

Note: Examples of living areas are living rooms, kitchen areas, dens, play rooms and children's bedrooms.

(58) "Multi-family dwelling" means 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.

(59) "Occupant protection plan" means a written plan developed prior to an abatement or HUD LBP grant-funded lead hazard reduction activity which describes the measures that will be taken during the abatement or lead hazard reduction to protect the building occupants from exposure to any lead-based paint hazards.

(60) "Paint in poor condition" means more than 10 square feet of deteriorated paint on exterior components with large surface areas, more than 2 square feet of deteriorated paint on interior components with large surface areas or that more than 10 percent of the total surface area is deteriorated on interior or exterior components with small surface areas.

Note: Examples of large surface areas are walls, ceilings, floors and doors. Examples of small surface areas are window sills, baseboards, soffits and trim.

(61) "Pb", means lead, the metallic element known by the symbol "Pb" in the periodic table of chemical elements.

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

(63) "Person" means any individual, corporation, partnership or association, any body politic, any Indian tribe or any state or political subdivision of a state, any interstate body or any department, agency or other instrumentality of the federal government.

(64) "Principal instructor" means an individual who has the primary responsibility for organizing and teaching a training course.

(65) "Real property" means the property on which a building stands and all contiguous property under the same ownership .

(66) "Recognized laboratory" means an environmental laboratory recognized by the department as being capable of performing an analysis for lead compounds in paint, soil and dust based on its accreditation by the national lead laboratory accreditation program (NLLAP) or an equivalent accreditation approved by the department.

Note: To obtain a list of recognized laboratories, write or phone the Asbestos and Lead Section, Bureau of Occupational Health, Room 117, 1414 E. Washington Avenue, Madison, WI 53703-3043; (608) 261-6876 or fax (608) 266-9711. The National Lead Information Center (NLIC) Clearinghouse updates the NLLAP list on a monthly basis. Updated copies may be obtained by calling NLIC at 1-800-424-5323.

(67) "Regional lead (Pb) training center" means an institution sponsored by the EPA to develop or conduct lead (Pb) training courses.

(68) "Target housing" means any dwelling constructed prior to 1978, except a dwelling for the elderly or persons with disabilities or any zero-bedroom dwelling unless a child under 6 years of age occupies or is expected to occupy the dwelling.

Note: Zero-bedroom dwellings include efficiencies, studio apartments, dormitory housing, military barracks and rentals of individual rooms in residential dwellings.

(69) "Training certificate" means a document meeting the requirements of s. HFS 163.20(9) which is issued by a training manager to an individual as evidence the individual has successfully completed the course specified in the document.

(70) "Training hour" means at least 50 minutes of actual instruction, which may include time devoted to learning activities, including lecture, small group activities, demonstrations, evaluations and hands-on activities.

(71) "Training manager" means an owner of a training course or an employe of a training provider who is authorized to act on behalf of the owner.

(72) "Training provider" means any person, including any individual, partnership, corporation, institution, organization or state or local government agency, who provides or offers to provide a training course accredited under this chapter.

(73) "Visual inspection" means:

(a) For clearance, visual examination following an activity that disturbs lead to determine whether or not the cleanup has been successfully completed, as indicated by the absence of visible residue, dust and debris.

(b) For risk assessment, visual examination to determine the existence of lead-based paint hazards or other potential sources of lead hazards.

(74) "Work day" means any day except Saturday, Sunday and holidays designated in s. 230.35(4)(a), Stats.

(75) "XRF" means a portable instrument, analyzer or device used to determine lead concentration in milligrams per square centimeter using the principle of x-ray fluorescence.

**SUBCHAPTER II
CERTIFICATION OF PERSONS TO PERFORM LEAD ABATEMENT,
OTHER LEAD HAZARD REDUCTION ACTIVITIES
OR LEAD MANAGEMENT ACTIVITIES**

HFS 163.10 CERTIFICATION OF AN INDIVIDUAL. (1) REQUIREMENT. Only an individual certified by the department under this chapter and employed by, under contract with or an owner of a certified lead (Pb) company may do any of the following:

(a) Perform, supervise or offer to perform or supervise an abatement, lead inspection, lead hazard screen, risk assessment, clearance or project design involving one of the following:

1. A child-occupied facility or the real property on which the child-occupied facility stands.
2. Target housing or the real property on which the target housing stands when the target housing or real property is not owned by the individual performing the work.
3. Target housing or the real property on which the target housing stands when the target housing or real property is rented or occupied by an individual other than the target housing's owner or the owner's immediate family.
4. Target housing or the real property on which the target housing stands when a child residing in the target housing has been identified as having a confirmed concentration of 20 or more micrograms of lead per deciliter ($\mu\text{g}/\text{dl}$) of whole blood for a single venous test or a concentration of 15-19 $\mu\text{g}/\text{dl}$ in 2 consecutive tests taken 3 to 4 months apart.

(b) Perform interim controls when funded by a HUD lead-based paint grant.

(c) Perform a lead hazard reduction when certification is required under an order issued by a court, the department, another state agency or a local agency.

Note: Certification requirements under this chapter do not preclude a person from requiring certification under this chapter in a contract for services. For the requirement that a lead (Pb) company be certified to perform, supervise or offer to perform or supervise a lead-based paint activity, see s. HFS 163.12.

(2) **DISCIPLINES.** Certification of individuals shall be specific to one of the following disciplines:

(a) **Lead (Pb) inspector.** A certified lead (Pb) inspector may conduct lead inspections, write inspection reports and conduct clearance following a lead hazard reduction activity.

(b) **Lead (Pb) project designer.** A certified lead (Pb) project designer may design lead hazard reduction projects, develop occupant protection plans and write lead hazard reduction reports.

(c) **Lead (Pb) risk assessor.** A certified lead (Pb) risk assessor may perform the duties of a lead (Pb) inspector, conduct lead hazard screens and risk assessments, write risk assessment reports and provide options to reduce specific lead hazards.

(d) **Lead (Pb) supervisor.** A certified lead (Pb) supervisor may supervise or perform on-site lead hazard reduction activities, develop occupant protection plans and write lead hazard reduction reports.

(e) **Lead (Pb) worker.** A certified lead (Pb) worker may perform on-site lead hazard reduction activities, but only under the direct supervision of a certified lead (Pb) supervisor.

(f) **Lead (Pb) worker-homeowner.** A certified lead (Pb) worker-homeowner may perform lead hazard reduction activities in the homeowner's own nonrental dwelling or real property. When a homeowner is required to be certified to perform work under sub. (1) (a) 3. or 4., (b) or (c), the worker-homeowner shall be under the general supervision of a certified lead (Pb) supervisor.

(3) **CONDITIONS FOR INITIAL CERTIFICATION.** (a) Summary. An individual applying for initial certification in any discipline identified under sub. (2) shall be 18 years of age or older, shall meet applicable education and experience qualifications under par. (b), shall successfully complete certification training requirements under s. HFS 163.11 and, to be certified as a lead (Pb) inspector, risk assessor or supervisor, shall pass a certification examination under par. (c). To apply for certification, the applicant shall submit to the department an application under sub. (4) and include the applicable fee under sub. (5).

Note: Use this subsection and subs. (4) to (7) to apply for certification when applying for certification in a discipline for the first time or after certification in the discipline has lapsed for 12 months or more. Use sub. (8) to apply for recertification when applying before certification expires or within 12 months after certification expires.

(b) Education and experience. 1. 'Requirement.' An applicant for initial certification as a lead (Pb) project designer, risk assessor or supervisor shall meet the applicable education and experience qualifications in this paragraph in addition to the certification training requirements under s. HFS 163.11.

2. 'Project designer.' An applicant for lead (Pb) project designer certification shall meet or exceed one of the following:

a. Have a bachelor's degree in engineering, architecture or a related profession and have one year of experience in building construction and design or a related field.

b. Have 4 years of experience in building construction and design or a related field.

3. 'Risk assessor.' An applicant for lead (Pb) risk assessor certification shall meet or exceed one of the following:

a. Have a bachelor's degree and one year of experience in a related field, such as lead, asbestos, environmental remediation work or construction.

b. Have an associate's degree and 2 years of experience in a related field such as lead, asbestos, environmental remediation work or construction.

c. Have a high school diploma or equivalent and 3 years of experience in a related field, such as lead, asbestos, environmental remediation work or construction.

d. Hold professional certification as an industrial hygienist, professional engineer or registered architect or in a related professional engineering, health or environmental field, such as safety professional or environmental scientist.

4. 'Supervisor.' An applicant for lead (Pb) supervisor certification shall meet or exceed one of the following:

a. Have one year of experience as a certified lead (Pb) worker or supervisor.

b. Have 2 years of experience in a related field, such as lead, asbestos or environmental remediation work or in the building trades, such as construction.

(c) Certification examination for lead (Pb) inspectors, risk assessors and supervisors. 1. 'Requirement.' To be certified, an applicant for initial certification as a lead (Pb) inspector, risk assessor or supervisor shall do one of the following:

a. Pass a certification examination administered by the department or by a person authorized by the department to administer the certification examination under the department's direction or with the department's approval within the 12-month period prior to applying for initial certification. A training provider may not administer a certification examination, except that the department may be a training provider and also administer a certification examination.

b. Successfully demonstrate knowledge of subchs. I, II and IV of this chapter if the individual previously passed a certification examination administered by EPA, another EPA-authorized state or an EPA-authorized tribe and currently possesses an applicable certification card or license issued by EPA, another EPA-authorized state or an EPA-authorized tribe. To demonstrate knowledge of subchs. I, II and IV of this chapter, the applicant shall obtain a regulation worksheet and regulations from the department, shall accurately complete the worksheet with information from the regulations and shall submit the worksheet to the department with the certification application.

Note: To obtain a copy of the worksheet and regulations, write or phone the Asbestos and Lead Section, Bureau of Occupational Health, Room 117, 1414 E. Washington Avenue, Madison, WI 53703-3043; (608) 261-6876 or fax (608) 266-9711. Return the completed worksheet, application and certification fee to the same office.

2. 'Timing of certification examination.' a. Applicant with interim certification. An applicant for initial certification to whom the department granted interim certification under sub. (6) (b) shall take the next available certification examination offered at a reasonably accessible location, as determined by the department. The applicant with interim certification may take the certification examination a maximum of 3 times within 6 months after completing an approved training course for the discipline under s. HFS 163.11. If an applicant does not pass the certification examination and become certified by the department within this 6-month period, the department may revoke the interim card. The individual shall retake the initial training course before reapplying for certification.

b. Applicant without interim certification. An applicant for initial certification who chooses not to seek interim certification or who is not eligible for interim certification, but who meets the certification examination prerequisites under subd. 3., shall take a certification examination offered at a reasonably accessible location, as determined by the department. The applicant without interim certification may take the certification examination a maximum of 3 times within 6 months after the date the department receives the individual's first registration to take a certification examination. If an applicant does not pass the certification examination and become certified by the department within this 6-month period, the individual shall retake the initial training course before reapplying for certification.

3. 'Certification examination prerequisites.' To be registered to take a certification examination, an applicant for initial certification shall do both of the following:

a. Meet the age, education and experience, and training conditions for initial certification under this section.

b. Register for the certification examination by submitting to the department a completed application for certification under sub. (4) and the appropriate exam registration and certification fees under sub. (5).

Note: To obtain a copy of the certification application, write or phone the Asbestos and Lead Section, Bureau of Occupational Health, Room 117, 1414 E. Washington Avenue, Madison, WI 53703-3043; (608) 261-6876 or fax (608) 266-9711. Return the completed application and fees to the same office.

4. 'Rescheduling a certification examination.' If unable to take the certification examination at the time or date scheduled by the department, the applicant may reschedule the certification examination for another time or date without payment of an additional fee if the applicant requests the change not less than one work day prior to the scheduled certification examination. The certification examination fee is not refundable.

(4) APPLICATION FOR INITIAL CERTIFICATION. An individual applying for initial certification shall submit all of the following to the department:

(a) Application form. A fully and accurately completed application on a form obtained from the department. The applicant shall include the applicant's social security number on the application and shall personally sign the application affidavit verifying the accuracy of the information.

(b) Photograph. A recent, clearly identifiable photograph of the applicant's face in a standard passport size of 2" x 2".

(c) Verification of birth date. A document that verifies the applicant's birth date, such as a birth certificate.

(d) Documentation of training. 1. Copies of all previous training certificates for required courses under s. HFS 163.11. The copy of the most current training certificate shall be notarized as a true copy of the original certificate.

2. Except for an applicant for worker-homeowner certification, documentation of worker safety training under s. HFS 163.11 (5) on a form obtained from or approved by the department.

(e) Documentation of education and experience. For certification as a lead (Pb) project designer, risk assessor or supervisor, an affidavit of education and experience required under sub. (3) (b) on a form obtained from the department. The applicant shall also be prepared to submit one or more of the following forms of documentation if requested by the department:

1. 'Education.' For documentation of education, an official transcript or diploma.

2. 'Experience.' For documentation of experience, information describing the relevant experience, which shall include the month and year the experience began and the month and year the experience ended and which may include one or more of the following:

a. A resume describing the relevant experience.

b. A letter describing the tasks performed by the individual and signed by the employer where the experience was obtained.

c. Letters of reference from individuals with competent knowledge of the applicant's experience.

d. Copies of inspection reports prepared by the applicant.

e. Copies of certifications issued by other jurisdictions which allowed the individual to perform related work.

3. 'Other professional certification.' For documentation of other professional certification, a copy of the certification, notarized as a true copy of the original document.

(f) Other documentation. For an applicant who claims to meet the certification examination requirement under sub. (3) (c) 1. b., all of the following:

1. A copy of current certification issued by EPA or by an EPA-authorized state or tribe, notarized as a true copy of the original document.

2. A copy of documentation that the individual passed a certification examination for the applicable discipline, notarized as a true copy of the original document.

3. A completed regulation worksheet.

(g) Fees. 1. The appropriate certification fee or a written request for a government certification fee exemption under sub. (5) (a). To request an exemption, the applicant shall complete the exemption section of the application and submit a letter from the employing agency describing the job duties that qualify the employe for a certification fee exemption. The fee for initial certification is not refundable.

2. For lead (Pb) inspector, risk assessor or supervisor initial certification, a nonrefundable certification examination registration fee under sub. (5) (c).

Note: For copies of the application form, worker-safety training form or affidavit of education and experience, write or phone the Asbestos and Lead Section, Bureau of Occupational Health, Room 117, 1414 E. Washington Avenue, Madison, WI 53703-3043; (608) 261-6876 or fax (608) 266-9711. Return the completed application and fee to the same office.

(5) FEES. (a) Certification fee. An applicant for certification or recertification under this subchapter, except an applicant employed by state government or a local government who applies for certification required to perform duties within the scope of employment, shall pay a fee as follows:

1. For certification as a lead (Pb) inspector, a fee of \$150 for up to 12 months, a fee of \$300 for 12 months up to 24 months and a fee of \$450 for 24 months up to 36 months.

2. For certification as a lead (Pb) risk assessor, a fee of \$175 for up to 12 months, a fee of \$350 for 12 months up to 24 months and a fee of \$525 for 24 months up to 36 months.

3. For certification as a lead (Pb) project designer, a fee of \$175 for up to 12 months, a fee of \$350 for 12 months up to 24 months and a fee of \$525 for 24 months up to 36 months.

4. For certification as a lead (Pb) supervisor, a fee of \$125 for up to 12 months, a fee of \$250 for 12 months up to 24 months and a fee of \$375 for 24 months up to 36 months.

5. For certification as a lead (Pb) worker, a fee of \$50 for up to 12 months, a fee of \$100 for 12 months up to 24 months and a fee of \$150 for 24 months up to 36 months.

6. For certification as a lead (Pb) worker-homeowner, a fee of \$25 for up to 36 months.

(b) Replacement card fee. If a certification card is lost, stolen or damaged, the individual who was issued the card may request the department to issue a replacement card and shall include with any request a fee of \$25 and a recent identifying photograph in a standard passport size of 2" by 2".

(c) Certification examination registration fee. An applicant registering to take a certification examination under sub. (3) (c) or (8) (b) 4. shall pay a nonrefundable fee of \$50.

(6) ACTION BY THE DEPARTMENT. (a) Time limit. Within 10 work days after receipt of a fully and accurately completed certification application, as specified in sub. (4), the department shall grant interim or initial certification or shall deny certification.

(b) Grant interim certification. If an individual applies for lead (Pb) inspector, risk assessor or supervisor certification, meets all of the certification examination prerequisites under sub. (3) (c) 3. and is registered for, but has not passed, the certification examination for the discipline, the department may grant interim certification. When interim certification is granted, the department shall issue or arrange for the issuance of an interim certification card for the appropriate specific discipline under sub. (2). An individual may be granted interim certification only once per discipline per lifetime.

Note: When interim certification is granted, the department will also register the applicant for a certification examination and send the applicant information regarding the scheduled certification examination.

(c) Grant initial certification. 1. 'Upon application.' If an individual applies for certification and meets all of the conditions for initial certification under sub. (3), the department may grant initial certification. When certification is granted, the department shall issue or arrange for the issuance of a certification card for the appropriate specific discipline under sub. (2).

2. 'Upon passing certification examination.' When an individual with interim certification as an inspector, risk assessor or supervisor passes the certification examination for the discipline, the department shall change the individual's certification from interim to initial and shall issue a revised certification card for the balance of the certification term for which the individual applied and was qualified.

(d) Deny certification. If certification is denied, the department shall give the applicant a written explanation for the denial and shall notify the applicant of the right to appeal that decision under s. HFS 163.33.

(7) LENGTH OF INTERIM AND INITIAL CERTIFICATION. (a) Interim certification. Interim certification shall remain valid for a maximum of 6 months after the completion date of the most recent training course for the discipline under s. HFS 163.11.

(b) Initial certification. Initial certification shall remain valid for a maximum of 3 years after the completion date of the most recent training course for the discipline under s. HFS 163.11, depending on the fee paid and compliance with training and other certification requirements under this subchapter. The department may not grant an initial certification expiration date that extends beyond the date by which the applicant is required to complete refresher training for the discipline.

(8) RECERTIFICATION OF AN INDIVIDUAL. (a) Requirement. No individual certified under this subchapter may perform a lead-based paint activity for which certification is required after the expiration date on that individual's certification card until the individual is recertified by the department and possesses a new, unexpired certification card.

Note: Use the procedure in this subsection to apply for recertification before certification expires or within 12 months after certification expires. If it is 12 months or more since a certification expired, the person wanting to renew certification must make reapplication for initial certification under subs. (3) to (7).

(b) Conditions. To be recertified, the individual shall:

1. Be in compliance with all requirements of subch. I and this subchapter.
2. Be current with the certification training requirements under s. HFS 163.11.
3. Submit an application for recertification to the department under par. (c) and include the appropriate certification fee under sub. (5). The department shall refund the certification fee if recertification is denied and the payer does not owe the department other fees.
4. Pass a certification examination under sub. (3) (c) when one of the following applies:
 - a. The department requires the individual to pass the certification examination because the department has reason to believe a training course or training certificate does not meet all requirements of this chapter.
 - b. The applicant for recertification as a lead (Pb) inspector, risk assessor or supervisor has not previously passed a certification examination under sub. (3) (c) 1.

Note: To request a certification exam registration form, write or phone the Asbestos and Lead Section, Bureau of Occupational Health, Room 117, 1414 E. Washington Avenue, Madison, WI 53703-3043; (608) 261-6876 or fax (608) 266-9711. Return the completed registration form and fee to the same office.

(c) Application. An applicant for recertification shall submit all of the following to the department:

1. 'Application form.' A fully and accurately completed application on a form obtained from the department. The applicant shall include on the form his or her social security number if it is not already shown on the form. The applicant shall personally sign the application affidavit verifying the accuracy of the information.

2. 'Photograph.' A recent, clearly identifiable photograph of the applicant's face in a standard passport size of 2" x 2".

3. 'Training certificates.' A copy of any training certificate which was not previously submitted for training required under s. HFS 163.11. The copy of the training certificate shall be notarized as a true copy of the original certificate.

4. 'Fee.' The appropriate certification fee under sub. (5) (a) or, if requesting a government fee exemption, a letter from the employing agency describing the job duties that qualify the employe for a fee exemption.

5. 'Certification examination registration.' If required under par. (b) 4. to take a certification examination, the applicant for recertification shall submit a certification examination registration form and a registration fee of \$50.

Note: For a copy of the application or certification examination registration form, write or phone the Asbestos and Lead Section, Bureau of Occupational Health, Room 117, 1414 E. Washington Avenue, Madison, WI 53703-3043; (608) 261-6876 or fax (608) 266-9711. Return the completed application and fee to the same office.

(d) Action by the department. 1. 'Time limit.' Within 10 work days after receipt of a fully and accurately completed application for recertification, the department shall grant or deny recertification.

2. 'Grant recertification.' If an individual applies for recertification and meets the conditions for recertification under par. (b), the department may grant recertification. When recertification is granted, the department shall issue or arrange for the issuance of a certification card for the appropriate specific discipline under sub. (2).

3. 'Deny recertification.' If recertification is denied, the department shall give the applicant a written explanation for the denial and shall notify the applicant of the right to appeal that decision under s. HFS 163.33.

(e) Length of recertification. Recertification shall extend the individual's certification expiration date for a maximum of 3 years depending on the fee paid and compliance with training and other certification requirements under this subchapter.

HFS 163.11 CERTIFICATION TRAINING REQUIREMENTS. To be certified under subch. I and this subchapter as a lead (Pb) inspector, project designer, risk assessor, supervisor, worker or worker-homeowner, an individual shall meet all of the following training requirements:

(1) APPROVED TRAINING COURSES. The individual shall complete one of the following department-approved training courses:

(a) A training course accredited by the department under subch. III.

(b) A training course offered in another state that is accredited by that state if the state is EPA-authorized, by an EPA-authorized tribal program or by EPA, and that is approved by the department as being as protective as the accreditation requirements under subch. III.

(c) An EPA-sponsored training course from a regional lead (Pb) training center or an approved member of the center's consortium if the course was completed in another state prior to March 1, 1999.

(d) A training course offered in another state that is accredited by that state and is comparable to the accreditation requirements under subch. III if the course was completed prior to March 1, 1999.

(2) INITIAL TRAINING. (a) Requirement for initial training. The individual shall have successfully completed a department-approved initial training course and passed a course test in the discipline in which certification is sought and shall have successfully completed any prerequisite training course and course test as follows:

1. 'Inspector.' For certification as a lead (Pb) inspector, worker safety training under sub. (5) prior to an initial lead inspector course.

2. 'Risk assessor.' For certification as a lead (Pb) risk assessor, inspector training under subd. 1. prior to an initial lead risk assessor course.

3. 'Worker.' For certification as a lead (Pb) worker, worker safety training under sub. (5) prior to an initial lead worker course.

4. 'Supervisor.' For certification as a lead (Pb) supervisor, worker training under subd. 3. prior to an initial lead supervisor course.

5. 'Project designer.' For certification as a lead (Pb) project designer, supervisor training under subd. 4. prior to an initial lead project designer course.

(b) Worker-homeowner. For certification as a lead (Pb) worker-homeowner, an individual shall have successfully completed a department-approved initial lead worker-homeowner or a lead worker course and passed the course test.

(3) REFRESHER TRAINING. (a) Requirement for refresher training. As a condition for certification, an individual shall remain current with training by complying with one of the following:

1. Completing the applicable refresher training course under par. (b) no later than 3 years after completing the initial training course and each subsequent refresher training course within 3 years after completing the previous training course.

2. If the certification expiration date is not more than 3 months after the date refresher training is due under subd. 1., by completing refresher training prior to the certification expiration date but not later than 39 months after completing the previous training course.

Note: To be certified or licensed to perform lead-based paint activities in another state, refresher training may be required annually or every other year instead of every 3 years.

3. If an approved principal instructor, by attending at least 2 department-sponsored training provider meetings every 3 years and by doing one of the following:

a. Complying with subd. 1. or 2.

b. Teaching the applicable refresher course under par. (b) at least once every 3 years and passing the course test.

Note: An instructor who may want to be certified by EPA or another state may want to complete annual refresher courses taught by other instructors to ensure eligibility.

(b) Required refresher courses. The individual shall successfully complete department-approved refresher training courses, as follows:

1. 'Inspector.' For certification as a lead (Pb) inspector, a lead inspector refresher course.

2. 'Risk assessor.' For certification as a lead (Pb) risk assessor, a lead inspector refresher course and a lead risk assessor refresher course.

3. 'Project designer.' For certification as a lead (Pb) project designer, a lead project designer refresher course.

4. 'Supervisor.' For certification as a lead (Pb) supervisor, a lead supervisor refresher course.

5. 'Worker.' For certification as a lead (Pb) worker, a lead worker refresher course.

6. 'Worker-homeowner.' For certification as a lead (Pb) worker-homeowner, a lead worker-homeowner refresher course or a lead worker refresher course.

(c) Retaking initial training. To become certified or recertified after an individual's refresher training under par. (a) is past due, the individual shall first retake and complete an initial training course, pass the course test and receive a training certificate.

(4) **TRAINING CERTIFICATES.** The individual shall retain an original training certificate for each required training course completed.

(5) **WORKER-SAFETY TRAINING.** (a) Requirement for worker-safety training. As a prerequisite for lead training under sub. (2) (a), an individual shall have successfully completed worker-safety training.

(b) Content of worker-safety training. Worker-safety training shall cover information required for persons working with lead in construction under federal occupational and safety health administration (OSHA) standards and shall include all of the following topics as appropriate for the discipline:

1. Personal protection equipment, including equipment uses and limitations, respiratory protection, respiratory equipment selection, air-purifying respirators, care and cleaning of respirators, filter use, protective clothing and equipment, hygiene practices and hands-on practice in use of personal protective equipment.

2. Worker safety, including material safety data sheets (MSDS), respiratory protection program, basic lead (Pb) engineering controls, trips and falls, heat stress, scaffold and ladder hazards, electrical hazards and fire hazards.

Note: To request a form to document completion of worker-safety training or to request additional information on the OSHA lead training standards under 29 CFR 1926.62, write or phone the Asbestos and Lead Section, Bureau of Occupational Health, Room 117, 1414 E. Washington Avenue, Madison, WI 53703-3043; (608) 261-6876 or fax (608) 266-9711.

HFS 163.12 CERTIFICATION OF A LEAD (PB) COMPANY. (1)
REQUIREMENT. Only a company, partnership, corporation, sole proprietorship, association, governmental agency or other entity certified by the department as a lead (Pb) company under this chapter may perform, supervise, advertise, claim to provide or offer to perform or supervise a lead-based paint activity on and after August 30, 1999.

(2) **CONDITIONS FOR CERTIFICATION.** To be certified as a lead (Pb) company, an applicant shall do all of the following:

(a) Apply. Submit a completed application under sub. (3).

(b) Use certified individuals. Agree to employ or contract with only appropriately certified individuals to perform or supervise lead-based paint activities when certification is required under this chapter.

(c) Follow work practice standards. Agree that all lead (Pb) company employees or subcontractors will follow the work practice standards under s. HFS 163.14 when performing activities covered by the standards.

(d) Have certified lead (Pb) supervisor. Have an owner, officer or employe of the lead (Pb) company who is authorized to act on the lead (Pb) company's behalf certified as a lead (Pb) supervisor before offering lead hazard reduction services.

Note: For a governmental agency, each employe certified as a lead (Pb) supervisor is deemed to meet this requirement.

(e) Have certified lead (Pb) risk assessor. Have an owner, officer or employe of the lead (Pb) company who is authorized to act on the lead (Pb) company's behalf certified as a lead (Pb) risk assessor before offering lead management services.

Note: For a governmental agency, each employe certified as a lead (Pb) risk assessor is deemed to meet this requirement.

(3) **APPLICATION FOR CERTIFICATION.** A person seeking certification shall submit an application under par. (a) or (b) to the department.

(a) Application for a nongovernmental lead (Pb) company. 1. 'Application form.' The lead (Pb) company that is not a governmental agency shall submit a fully and accurately completed application on a form obtained from the department. The application shall include all of the following information:

a. The lead (Pb) company's name, mailing address, physical address and telephone number and the physical address of records required under s. HFS 163.14(9) if different from the physical address.

b. The federal employer identification number for the lead (Pb) company or a statement why the lead (Pb) company does not have one.

c. Names and social security numbers of the lead (Pb) company's owners.

d. Names of corporate officers of the lead (Pb) company, if the lead (Pb) company is incorporated.

e. For a lead (Pb) company offering lead hazard reduction or lead management services, the name of any individual who is authorized to meet the requirement under sub. (2) (d) or (e). If the individual is not currently certified, an application for certification of the individual shall be submitted with the lead (Pb) company application.

f. A statement signed by an owner or officer of the lead (Pb) company attesting that the lead (Pb) company will employ or contract with only appropriately certified persons to conduct or supervise lead-based paint activities when certification is required under this chapter.

g. A statement signed by an owner or officer of the lead (Pb) company attesting that the lead (Pb) company, its employees and subcontractors will follow the work practice standards in s. HFS 163.14 when conducting lead-based paint activities covered by the standard.

h. A list of certified staff employed by or under contract with the lead (Pb) company at the time of application.

2. 'Fee.' a. A nonrefundable initial certification fee of \$50.

b. A lead (Pb) company that submits a check that is not honored by the bank on which it is written shall pay a \$25 service charge in addition to any required fee.

Note: For a copy of the application form, write or phone the Asbestos and Lead Section, Bureau of Occupational Health, Room 117, 1414 E. Washington Avenue, Madison, WI 53703-3043; (608) 261-6876 or fax (608) 266-9711. Return the completed application and fee to the same office.

(b) Application for a governmental agency. A lead (Pb) company that is a governmental agency shall submit a fully and accurately completed application on a form obtained from the department. The application shall include all of the following information:

1. Name, mailing address, physical address and telephone number for the agency and physical address of records required under s. HFS 163.14(9) if different from the agency's physical address.

2. A statement signed by an authorized representative of the agency attesting that the agency will employ or contract with only appropriately certified persons to conduct or supervise lead-based paint activities when certification is required under this chapter.

3. A statement signed by an authorized representative of the agency attesting that the agency, its employees and subcontractors will follow the work practice standards in s. HFS 163.14 when conducting lead-based paint activities covered by the standard.

Note: For a copy of the application form, write or phone the Asbestos and Lead Section, Bureau of Occupational Health, Room 117, 1414 E. Washington Avenue, Madison, WI 53703-3043; (608) 261-6876 or fax (608) 266-9711. Return the completed application to the same office.

(4) **ACTION BY THE DEPARTMENT.** (a) Time limit. Within 10 work days after receipt of a fully and accurately completed certification application, the department shall grant or deny a lead (Pb) company's request for certification.

(b) Grant certification. If the department grants lead (Pb) company certification, the department shall issue a certificate of approval.

(c) Deny certification. If the department denies lead (Pb) company certification, the department shall give the lead (Pb) company a written explanation for the denial and shall notify the lead (Pb) company of the right to appeal that decision under s. HFS 163.33.

(5) **LENGTH OF LEAD (PB) COMPANY CERTIFICATION.** A lead (Pb) company's lead certification shall be valid for up to 12 months and shall expire annually at 12:01 a.m. on November 1.

(6) **RENEWAL OF CERTIFICATION.** (a) Requirement. To continue to perform, supervise, advertise, claim to provide or offer to perform or supervise a lead-based paint activity after certification expires on November 1, a lead (Pb) company shall submit the following to the department before November 1:

1. A completed renewal of certification application indicating changes to lead (Pb) company information since the previous application.

2. A nonrefundable fee of \$50, except that a state or local government agency is exempt from paying the fee.

Note: Submit the application and fee to the Asbestos and Lead Section, Bureau of Occupational Health, Room 117, 1414 E. Washington Avenue, Madison, WI 53703-3043.

(b) Action by the department. 1. 'Time limit.' Within 10 work days after receipt of a fully and accurately completed application, the department shall grant or deny a lead (Pb) company's request for renewal of certification.

2. 'Grant renewal of certification.' If the department grants a lead (Pb) company renewal of certification, the department shall issue a certificate of approval.

3. 'Deny renewal of certification.' If the department denies a lead (Pb) company renewal of certification, the department shall give the lead (Pb) company a written explanation for the denial and shall notify the lead (Pb) company of the right to appeal that decision under s. HFS 163.33.

(c) Length of lead (Pb) company renewal of certification. When renewal of certification is granted, a lead (Pb) company's certification shall be extended a maximum of 12 months and shall expire annually at 12:01 a.m. on the November 1 following renewal of certification.

HFS 163.13 RESPONSIBILITIES OF CERTIFIED PERSONS. (1) **MAY NOT REFUSE ENTRY.** No person at a site where a lead (Pb) company conducts business or at the site of a lead-based paint activity may refuse entry to any representative of the department acting under the authority of s. HFS 163.30 (3).

(2) **REQUIREMENT FOR VALID CARD ON SITE.** Only a Wisconsin lead (Pb) certification card is valid in this state for performing a lead-based paint activity. Each individual performing or supervising a lead-based paint activity for which certification is required shall have a valid unexpired certification card at the job site whenever performing or supervising a lead-based paint activity. Only the most recent certification card is valid.

(3) **REQUIREMENT TO PASS CERTIFICATION EXAMINATION.** To maintain certification, an individual certified by the department as a lead (Pb) inspector, risk assessor or supervisor prior to August 31, 1998, shall pass the certification examination under s. HFS 163.10 (3) (c) not later than August 31, 1999.

(4) **RESPONSIBILITY FOR TRAINING AND CERTIFICATION DOCUMENTS.** (a) Individual. The individual to whom a training certificate is issued by a training manager and a certification card is issued by the department is the owner of that training certificate and certification card, and is responsible for the following:

1. 'Responsibility for training certificate.' a. The individual shall retain an original training certificate for the duration of the individual's certification for each required training course completed, shall provide the original training certificate for each completed course upon request by the department.

b. The individual shall not allow another person to photocopy the training certificate unless the photocopy is clearly labeled "copy" across the face of it in order to discourage fraudulent or misleading use of the photocopy and shall not allow another person to use the training certificate.

2. 'Responsibility for certification card.' a. The individual shall retain the certification card until the card expires, shall have it physically present when performing or supervising a lead-based paint activity requiring certification under this chapter and shall make the certification card available for inspection upon request by the department or the public.

b. The individual shall not allow another person to photocopy the certification card unless the photocopy is clearly labeled "copy" across the face of it in order to discourage fraudulent or misleading use of the photocopy and shall not allow another person to use the certification card.

c. When requested by the department, the individual shall return a suspended, revoked or otherwise invalid certification card to the department within 10 work days of the department's request.

(b) Lead (Pb) company. 1. 'Prohibited actions.' The employer or lead (Pb) company may not confiscate an individual's original training certificate or certification card. The employer or lead (Pb) company may not photocopy an individual's training certificate or certification card unless the photocopy is clearly labeled "copy" across the face of it in order to discourage fraudulent or misleading use of the photocopy.

2. 'Responsibility for certificate of approval.' a. Each lead (Pb) company performing, supervising or offering to perform or supervise a lead-based paint activity for which certification is required shall retain the certificate of approval for the duration of certification and shall make it available for inspection upon request by the department or the public.

b. A lead (Pb) company shall not allow another person to photocopy the certificate of approval unless the photocopy is clearly labeled "copy" across the face of it in order to discourage fraudulent or misleading use of the photocopy and shall not allow another person to use the certificate of approval.

c. When requested by the department, the lead (Pb) company shall return a suspended, revoked or otherwise invalid certificate of approval to the department within 10 work days of the department's request.

(5) RESPONSIBILITY FOR VERIFICATION OF CERTIFICATION. The lead (Pb) company employing or contracting with persons conducting a lead-based paint activity shall verify the certification status of individuals performing or supervising those activities before the start of the activity and may not make use of non-certified lead (Pb) inspectors, project designers, risk assessors, workers or supervisors to perform a lead-based paint activity for which certification is required.

(6) SUMMARY OF LEAD IDENTIFICATION ACTIVITIES. (a) Requirement for summary. A person conducting a lead inspection, lead hazard screen or lead risk assessment for which a certified lead (Pb) inspector or risk assessor is required, shall submit to the department a summary of the lead identification activity conducted on a form obtained from or approved by the department.

Note: A summary report does not have to be submitted to the Department if a person has not conducted a lead inspection, lead hazard screen or risk assessment in a child occupied facility or target housing. A health department is not required to report an environmental investigation when conducted in response to a notification of a child with lead poisoning.

(b) Summary period. Each summary shall cover a three-month period as follows:

1. January through March.
2. April through June.
3. July through September.
4. October through December.

(c) Submittal date. A completed summary form shall be submitted to the department on or before the last day of the month following the end of the summary period.

Note: Reports are due the last day of January, April, July and October for the previous quarter.

(d) Content of summary. A completed summary form shall include the name, address, telephone number and certification identification number of the lead (Pb) company reporting and all of the following information for each lead identification activity conducted:

1. Date the lead identification activity was conducted.
2. Street address and city or fire address of the dwelling or child-occupied facility where the lead identification was conducted or a unique identification number assigned by the lead company.
3. Name and lead certification identification number of the individual or individuals conducting the lead identification activity.
4. Type of lead identification activity conducted.
5. The result of the lead identification activity.

Note: To request a summary form, to request approval of an alternative form or to submit a summary, fax to (608) 266-9711 or mail to the Asbestos and Lead Section, Bureau of Occupational Health, Room 117, 1414 E. Washington Ave., Madison, WI 53703-3043.

(7) **WORK PRACTICE STANDARDS.** Upon receiving certification, individuals and lead (Pb) companies shall conduct activities in a manner that does not increase the hazards from lead-based paint to building occupants and, beginning March 1, 1999, shall comply with the work practice standards under s. HFS 163.14 when performing a lead-based paint activity or an activity described as an inspection, lead-hazard screen, risk assessment, abatement or clearance.

HFS 163.14 WORK PRACTICE STANDARDS. (1) **EFFECTIVE DATE AND APPLICABILITY.** Beginning March 1, 1999, all lead-based paint activities, including abatement, lead hazard reduction funded by a HUD lead-based paint grant, clearance, inspection, lead hazard screen, risk assessment, project design and development of an occupant protection plan, shall be conducted according to the procedures and work practice standards contained in this section.

(2) **INSPECTION.** Only a certified lead (Pb) inspector or risk assessor may perform an inspection. In performing an inspection, the certified lead (Pb) inspector or risk assessor shall comply with all of the following:

(a) Select the following locations by using documented methodologies and test for the presence of lead-based paint:

1. In a residential dwelling or child-occupied facility, test each interior component with a distinct paint history and each exterior component with a distinct paint history, except those components that the inspector or risk assessor determines have been replaced after 1978 or do not contain lead-based paint.

2. In a multi-family dwelling or child-occupied facility, test each component with a distinct paint history in every common area, except those components that the inspector or risk assessor determines have been replaced after 1978 or do not contain lead-based paint.

3. When a person requests a partial inspection for purposes of identifying lead-based paint in an area to be renovated or remodeled, select locations that fall within that area in accordance with subd. 1 or 2 above. The inspection shall be based on a written contract that specifies the limits of the partial inspection.

Note: Refer to the note under s. HFS 163.03 (23) for examples of documented methodologies.

(b) Conduct paint analysis by using one or both of the following methods:

1. Analyze paint to determine the presence of lead by using documented methodologies which incorporate adequate quality control procedures.

2. Have all collected paint chip samples analyzed by a recognized laboratory under sub. (7) to determine if they contain detectable levels of lead that can be quantified numerically.

(c) Following an inspection, prepare a written inspection report for submission to the person who contracted for the inspection. The report shall include all of the following information:

1. Date of the inspection.

2. Address of building inspected.

3. Date of construction.

4. Apartment numbers of units inspected, if applicable.

5. Name, address and telephone number of the owner or owners of each residential dwelling or child-occupied facility.

6. Name, address, telephone number, certification number and signature of each certified inspector and risk assessor conducting the inspection.

7. Name, address, telephone number and certification number of the certified lead (Pb) company employing the certified inspector and risk assessor conducting the inspection.

8. Each testing method and device and each sampling procedure used for paint analysis, including quality control data and, if used, the serial number of any XRF.

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.

(3) LEAD HAZARD SCREEN. Only a certified lead (Pb) risk assessor may perform a lead hazard screen. In performing a lead hazard screen, the certified lead (Pb) risk assessor shall comply with all of the following:

- (a) Collect background information on 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 under 6 years of age.

(b) Conduct a visual inspection of the residential dwelling or child-occupied facility to accomplish both of the following:

1. Determine if any deteriorated paint is present.
2. Locate at least 2 dust sampling locations.

(c) If deteriorated paint is present, use documented methodologies to test each surface with deteriorated paint which the risk assessor determines is in poor condition and has a distinct paint history.

Note: Refer to the note under s. HFS 163.03 (23) for examples of documented methodologies.

(d) In residential dwellings, use the standards under sub. (8) to collect 2 composite dust samples, one from the floors and the other from the windows, in rooms, hallways or stairwells where one or more children under 6 years of age are most likely to come into contact with dust.

(e) In multi-family dwellings and child-occupied facilities, use the standards under sub. (8) to collect composite dust samples from common areas where one or more children under 6 years of age are most likely to come into contact with dust in addition to the samples collected under par. (d).

(f) Collect all dust samples by using documented methodologies that incorporate adequate quality control procedures.

(g) Have all collected dust samples analyzed by a recognized laboratory under sub. (7) to determine if they contain detectable levels of lead that can be quantified numerically.

(h) Conduct paint analysis using one or both of the following methods:

1. Conduct the analysis of paint to determine the presence of lead by using documented methodologies which incorporate adequate quality control procedures.

2. Have all collected paint chip samples analyzed by a recognized laboratory under sub. (7) to determine if they contain detectable levels of lead that can be quantified numerically.

(i) Following a lead hazard screen, prepare a written lead hazard screen report for submission to the person who contracted for the lead hazard screen. The report shall include all of the following information:

1. Date of the lead hazard screen.

2. Address of each building screened.
3. Date of construction of buildings.
4. Apartment number of units screened, if applicable.
5. Name, address and telephone number of each owner of each building.
6. Name, address, telephone number, certification number and signature of the certified risk assessor conducting the lead hazard screen.
7. Name, address, telephone number and certification number of the certified lead (Pb) company employing each certified risk assessor conducting the lead hazard screen.
8. Name, address and telephone number of each recognized laboratory conducting analysis of collected samples.
9. Background information collected under par. (a).
10. Results of the visual inspection.
11. Description of testing method and sampling procedure used for paint analysis.
12. Specific locations of each painted component tested for the presence of lead.
13. All data collected from on-site testing, including quality control data and, if used, the serial number of any XRF.
14. All results of laboratory analysis on collected paint, soil and dust samples.
15. Any other sampling results.
16. Recommendations, if warranted, for a follow-up risk assessment and, as appropriate, any further actions.

(4) RISK ASSESSMENT. Only a certified lead (Pb) risk assessor may perform a risk assessment. In performing a risk assessment, the certified lead (Pb) risk assessor shall comply with all of the following:

- (a) Conduct a visual inspection for risk assessment of the residential dwelling or child-occupied facility to locate the existence of deteriorated paint, assess the extent and causes of the deterioration and identify other potential lead-based paint hazards.

(b) Collect background information on 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 under 6 years of age.

(c) Select and test all of the following locations for the presence of lead by using documented methodologies:

1. Each surface with deteriorated paint that is determined to be in poor condition and to have a distinct paint history.

2. Any other surface that is determined to be a potential lead-based paint hazard and to have a distinct paint history.

Note: Refer to the note under s. HFS 163.03 (23) for examples of documented methodologies.

(d) In residential dwellings, collect single-surface dust samples or use the standards under sub. (8) to collect composite dust samples from the window and floor in each living area where a child under 6 years of age is likely to come into contact with dust.

(e) For multi-family dwellings and child-occupied facilities, collect single-surface dust samples or use the standards under sub. (8) to collect composite dust samples from the window and floor in both of the following locations:

1. Common areas adjacent to the sampled residential dwelling or child-occupied facility.

2. Other common areas in the building where the risk assessor determines that one or more children under 6 years of age are likely to come into contact with dust.

(f) For child-occupied facilities, collect single-surface dust samples or use the standards under sub. (8) to collect composite dust samples in each room, hallway or stairwell used by one or more children under 6 years of age and in other common areas in the child-occupied facility where the risk assessor determines that one or more children under 6 years of age are likely to come into contact with dust.

(g) Collect soil samples for analysis of lead concentrations in both of the following locations:

1. Exterior play areas where bare soil is present.

2. Dripline and foundation areas where bare soil is present.

(h) Conduct any paint, dust or soil sampling or testing using documented methodologies that incorporate adequate quality control procedures.

(i) Have any collected paint chip, dust or soil samples analyzed by a recognized laboratory under sub. (7) to determine if they contain detectable levels of lead that can be quantified numerically.

(j) Following a risk assessment, prepare a written risk assessment report for submission to the person who contracted for the risk assessment. The report shall include all of the following information:

1. Date of the risk assessment.
2. Address of each building assessed.
3. Date of construction of buildings.
4. Apartment number of units assessed, if applicable.
5. Name, address and telephone number of each owner of each building.
6. Name, address, telephone number, certification number and signature of the certified risk assessor conducting the risk assessment.
7. Name, address, telephone number and certification number of the certified lead (Pb) company employing each certified risk assessor conducting the risk assessment.
8. Name, address and telephone number of each recognized laboratory conducting analysis of collected samples.
9. Results of the visual inspection.
10. Description of testing method and sampling procedure used for paint analysis.
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.
13. All results of laboratory analysis on collected paint, soil and dust samples.
14. Any other sampling results.
15. Any background information collected under par. (b).
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 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 shall recommend a maintenance and monitoring schedule for the encapsulant or enclosure.

Note: The work practice standards under this subsection do not apply to an environmental investigation conducted in response to a child with lead poisoning. An environmental investigation has a different purpose and, therefore, a different scope and process than a risk assessment. Guidance for conducting an environmental investigation in response to a child with lead poisoning is available in the Wisconsin Childhood Lead Poisoning Prevention & Control Handbook which the department provides to local public health agencies.

(5) **LEAD HAZARD REDUCTION ACTIVITIES.** Only a certified lead (Pb) supervisor, worker or worker-homeowner may perform abatement or HUD LBP grant-funded interim controls. A certified project designer may participate in abatement by designing the abatement project, writing the occupant protection plan or writing the abatement report. In performing abatement or HUD LBP grant-funded interim controls, the certified lead (Pb) supervisor, worker, worker-homeowner or project designer shall comply with all of the following:

(a) Requirement for supervision of a worker. A certified lead (Pb) supervisor shall provide direct supervision when a lead (Pb) worker performs lead abatement or other lead hazard reduction work requiring certification.

(b) Requirement for supervision of a worker-homeowner. A certified lead (Pb) supervisor shall provide general supervision for a certified lead (Pb) worker-homeowner when certification is required under s. HFS 163.10 (1)(a) 3. or 4., (b) or (c) to perform abatement in the homeowner's own nonrental dwelling or real property. General supervision includes being onsite during all work site preparation and the post-abatement cleanup of work areas and being either at the site or available by telephone, pager or answering service and able to be present at the work site in no more than 2 hours at all other times when abatement activities are being performed.

(c) Requirement for ensuring compliance. A certified lead (Pb) supervisor and the certified lead (Pb) company employing that supervisor shall ensure that all lead hazard reduction activities for which certification is required are conducted in a manner that does not increase lead-based paint hazards to the occupant of the dwelling or child-occupied facility and are conducted according to the requirements of this section and all other federal, state and local government requirements.

(d) Requirement for notification of lead hazard reduction. Before performing a lead hazard reduction activity for which certification is required, a lead (Pb) company's supervisor certified under s. HFS 163.12 (2) (d), a certified worker-homeowner, or the person contracting for performance of the lead hazard reduction activity shall notify the department of the activity as follows:

1. 'Original notice.' Except as provided under subd. 2., the supervisor or worker-homeowner shall submit written or verbal notification for receipt by the department not less than 2 work days before the start of the activity.

Note: If verbal notification is given under par. (f), written notification must follow. See par. (f) 3.

2. 'Emergency notification.' In an emergency where a health risk warrants immediate action, a supervisor or worker-homeowner shall make written or verbal emergency notification for receipt by the department before the start of the activity.

3. 'Revised notice.' a. To change the project start date on an existing notice, the supervisor or worker-homeowner shall submit written or verbal revised notification for receipt by the department not less than 2 work days before the activity begins if the new start date is earlier than the original start date or a minimum of one work day before the original start date if the new start date is later than the original start date.

b. To change the project end date on an existing notice, the supervisor or worker-homeowner shall submit written or verbal revised notification as soon as the change is determined, but no later than the original end date.

(e) Written lead hazard reduction notification. 1. 'Form for written notification.' Written notification for a lead hazard reduction activity shall be on the department's notification form or on a form approved by the department and shall include all of the following information:

a. Project details, including the start and end dates, work shifts or hours, whether the project is abatement or interim controls, project activities, quantity of lead-based paint materials in the project, and whether the project was ordered or HUD LBP grant-funded.

b. Lead identification details, including how and when it was identified and the name and certification number of the inspector or risk assessor.

c. Abatement lead (Pb) company details, including name, certification number, address, contact person and telephone number.

d. Facility or dwelling details, including type, occupancy, location, contact person and telephone number and owner and telephone number.

2. 'Acceptable methods for submitting written notification.' Written notification may be sent by U.S. mail, commercial carrier, fax or another method approved by the department.

3. 'Official date of written notification.' The official date of a written notification shall be the date on the department's date of receipt stamp. A notification received after 4:00 p.m. shall be dated as received the next work day.

4. 'Rejection of notification.' The department may reject a notification that is illegible or not complete.

5. 'Retention of original notification.' Any person submitting a fax or other form of notification to the department that does not carry the supervisor's actual original signature shall retain the original notification carrying the supervisor's actual original signature and shall give the original notification to the department upon request of the department's representative.

Note: To request a copy of the Department's notification form, to request approval of a form or method of submission or to submit written notification, contact the Asbestos and Lead Section, Bureau of Occupational Health, Room 117, 1414 E. Washington Avenue, Madison, WI 53703-3043 or fax (608) 266-9711.

(f) Verbal lead hazard reduction notification. 1. 'Acceptable methods for submitting verbal notification.' When verbal notification is appropriate, verbal notification may be made by telephone or in person and shall include all of the following information:

- a. Start and end dates.
- b. Name and certification number of the lead (Pb) company conducting the activity.
- c. Location of the dwelling or facility where the activity will be conducted.

2. 'Official date of verbal notification.' The official date of a verbal notification shall be the date verbal notification is accepted by a representative of the department.

3. 'Written follow-up to verbal notification.' When verbal notification is given, the supervisor, worker-homeowner, or the person contracting for performance of the lead hazard reduction activity shall also submit a written notification within 2 work days after the date of the verbal notification.

Note: To submit verbal notification, phone (608) 261-6876 and send the follow-up written notice to the Asbestos and Lead Section, Bureau of Occupational Health, Room 117, 1414 E. Washington Avenue, Madison, WI 53703-3043.

(g) Requirement for written occupant protection plan for abatement. A certified lead (Pb) supervisor or project designer shall prepare a written occupant protection plan prior to an abatement. The occupant protection plan shall be unique to each residential dwelling or child-occupied facility and shall 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.

(h) Restricted lead hazard reduction work practices. All of the following work practice restrictions apply:

1. 'Open-flame burning or torching.' Open-flame burning or torching of lead-based paint is prohibited.

2. 'Machine sanding, grinding, blasting.' Machine sanding or grinding or abrasive blasting or sandblasting of lead-based paint is prohibited unless used with a high efficiency particulate air (HEPA) exhaust control which removes particles of 0.3 microns or larger from the air at 99.97 percent or greater efficiency.

3. 'Dry scraping.' Dry scraping of lead-based paint is permitted only in the following situations:

a. Dry scraping in conjunction with a heat gun which produces heat at a temperature below 1100°F.

b. Dry scraping around electrical outlets.

c. Dry scraping when treating defective paint spots totaling no more than 2 square feet in any one room, hallway or stairwell or totaling no more than 20 square feet on exterior surfaces.

4. 'Heat gun.' Operating a heat gun which produces heat at a temperature at or above 1100°F is prohibited on lead-based paint.

(i) Conduct of soil abatement. Soil abatement shall be conducted by a certified lead (Pb) worker, worker-homeowner or supervisor in one of the following ways:

1. If soil is removed, the lead-contaminated soil shall be replaced with soil that is not lead-contaminated.

2. If soil is not removed, the lead-contaminated soil shall be permanently covered, with a barrier consisting of solid, relatively impermeable materials, such as pavement or concrete. Grass, mulch and other landscaping materials are not considered permanent covering.

(j) Requirement for clearance of abatement. Following cleanup of the abatement site, clearance shall be conducted according to provisions under sub. (6). The abatement is not complete until a certified lead (Pb) inspector or risk assessor declares in writing that all clearance levels are met.

(k) Requirement for a written abatement report. Following an abatement project, a certified supervisor or project designer shall prepare a written abatement report for submission to the person who contracted for the abatement. The report shall include all of the following:

1. 'Dates.' Start and end dates of the abatement project if different from the dates on the abatement notice.

2. 'Abatement notice.' A copy of the written abatement notice under par. (e) or (f)

3. 'Abatement lead (Pb) company information.' Name, address, telephone number and certification number of each certified lead (Pb) company conducting the abatement project and the name and certification number of each supervisor assigned to the abatement project to the extent that information is not included on an attached abatement notification.

4. 'Occupant protection plan.' The occupant protection plan which was prepared prior to the abatement project.

5. 'Clearance report.' A copy of the clearance report under sub. (6) (j).

6. 'Description of abatement project.' A detailed written description of the abatement project, including abatement methods used, locations of rooms and components where abatement occurred, reason for selecting the particular abatement method used for each component and any suggested monitoring of encapsulants or enclosures.

Note: Rather than repeat information already located elsewhere, the abatement report may include other documents which contain required information, such as an order, contract or abatement notice. For example, to provide a detailed description of the abatement, orders issued by a public health agency may be attached and variances from the order described in the report.

(6) **CLEARANCE.** Only a certified lead (Pb) inspector or risk assessor may perform clearance. In performing clearance, the certified lead (Pb) inspector or risk assessor shall comply with all of the following:

(a) Perform a visual inspection to determine if deteriorated painted surfaces or visible amounts of dust, debris or residue are still present. If deteriorated painted surfaces or visible amounts of dust, debris or residue are present, the abatement lead

(Pb) company shall eliminate these conditions prior to the continuation of the clearance procedures.

(b) Following the visual inspection and any post-abatement cleanup, conduct clearance sampling for lead-contaminated dust by collecting single-surface dust samples or by using the standards under sub. (8) to collect composite dust samples.

(c) Collect dust samples for clearance purposes by using documented methodologies that incorporate adequate quality control procedures.

Note: Refer to the note under s. HFS 163.03 (23) for examples of documented methodologies.

(d) Collect dust samples for clearance purposes a minimum of one hour after completion of final post-abatement cleanup activities.

(e) Conduct all of the following post-abatement clearance activities as appropriate based upon the extent or manner of the abatement:

1. Following an abatement with containment between abated and unabated areas, collect one dust sample from one window, if available, and one dust sample from the floors of not less than 4 rooms, hallways or stairwells within the containment area. In addition, collect one dust sample from the floor outside the containment area. If there are fewer than 4 rooms, hallways or stairwells within the containment area, collect samples from all rooms, hallways or stairwells.

Note: According to The U.S. Department of Housing and Urban Development (HUD) Guidelines for the Evaluation and Control for Lead-Based Paint Hazards in Housing, the floor sample taken outside of containment should be taken within 10 feet of the airlock in order to determine the effectiveness of the containment.

2. Following an abatement with no containment, collect 2 dust samples from not less than 4 rooms, hallways or stairwells in the residential dwelling or child-occupied facility. Collect one dust sample from one window, if available, and one dust sample from the floor of each room, hallway or stairwell selected. If there are fewer than 4 rooms, hallways or stairwells within the residential dwelling or child-occupied facility, collect samples from all rooms, hallways or stairwells.

3. Following an exterior paint abatement, conduct a visual inspection. If visible dust or debris is present on horizontal surfaces in the outdoor living area closest to the abated surface, such as a porch, patio, deck, sidewalk or stoop, the abatement lead (Pb) company shall eliminate these conditions before clearance may continue. In addition, conduct a visual inspection to determine the presence of paint chips on the dripline, next to the foundation, or any other surface below any exterior surface abated. If paint chips are present, the abatement lead (Pb) company shall remove the paint

chips from the site and properly dispose of them according to applicable federal, state and local government requirements.

(f) Select the rooms, hallways or stairwells for sampling by using documented methodologies.

(g) Have collected samples analyzed by a recognized laboratory under sub. (7) to determine if they contain detectable levels of lead that can be quantified numerically.

(h) Compare the residual lead level from each dust sample, as determined by laboratory analysis, with the applicable clearance level for lead in dust on floors and windows. If the residual lead level in a dust sample exceeds the applicable clearance level, all the components represented by the failed sample shall be recleaned by the abatement lead (Pb) company and retested by the person conducting clearance until clearance levels are met. Clearance levels include all of the following:

1. For an uncarpeted floor, 100 $\mu\text{g}/\text{ft}^2$.
2. For an interior window sill, or window stool, 500 $\mu\text{g}/\text{ft}^2$.
3. For a window well, or window trough, 800 $\mu\text{g}/\text{ft}^2$.

Note: Clearance levels established above are the same as clearance levels in EPA's Agency Guidance on Residential Lead-Based Paint, Lead-Contaminated Dust and Lead-Contaminated Soil.

(i) In a multi-family dwelling with similarly constructed and maintained dwelling units, conduct random sampling for purposes of clearance provided that:

1. The persons who abate or clean the dwelling units do not know which dwelling units will be selected for the random sample.
2. A sufficient number of dwelling units are selected for dust sampling to provide a 95% level of confidence that at least 95% of all dwelling units would pass clearance if all dwelling units were sampled. In a housing complex with more than 1,000 dwelling units, no sampled dwelling unit may fail clearance and a sufficient number of dwelling units shall be selected for dust sampling to provide a 95% level of confidence that no more than 5% of all dwelling units or 50 dwelling units, whichever is smaller, would fail clearance if all dwelling units were sampled.

Note: For assistance in selecting the correct sample size, refer to Appendix B of this chapter and to Appendix 12 of the U.S. Department of Housing and Urban Development (HUD) Guidelines for the Evaluation and Control for Lead-Based Paint Hazards in Housing.

3. The randomly selected dwelling units are sampled and evaluated for clearance according to the procedures found in pars. (a) to (h).

(j) Following clearance, prepare a written clearance report for submission to the abatement contractor and the person who contracted for the clearance. The report shall include all of the following information:

1. Date of the clearance.
2. Address of abatement site.
3. Name, address, telephone number, certification number and signature of each certified lead (Pb) inspector or risk assessor conducting the clearance.
4. Name, address, telephone number and certification number of the certified lead (Pb) company employing each certified risk assessor conducting the risk assessment, if applicable.
5. The results of clearance testing and, if applicable, all soil analyses and the name, address and telephone number of each recognized laboratory that conducted the analyses.

(7) **COLLECTION AND LABORATORY ANALYSIS OF SAMPLES.** Any paint chip, dust or soil sample collected by a certified lead (Pb) inspector or risk assessor as part of a lead-based paint activity shall be analyzed by a recognized laboratory.

Note: To obtain a list of recognized laboratories, write or phone the Asbestos and Lead Section, Bureau of Occupational Health, Room 117, 1414 E. Washington Avenue, Madison, WI 53703-3043; (608) 261-6876 or fax (608) 266-9711. The National Lead Information Center (NLIC) Clearinghouse updates the National Lead Laboratory Accreditation Program (NLLAP) list on a monthly basis. An updated list may be obtained by calling NLIC at 1-800-424-5323.

(8) **COMPOSITE DUST SAMPLING.** Composite dust sampling may only be conducted in the situations specified in subs. (3), (4) and (6). If composite dust sampling is conducted, all of the following conditions shall apply:

- (a) A composite dust sample shall consist of at least 2 subsamples.
- (b) All required dust subsamples for any one type of component shall be included in one composite sample.
- (c) A composite dust sample may not consist of subsamples from more than one type of component.

(9) **RECORDKEEPING.** All reports or plans required under this section shall be retained for a minimum of 3 years by the certified lead (Pb) company that prepared the reports or plans.

**SUBCHAPTER III
ACCREDITATION OF LEAD TRAINING COURSES
AND APPROVAL OF TRAINING MANAGERS AND INSTRUCTORS**

HFS 163.20 ACCREDITATION REQUIREMENTS. (1) **REQUIREMENT FOR ACCREDITATION.** No person may offer, advertise, claim to provide or conduct a lead (Pb) training course that is represented as qualifying any person for certification in this state under subchs. I and II unless that training course has received accreditation from the department, has an approved principal instructor, uses only approved instructors and the training provider is owned by or employs an approved training manager.

(2) **ONLY TRAINING COURSES.** Department accreditation is provided only for a specific training course designed for individuals seeking certification or recertification in a discipline under s. HFS 163.10(2), not for a training institution or a training program.

(3) **ONLY IN-STATE COURSES.** The department may grant full training course accreditation only to training courses conducted in Wisconsin. When review of a course is needed to ensure the quality of training received by individuals seeking certification in Wisconsin, the department may, but is not required to, accept and review applications for contingent accreditation from training courses conducted in another state.

(4) **TYPES OF COURSES.** (a) Separate accreditation. Separate accreditation is required for each training course, whether an initial course or a refresher course. A separate application under s. HFS 163.21 is also required for each course, but 2 or more applications may be submitted at the same time.

(b) Initial training course. An initial training course shall be for a specific discipline under s. HFS 163.10(2) and shall meet all requirements of this section and all responsibility provisions of s. HFS 163.25.

(c) Refresher training course. A refresher training course shall be separate and distinct from the initial training course, be for a specific discipline under s. HFS 163.10(2) and meet all accreditation requirements of this section and all responsibility provisions of s. HFS 163.25. A refresher course may not be accredited unless an initial course in the same discipline and by the same training provider is accredited by the department.

(5) **TRAINING RESOURCES.** An accredited training course shall be conducted using facilities, equipment and instructional materials that are adequate to achieve the learning objectives for which the course is offered. Facilities shall have space for classroom, hands-on and field training; instructional material shall be complete and kept up-to-date; and equipment shall reflect current work practices, shall be maintained in proper working condition and shall be licensed and stored in compliance with applicable requirements and regulations. Students shall be given course material that adequately supports the learning goals and objectives of the course and that the student may use

as reference material to enhance compliance with lead-based paint regulations and standards.

(6) APPROVED TRAINING MANAGER. (a) Requirement for a training manager. The training provider or an owner of a training provider business shall be an approved training manager. If the training provider or owner is not eligible for approval as a training manager, the training provider shall employ a training manager who is approved under s. HFS 163.24 (2). The actions of the training manager shall be deemed actions of the owner.

(b) Duties of the training manager. The duties of the training manager include all of the following:

1. Designating a minimum of one principal instructor under sub. (7) (a) for each accredited course.
2. Designating any guest instructors under sub. (7) (b).
3. Developing and implementing a quality control plan under sub. (8) (e).
4. Maintaining the validity and integrity of the course test under sub. (8) (f).
5. Maintaining the validity and integrity of the hands-on skills assessment under sub. (8) (g) to ensure that it accurately evaluates the trainees' performance of the work practices and procedures associated with the course topics under sub. (8) (a).
6. Ensuring that the training course and course personnel comply with all provisions of this chapter.

(7) APPROVED INSTRUCTORS. (a) Principal instructor. Each training course offered shall have a designated principal instructor who is approved under s. HFS 163.24 (3). The principal instructor has the primary responsibility for the organization and teaching of the course and for direct supervision of all guest instructors for the course. An individual may not act as a principal instructor for 2 or more concurrently conducted training courses.

(b) Guest instructor. A guest instructor approved under s. HFS 163.24 (4) may be designated to teach under the direct supervision of a principal instructor or to assist a principal instructor with hands-on instructional activities, hands-on skills assessment or work practice components of a course. A guest instructor may teach or assist with only the specific topics for which the guest instructor has been approved.

(c) Instructors for hands-on instructional activities and skills assessment. An accredited training course shall meet or exceed all of the following instructor requirements for hands-on activities:

1. 'Principal instructor.' At least one principal instructor shall provide direct supervision of each hands-on instructional activity and skills assessment.

2. 'Student-to-instructor ratio.' A student-to-instructor ratio of not greater than 8:1 shall be maintained during hands-on instructional activities and a student-to-instructor ratio of not greater than 5:1 shall be maintained during hands-on skills assessment to ensure adequate instruction and observation of student performance.

3. 'Guest instructors.' One or more guest instructors may assist the principal instructor with hands-on instructional activities and skills assessment.

(8) TRAINING COURSE. (a) Curriculum. An accredited training course shall teach work practice standards that are consistent with s. HFS 163.14 in order to provide students with the knowledge needed to perform the lead-based paint activities they are responsible for conducting. A training course shall meet or exceed the applicable minimum curriculum requirements, including both the minimum number of course training hours and the minimum number of hands-on training hours, as follows:

1. 'Lead (Pb) inspector courses.' A lead inspector training course shall provide a minimum of 24 training hours to persons who have successfully completed worker-safety training. The lead inspector training course shall include lectures, demonstrations, a minimum of 8 training hours of hands-on practice, hands-on skills assessment, a course review and a written course test. The training course shall adequately cover the course learning goals and objectives submitted by the training manager and all of the following topics, which are further described in sub. (1) of Appendix A:

a. Role and responsibilities of a lead (Pb) 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. This topic shall include hands-on instructional activities and hands-on skills assessment.

e. Paint, dust and soil sampling methodologies. This topic shall include hands-on instructional activities and hands-on skills assessment.

f. Clearance standards and testing, including random sampling. This topic shall include hands-on instructional activities and hands-on skills assessment.