ORDER OF THE
DEPARTMENT OF HEALTH SERVICES

The Wisconsin Department of Health Services proposes to repeal ch. HFS 159 Appendix A, and to repeal and recreate chapter HFS 159, relating to the training and certification of individuals performing regulated asbestos abatement activities, the certification of companies providing regulated asbestos activities, the accreditation of asbestos training courses, the approval of asbestos training instructors, and the responsibilities of designated school asbestos coordinators, and affecting small businesses.

Analysis Prepared by the Department of Health Services

Statute(s) Interpreted: Sections 254.20 and 254.21, Stats.

Statutory Authority: Sections 250.04 (1) and (2), 254.20, and 254.21, Stats.

Explanation of agency authority:
Section 250.04 (1), Stats., gives the Department general supervision throughout the state of the health of citizens and authorizes the Department to enter and inspect private property. Section 250.04 (2), Stats., gives the Department all powers necessary to fulfill its public health duties and to bring action in the courts for the enforcement of public health statutes and rules.

Section 254.20, Stats., authorizes the Department to promulgate rules establishing certification requirements for any person who conducts or supervises any asbestos abatement or management activity. Section 254.20 (5), Stats., authorizes the Department to promulgate rules to set certification fees.

Section 254.20 (9), Stats., authorizes the Department to promulgate any rule it deems necessary to administer the asbestos certification requirements under section 254.20, Stats.

Section 254.21, Stats., authorizes the Department to promulgate rules regulating asbestos in schools.

Related Statute(s) or rule(s):
Chapter NR 447, Wis. Adm. Code, Control of Asbestos Emissions.
Chapter HFS 163, Wis. Adm. Code, Certification for the Identification, Removal and Reduction of Lead-Based Paint Hazards.

Plain language analysis:
Chapter HFS 159 establishes certification and training accreditation requirements for persons who perform asbestos abatement or management activities. The Department proposes to repeal and recreate ch. HFS 159 and Appendix A to achieve the following goals:

Increase program revenues. When chapter HFS 159 was promulgated in 1988, fees were established to implement asbestos training and certification requirements. Fees have not been adjusted since 1988 and are no longer sufficient to support the program. To provide needed program funding, the Department proposes the following additional fees:

- An increase in individual certification fees of $25 per discipline
- New fees for company certification $200 for exterior abatement companies, $400 for other companies for two-year certifications
- New fees for asbestos abatement notification - $50 for 2-day or more notice, $100 for less than 2-day notification
- New fee for principal instructor approval - $50
- Revised training course fees - annual accreditation fees of $150 per refresher course and $300 per initial course.

Distribute fees so that persons using more services/resources pay a greater share of program operating costs. Fees for training courses will be assessed annually rather than once to better offset the cost of Department resources required to review and audit training programs on a regular basis. Certification and project notification fees for asbestos companies will be added so that companies share the regulatory burden with certified individuals, since companies make many of the compliance decisions for the work they perform. Company fees will help offset the cost of Department work sites inspections. More active companies will pay a greater share of notification fees than less active companies.

Increase options and flexibility for individuals and companies. The proposed rule would:

- Allow an individual to work with provisional certification after the individual has completed training and submitted a certification application.
- Reduce initial training and certification requirements for exterior supervisors from 5 days to 2 days and for exterior workers from 4 days to 1 day.
- Reduce annual refresher training requirements for exterior supervisors from 4 hours to 2 hours and for exterior workers from 4 hours of training from an accredited training provider to a requirement for annual update training that may be provided by the employer or other provider.
- Shorten the project notification requirement from 10 days prior notice to 2 days or less notice.
- Limit the types of projects for which the Department must be notified to generally projects for which notification to the WI-DNR under ch. NR 447 is not required.

Reduce paperwork. Under most circumstances**,** the proposed rule eliminates the current requirement that a company submit asbestos abatement activity notifications to both DHS and DNR, as the company would only submit notification to one agency depending on the size or type of project.

Better protect employees and building occupants. The proposed rule would require persons be certified before conducting regulated asbestos work in any structure except the person's own single-family house. This would better protect both workers and occupants of small rental apartment buildings, because the current rule allows an owner to use untrained, uncertified employees to do asbestos work in residential buildings with fewer than 10 units, and this work poses a substantial risk that the workers will be exposed to asbestos and buildings in which others live will be contaminated.

In addition, the proposed rules would require an abatement company to develop an occupant protection plan and post it onsite whenever conducting abatement in an occupied building. The plan would outline the measures the company would take to ensure proper containment of asbestos during the abatement project. This would help occupants determine if the contractor was working safely and following the plan.

Assist schools in complying with federal AHERA regulations. The proposed rule would require a school to annually submit contact information for its designated asbestos coordinators (required under EPA regulations) to facilitate better communication between the school and the Department regarding asbestos issues.

Improve worker compliance options and safeguards. The proposed rule would require training course providers to collect additional identifying information on students attending training courses. Specifically, training providers would be required to review student ID's, take and print student photos on training certificates, and electronically submit student photos and class training rosters to the Department. This will ensure that the person who attends training is the same person who applies for and receives certification from the department.

Individuals entering Wisconsin from other states would be required to take an initial or refresher training course in Wisconsin to qualify for Wisconsin certification. This would help control individuals who come into Wisconsin and attempt to perform regulated asbestos work without proper training based on falsified or unreliable training documents. The Department has encountered several

individuals with out-of-state training certificates for English language courses, who did not speak English well enough to have understood the training they took. Wisconsin has accredited asbestos worker training courses in both English and Spanish.

The proposed rule would also require that an individual conducting regulated asbestos work be associated with a certified asbestos company. The certified company would be responsible for ensuring proper certification of individuals conducting asbestos work for it, properly supervising its asbestos abatement work sites, notifying the Department of its regulated abatement activities, and maintaining records of its regulated asbestos activities. Enforcement actions could be taken against the company for failure to ensure compliance with these requirements.

Summary of, and comparison with, existing or proposed federal regulation:
The Federal Asbestos Hazard Emergency Response Act (AHERA), signed into law in 1986 as Title II of the Toxic Substances Control Act (TSCA), establishes rules and guidance for the management of asbestos-containing materials in schools, grades K-12. To accomplish this, AHERA:

1. Promulgates regulations providing the framework for addressing asbestos hazards in schools.
2. Directs K-12 schools to conduct asbestos inspections, develop management plans for asbestos in their schools and conduct asbestos response actions in a timely manner.
3. Authorizes states to develop accreditation and certification programs for inspectors, management planners, project designers and abatement contractors based on EPA's model accreditation plan.

In 1987, the EPA published the Asbestos Containing Materials in Schools regulation, 40 CFR Part 763, Subpart E, to implement the provisions of AHERA. The Asbestos School Hazard Abatement Reauthorization Act (ASHARA) of 1992 extended part of the AHERA regulations to other public and commercial buildings, including multi-family residences. Subsequent revisions to Subpart E made in 1994 created Appendix C, the Asbestos Model Accreditation Plan, including the requirements under which EPA approved state asbestos accreditation and certification programs. Appendix C to Subpart E established federal training and certification requirements for persons conducting asbestos abatement and management activities in buildings, and the minimum training course requirements for five disciplines: asbestos supervisor, asbestos worker, asbestos inspector, asbestos management planner and asbestos project designer. The Department is approved by EPA to administer Wisconsin's asbestos certification and training accreditation program under Appendix C in lieu of EPA administering the federal program in Wisconsin.

The following additional federal EPA regulations also apply to asbestos work:
- 40 CFR 763, Subpart G, asbestos worker protection for public employees.
- 40 CFR 61, Subpart M, National Emission Standards For Hazardous Air Pollutants (NESHAP). The Department of Natural Resources administers the EPA-delegated NESHAP program in Wisconsin.

The following federal OSHA regulations apply to asbestos work:
- 29 CFR 1910, which provides standards for asbestos work in general industry.
- 29 CFR 1926.1101, which provides standards for asbestos work in construction.

Comparison with rules in adjacent states:
Comparison States: Illinois, Iowa, Michigan, Minnesota and Ohio. Wisconsin is located in EPA Region 5 along with Illinois, Indiana, Michigan, Minnesota and Ohio. Since Ohio has a more recently revised asbestos rule than any of the adjacent states, it has been included in this comparison.

Comparison of Certification and Accreditation: All of the comparison states require certification of asbestos companies and individual certifications for asbestos worker, asbestos supervisor, asbestos inspector, asbestos management planner (except Ohio) and asbestos project designer disciplines**.** Some states certify additional disciplines, such as asbestos project manager (Illinois), and asbestos air sampler (Illinois, Ohio). Wisconsin currently certifies asbestos roofing supervisors and workers,

which none of the other states do, and proposes replacing these disciplines with exterior supervisor and exterior worker disciplines.

All the comparison states, except Iowa, approve and accredit asbestos training courses and charge application and annual course accreditation fees to training providers. Asbestos training courses in Iowa must be directly approved by EPA; however, since EPA no longer approves asbestos training courses, Iowa currently has no means of allowing new training courses or training providers into the state.

Certification and Accreditation Fee Comparisons: All of the states charge annual fees for certifying companies and individuals conducting asbestos work. All, except Iowa, and Wisconsin under existing rule, charge annual training course accreditation fees ranging from $200 to $900 per course. Existing Wisconsin rule requires only a one-time accreditation fee for training courses ($750 for initial and $250 for refresher). See Table 1 below for state comparisons.

Table 1: Comparison of State Fees

States	Iowa	Illinois	Minnesota	Michigan	Ohio	Wisconsin
Regulation	Ch. 155, IAC	77 IAC Part 855	MR Ch. 4620.3000-3724	Act 135 of 1986 s. 338.3101-3319 Act 440 of 1988 s. 338.3401-3418	OAC Ch. 3701-34	Ch. HFS 159, WAC
Year current fees were established:	**1988**	**1988**	**1988**	**1996**	**2004**	**Proposed**
Asbestos Companies			**Fees**			
	$500 for 1 year	$750 for 1 year	$100 for 1year	$200 (1-4 emps) $400 (5+ emps) for 1 year	$750 for 1year	$200 (exterior company) $400 (asbestos company) for 2 years
Individual Disciplines			**Annual Fees**			
Asbestos Inspector – Initial/Renewal	$20	$50	$100	$150 / $75	$200	$175
Asbestos Management Planner - Initial/Renewal	$20	$50	$100	$150 / $75	NA	$125
Asbestos Project Designer – Initial/Renewal	$50	$50	$100	$150 / $75	$200	$175
Asbestos Supervisor – Initial/Renewal	$50	$75	$50	$50 / $25	$200	$125
Asbestos Worker – Initial/Renewal	$20	$25	$50	$50 / $25	$50	$75
Replacement cards	$10	$15	$25	$25	$20-$200	$25
Course Accreditation – Annual			**Annual Fees**			
Initial Courses	NA	$500	$500/$250*	$200	$900	$300
Refresher Courses	NA	$500	$500/$250*	$200	$300	$150
Project Notification			**Per Project Fees**			
Asbestos abatement activities	NA	$150 or $300	1% of project cost or $35 if small project	1% of project cost	$65-$75 or more	$50-$100 (DHS); $75 - $750 (DNR)

* First year is $500. Thereafter, course renewal is $250.

Asbestos Abatement Activity Notification Requirement Comparison: All of the state programs require that asbestos abatement activity notification be submitted before asbestos work begins. Most of the states charge notification fees. The Department currently does not.

- Iowa DNR requires 10 days notification but does not charge a notification fee.
- Illinois EPA requires 2 days notification for projects removing more than 160 square feet, 260 linear feet or 35 cubic feet of asbestos and charges a $150 notification fee and $300 for late notifications.

- Michigan Dept. of Labor and Economic Growth requires 10 days notification for projects removing in excess of 10 linear feet or 15 square feet and charges a notification fee that is 1% of project cost.
- Minnesota Dept. of Health requires 5 days notification and charges 1% of the asbestos contract total or $35 for small residential projects. Minnesota also requires individual notifications as soon as possible before the beginning of each portion of a project covered under a 1-year blanket notification where asbestos removal over the course of the year is expected to exceed 160 square feet or 260 linear feet.
- Ohio Dept. of Health requires 10 days notification and charges $65 per notification. The Ohio EPA charges $75 per notification plus an additional $3 per every 50 square feet or linear feet of asbestos removed or an additional $4 for every cubic yard of asbestos removed.

Comparison of Other Program Elements by State:

Iowa: Ch. 155, Iowa Administrative Code –

- Regulates the removal or disturbance of asbestos that is friable or becomes friable (no minimum amount provided); does not differentiate between interior and exterior asbestos work.
- Requires asbestos company certification if company conducts asbestos work for compensation.
- Does not require certification for employees of companies that only conduct asbestos work in their own facilities, but does require training and compliance with regulations.
- Requires training and certification for a person to conduct regulated asbestos work on schools, public and commercial buildings, except for residential buildings of fewer than 10 units.
- Requires applicants for asbestos company certification to submit a description of personal protection activities.

Illinois: Title 77 Illinois Administrative Code, Part 855, "Asbestos Abatement For Public and Private Schools and Commercial and Public Buildings In Illinois" –

- Requires training and certification for a person before performing asbestos abatement of amounts of asbestos in excess of 3 square feet or 3 linear feet on the interior of commercial or public buildings, excluding residential buildings of fewer than 10 units.
- Imposes experience requirements for certifications in all disciplines except asbestos worker.
- Requires certification for companies removing, enclosing or encapsulating friable asbestos containing building material in school, public or commercial buildings.
- Requires applicants for asbestos company certification to carry a minimum of $1,000,000 liability insurance from an A-rated insurer, to have a designated certified supervisor, and to submit project information including standard operating procedures and employee protection plans.
- Requires certification for additional disciplines of Air Monitor and Project Manager.
- When renewal applications are received after the certification expiration date, charges the initial fee for the discipline plus a reinstatement fee that is double the certification fee (i.e., $50 worker fee plus $100 reinstatement fee) for reinstatement.
- Requires a person to retake the initial training course for the discipline if the person's training certificate has been expired for more than one year without the person taking the required refresher.

Michigan: Act 135 of 1986, s. 338.3101-3319 and Act 440 of 1988, s. 338.3401-3418 –

- Requires training and certification for a person to perform asbestos demolition, renovation or encapsulation of friable asbestos materials on the premises of another entity.
- Requires asbestos company certification for companies that remove or encapsulate friable asbestos for another entity.
- Requires applicants for asbestos company certification to submit proof of workers' compensation insurance and a statement of whether they carry liability insurance.

- Requires post-abatement air monitoring checks performed by a neutral party and a clearance level not exceeding 0.05 fibers per cubic centimeter at all asbestos abatement sites where there was a negative pressure enclosure involving 10 linear feet or 15 square feet or more of friable asbestos.
- Imposes experience requirements for persons applying for asbestos management planner, project designer and inspector certifications.
- Charges the initial certification fees for renewal applications received after the certification expiration date; otherwise charges renewal fees equal to one half the initial certification fees.

Minnesota: MR Ch. 4620.3000-3724 –

- Requires training and certification for a person to perform asbestos work involving friable asbestos-containing material in amounts over 160 square feet, 260 linear feet or 35 cubic feet, or to perform asbestos work in residential buildings of 4 or fewer units involving friable asbestos-containing material over 6 square feet, 10 linear feet or 1 cubic foot.
- Requires applicants for asbestos company certification to submit proof of workers' compensation insurance, to have a responsible person who is a certified supervisor, and to have a Minnesota business identification number.
- Requires completion of a Minnesota-accredited training course (initial or refresher) before a person may be certified to conduct asbestos work in Minnesota.
- Establishes experience and/or education requirements for all disciplines.
- Requires an applicant to retake initial training when the renewal application is received after the certification expiration date.
- Requires compliance with detailed work practice standards.
- Requires indoor air monitoring and clearance air sampling for all interior asbestos abatement activities.
- Allows asbestos supervisors or workers to conduct air monitoring.

Ohio: OAC Ch. 3701-34 –

- Requires training and certification for persons to perform asbestos work involving the removal, renovation, enclosure, repair or encapsulation of greater than 50 linear feet or 50 square feet of friable asbestos-containing material.
- Requires an applicant for asbestos company certification to be a state-registered business.
- Requires an applicant for asbestos company certification to submit a description of personal protective equipment and clothing it will use, procedures for safely handling and disposing of the protective equipment and clothing to prevent contamination, and work practice procedures for hazard reduction, site decontamination, air monitoring, waste handling and final clean-up.
- Requires an asbestos company to employ a certified asbestos specialist (supervisor).
- Requires a certified abatement air monitoring technician to conduct air clearance following abatement, but allows asbestos inspectors to take air samples.

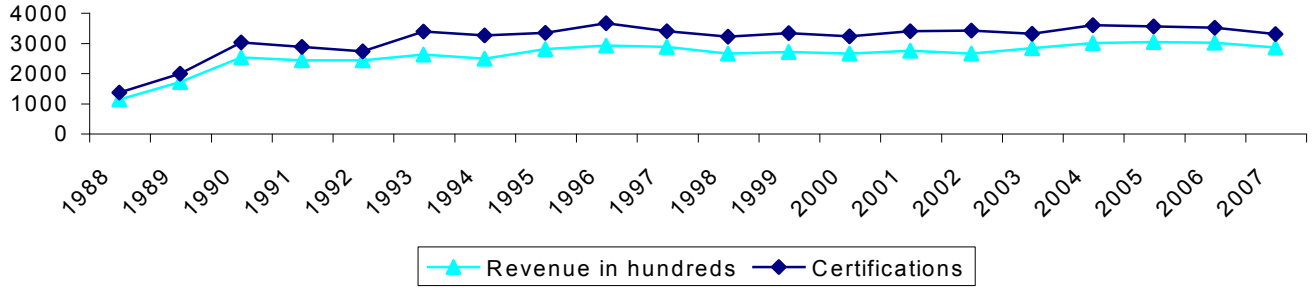
Summary of factual data and analytical methodologies:

The Department conducted an analysis using Department data to determine the fiscal status of the asbestos certification program. Initially, the Department reviewed North American Industry Classification System (NAICS) data, but this data grossly underestimated the number of companies involved with asbestos remediation in Wisconsin. Therefore, the Department analyzed data in the Wisconsin Asbestos and Lead Database Online (WALDO) to determine and compare, by year, the numbers of initial and renewal certifications issued, revenues received, and asbestos employers in the state.

A comparison of the number of certifications processed since program inception shows that the numbers have remained relatively steady since 1993, generally fluctuating between 3,200 and 3,500. Even though there has been a small upward trend in the number of persons certified over the past several years, the higher cost disciplines (management planners and project designers) have decreased in numbers. This has resulted in flat income over the past 14 years. Fees collected from

certifications have not kept pace with the 60% increase in the Midwest urban consumer price index over this time period. Beginning in State Fiscal Year 2004, asbestos program revenues have not been sufficient to cover program expenses, resulting in a program deficit. The most recent budget information available indicates that the program is operating with a deficit of approximately $300,000. This deficit is projected to increase to nearly $400,000 by the end of SFY08 as program expenses increase and revenues remain flat.

Figure 1: Comparison of Number of Asbestos Certifications to Asbestos Revenue



The Department met with asbestos companies and workers early in the rule development period to learn of each group's concerns and issues before further rule development. A public meeting for the asbestos industry was held on May 5, 2004 to solicit comments on the proposed rule. On July 1, 2004, Department staff met with asbestos training providers to discuss proposed changes. Information about the effect of the proposed rule changes on schools was e-mailed to certified school staff, CESA directors, and school associations on July 26, 2004 and their input was solicited. Department staff met with the roofing contractors on September 30, 2004, to discuss issues affecting them. Additionally, at the 2004 and 2005 fall statewide asbestos conferences, Department staff presented information about asbestos rule changes and solicited additional comments. Each meeting led to significant revisions to the proposed rule and consensus with the affected entities regarding the provisions and fees in the draft rule.

Pursuant to the Department's criteria, a proposed rule will have a significant economic impact on a substantial number of small businesses if at least 10% of the businesses affected by the proposed rules are small businesses and if operating expenditures, including annualized capital expenditures, increase by more than the prior year's consumer price index (CPI) or reduces revenues by more than the prior year's CPI. For the purposes of this analysis, we used 2006 as the index year; the 2006 CPI was 3.2%.

Analysis and Supporting Documents Used to Determine Effect on Small Business or in Preparation of Economic Impact Report

COSTS OF PROPOSED REGULATIONS AND ALTERNATIVE ACTIONS

Entities affected: The entities affected by the proposed rule include:

- Entities engaged in asbestos-regulated activities: (Source: WALDO)
  - Total number of entities directly regulated: 2,300 *(includes approximately 300 abatement contractors, 90 roofing contractors, 275 asbestos consultants, 30 non-asbestos businesses with certified staff, 426K-12 school districts and 969 private K-12 schools, 175 government agencies, 25 colleges/universities, and 10 asbestos training providers)*
  - Total small business entities directly regulated: Approximately 600
  - Total non-profit organizations (including colleges, trade unions, etc.): 40
- Number of certified individuals: 3,300 (Source: WALDO)
- Number of people: 5,563,896 Wisconsin residents, including approx. 950,000 school age children are affected because of the pervasive presence of asbestos in buildings, schools and other structures.(Source: WisStat online)

- School districts/schools: (Source: DPI. All public and private not-for-profit K-12 schools are required to comply with the EPA AHERA regulations)
  - Public K-12 School Districts: 426
  - Private K-12 Schools: 968

Regulatory Costs:
Capital Costs: None. The proposed regulations would not require any capital cost expenditures.

Operational Costs: Vary from none to an average of $5.50 per project for abatement contractors. For training providers, operational costs would be expected to range from $8 to $20 per class held, depending on the number of students in attendance. In addition, training providers may need to update their own computer databases to add the two new course disciplines and may need to upgrade data storage capacity or obtain high-speed Internet access to handle digital student photos. Access to the Department's online database for entering course schedules is free of charge. Training providers need Microsoft Excel to submit spreadsheets of course rosters and the ability to email photos.

Ongoing transaction costs: Company certification fees would be $400 for two years for an asbestos company and $200 for two years for an exterior asbestos company. Because high certification fees would place a greater financial burden on small businesses, the Department chose to impose lower company certification fees than those of most neighboring states. (See Table 1) The proposed rule also incorporates a modest $50 asbestos abatement activity notification fee. Since notification fees are paid to the Department only when an asbestos abatement activity is scheduled, companies doing more regulated asbestos abatement activities will pay a greater share of the regulatory costs. No loss of business is expected because of this additional fee.

Individual certification fees for the seven asbestos disciplines would increase modestly. While businesses may pay for their employees' certifications, they are not required to do so.

Annual training course accreditation fees would be $150 for each refresher course and $300 for each initial course under the proposed rule. A company with accredited courses in all the possible disciplines (7 initial and 6 refresher courses), would pay $3,000 per year in course accreditation fees. Based on the average number of persons certified per year and the number of accredited courses in the state, the training provider cost would average about $4 per student. For training courses already accredited under existing rule, course accreditation fees would not be due until one year after the publication date of the proposed rule.

Barriers to Entry and Expansion: The Department does not expect the proposed rules to add barriers to entry into the asbestos remediation industry. Training course fees are somewhat higher because more resources are required to review and approve training courses and conduct onsite course audits to determine if each training course meets regulatory standards.

Employment Effects: No detrimental or adverse effects on employment within the affected regulated entities are expected.

COMPARING REGULATIONS: COSTS AND BENEFITS

Summarizing Aggregate Costs

Costs to the Department: No additional FTE, supply, travel or training costs are expected. A one-time approx. $20,000 cost will be required to upgrade the electronic database platform to handle new disciplines, fee changes and company certification.

The current asbestos program has operated under the same fee structure, without change, for 20 years. The costs of administering the program now exceed income.

Costs to business: Under the current rule, certified individuals bear most of the regulatory costs, with individual certifications making up 99.4% of the annual asbestos revenue collected by the Department. The proposed rule would spread these costs more evenly among all regulated sectors of the industry, increasing the share of costs borne by asbestos companies and training providers. Businesses (contractors, consultants and training providers) would pay 33% of overall regulatory costs, while individuals would pay 67% of costs. The average additional annual expense for businesses would be approximately $750 (based on company certification fees, notification fees, and administrative costs), which could be passed along to customers. Less active businesses would pay less in annual expenses because they would pay for fewer notifications to the Department.

Table 3: Aggregate Annual Costs for Asbestos Businesses and Certified Individuals

	Cost Distribution under Proposed Rule		Cost Distribution under Current Rule	
Fee:	**# Units x Cost**	**Total**	**# Units x Cost**	**Total**
Company certification fees (2-years*)	250 x $400	$100,000		$ N/A
Exterior company certification fees	75 x $200	15,000		N/A
Project notification fees with 2-day notice	1,400 x $50	70,000		N/A
Project notification fees with 1-day notice	200 x $100	20,000		N/A
Sub-Total		$205,000		$ 0
Individual annual certification fees**				
Asbestos Worker	675 x $75	$ 50,625	675 x $50	$ 3,750
Asbestos Supervisor	1,300 x $125	162,500	1,300 x $100	130,000
Exterior Worker (1-time fee***)	450 x $125	56,250	450 x $25/yr	11,250
Exterior Supervisor	150 x $75	11,250	150 x $50	7,500
Asbestos Inspector	575 x $175	100,625	575 x $150	86,250
Asbestos Management Planner	75 x $125	9,375	75 x $100	7,500
Asbestos Project Designer	75 x $175	13,125	75 x $150	11,250
Sub-Total		$ 403,750		$ 287,500
Training Provider fees				
Annual accreditation fee - initial	31 x $500	$15,500		N/A
Annual accreditation fee - refresher	22 x $250	5,500		N/A
Sub-Total		$21,000		$ 0
Instructor approval fees	25 x $50	1,250		N/A
Sub-Total		$ 1,250		$ N/A
Total annualized costs		**$629,750**		**$ 287,500**

* Program revenue will be high the first year and much lower in the second year. Year one yields an estimated $115,000 in revenue from company certifications while year two yields only $18,000. The department expects about 25 new asbestos company certifications in the second year, providing no more than $10,000 in this category. The department expects about 40 new exterior company certifications in year two, providing no more than $8,000.

** Numbers based on 2007 numbers of certified persons, training courses and instructors and active companies based on notifications received. Exterior Worker/Supervisor certification numbers are based on current Roofing Worker/Supervisor certification numbers.

*** The Exterior Worker is a non-expiring certification under proposed rule. New certifications would drop very significantly after year one.

Evaluating the Overall Regulatory Impacts

The benefit of an effective regulatory program is better compliance by companies and individuals, ensuring that public health is protected because workers use safe work practices that protect themselves and others. The costs of regulating such an industry are borne by that industry and those who use their specialized services. The end result is that hazardous asbestos work is conducted by trained and certified persons working for certified companies, the environment is protected, and public health is protected.

In determining the regulatory impacts, the Department addressed the following issues:

(a) Establishment of less stringent compliance/reporting requirements.

The department has a very clear public health responsibility relating to protecting the general public, building occupants, and workers from exposure to hazardous airborne asbestos fibers created when asbestos-disturbing work is conducted in or on buildings and structures. The responsibility to ensure protection of public health, in our view, overrides the establishment of less stringent compliance and reporting requirements. The asbestos program requires notifications from the industry to assist the department in providing adequate monitoring of asbestos activities. Without these notifications and records retention, the department would not be able to provide the oversight needed to ensure proper certification and occupant protection during hazardous asbestos activities. The department, therefore, did not establish less stringent compliance or reporting requirements.

(b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses.
The department considered and incorporated less stringent schedules for submitting asbestos abatement activity notifications to assist companies with compliance. The notification requirement was reduced from 10 days prior notice to 2 days or less prior notice. In addition, the department attempted to ease the regulatory burden of notifying two different agencies, DHS and DNR, by eliminating the requirement for submitting duplicate notifications to both agencies. Under the proposed rule, notifications will generally go to only one agency depending on the location, amount or type of material being removed.

(c) The consolidation or simplification of compliance or reporting requirements for small businesses.
The three reports abatement contractors are required to complete under the proposed rule were designed for ease of use and were kept to no more than one page in length. The only report that must be submitted to the department is the project notification. The other forms must either be posted or kept at the work site while work is in progress and then retained by the company for 3 years. The reports assist the department in conducting inspections to determine the compliance status of the company.

(d) The establishment of performance standards for small businesses to replace design or operational standards required in the rule.
The hazardous nature of asbestos work, and the department's responsibilities for ensuring public health, require a level of oversight that does not leave the industry in charge of its own compliance or meeting performance standards that are reviewed only after-the-fact.

(e) The exemption of small businesses from any or all requirements of the rule.
The majority of asbestos industry businesses in the state meet the definition of "small business." If small businesses were exempt from the requirements of the rule, there would effectively be no regulation for hazardous asbestos work in Wisconsin. In fact, this industry exists as an industry precisely because asbestos work is regulated. Without asbestos regulations, general contractors could rip out asbestos components and create hazardous conditions that expose workers, occupants and others to asbestos fibers without any regulatory considerations or oversight. There would be no need for specialized asbestos abatement companies, asbestos inspectors or asbestos training providers.

The consequences if asbestos work was not regulated would be a higher rate of asbestos-related diseases and deaths, particularly among people who do building renovation and demolition work. Overall, healthcare costs and hospitalization would rise and worker productivity would decline due to increased incidence of asbestos-related diseases.

Effect on Small Business:
The proposed rule recreation with additional and increased fees would affect a significant number of small businesses; however, it would have a significant economic impact only on certain training providers.

Agency contact person:

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Place where comments are to be submitted and deadline for submission:
Comments may be submitted to the agency contact person listed above until the date given in the upcoming notice of public hearing. The deadline for submitting comments and the notice of public hearing will be posted on the Wisconsin Administrative Rule Website at http://adminrules.wisconsin.gov when the hearing is scheduled.

TEXT OF PROPOSED RULE

SECTION 1. Chapter HFS 159 is repealed and recreated to read:

CERTIFICATION AND TRAINING COURSE REQUIREMENTS FOR ASBESTOS ACTIVITIES

SUBCHAPTER I GENERAL PROVISIONS

159.01 Authority and purpose.
159.02 Applicability
159.03 Approved comparable compliance
159.04 Definitions

SUBCHAPTER II CERTIFICATION REQUIREMENTS FOR INDIVIDUALS

159.05 Certification of an individual
159.06 Exceptions to certification
159.07 Application requirements for initial and renewal certification
159.08 Certification and other fees
159.09 Provisional certification
159.10 Department decisions on initial and renewal applications for certification
159.11 Certification effective dates and expiration dates
159.12 Initial and refresher training requirements
159.13 Responsibilities of individuals conducting regulated asbestos activities

SUBCHAPTER III ASBESTOS COMPANY CERTIFICATION REQUIREMENTS

159.14 Certification for asbestos companies
159.15 Application requirements for initial and renewal asbestos company certification
159.16 Company certification fees
159.17 Department decisions on initial and renewal applications for company certification
159.18 Company certification effective dates and expiration dates
159.19 General responsibilities of asbestos companies
159.20 Asbestos abatement notification
159.21 Responsibilities when conducting asbestos abatement
159.22 Responsibilities when providing an accredited training course

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SUBCHAPTER I GENERAL PROVISIONS

HFS 159.01 Authority and purpose. This chapter is promulgated under the authority of s. 254.20 Stats., to establish requirements for certification and training for any person who performs or supervises any asbestos abatement activity or any asbestos management activity, and under the authority of s. 254.21, Stats., to establish rules to manage asbestos in schools.

HFS 159.02 Applicability. (1) Except as provided under s. HFS 159.06, this chapter applies to any person that performs, claims to perform, offers to perform, supervises, or offers to supervise an asbestos abatement activity or asbestos management activity, as an individual or company, or who owns, conducts or offers to conduct a training course to qualify a person for certification under this chapter.

(2) For purposes of this chapter, all suspect asbestos-containing material shall be treated as asbestos-containing material.

HFS 159.03 Approved comparable compliance. (1) The department may, upon request or its own initiative, approve an alternative to any requirement in this chapter, which is not mandated by state statue or federal law, if the department determines that the alternative is as protective of human health and the environment as the requirement.

(2) A request for approval of an alternative to a requirement shall be made in writing to the department and include all of the following:

(a) Identification of the specific rule requirement for which the alternative is requested.

(b) The reason for the request.

(c) A description of the alternative.

(d) The time period for which the alternative is requested.

(e) Proof that the alternative is as protective of human health and the environment as strict compliance with the rule.

(f) Any other information requested by the department.

(3) Within 30 days after receiving a written request for comparable compliance, the department shall approve or deny the request in writing. If the department denies the request, the reason for the denial shall be stated. If the department approves a request for alternative compliance, the department may do any of the following:

(a) Impose any condition on an alternative which the department deems necessary.

(b) Modify the alternative.

(c) Limit the duration of an alternative.

(d) Revoke approval of an alternative if any of the following occurs:

1. The alternative adversely affects the health, safety or welfare of persons or the environment.

2. The person fails to comply with any terms or conditions of the approval.

3. There is a change in applicable law.

(4) The department may charge a fee of up to $100 to review a request for an alternative.

(5) The department's denial of a request for comparable compliance is a final decision of the department and is not subject to a hearing under s. HFS 159.46.

HFS 159.04 Definitions. In this chapter:

(1) "Accreditation" means approval by the department of a training course for a specific discipline based on its compliance with subch. IVhttp://folio.legis.state.wi.us/cgi-bin/om_isapi.dll?clientID=103355443&infobase=code.nfo&jump=subch.%20III%20of%20ch.%20HFS%20159&softpage=Document - JUMPDEST_subch. III of ch. HFS 159.

(2) “AHERA” means 40 CFR 763, Subpart E, the asbestos-containing materials in schools rule promulgated by EPA under the authority of 15 USC 2643, the asbestos hazard emergency response act of 1986 as amended by the asbestos school hazard abatement reauthorization act of 1990.

(3) "Asbestos" means chrysotile, crocidolite, amosite, fibrous tremolite, fibrous actinolite or fibrous anthophyllite.

(4) "Asbestos abatement activity" means any activity that disturbs asbestos-containing material, including but not limited to, the repair, enclosure, encapsulation, or removal of asbestos-containing material and the repair, operation, service, maintenance, renovation or demolition of any part of a facility where asbestos-containing material or suspect asbestos-containing material is present, including all associated set up of work-site containment, clean-up and loading-out of asbestos-containing material for disposal and any air sampling or air monitoring conducted before, during or after the activity to determine that the containment or regulated area is intact or that clean-up is complete and the containment or regulated area can be disassembled.

(5) “Asbestos company” means a person that performs, supervises, or offers to perform or supervise a regulated asbestos activity. “Asbestos company” includes an exterior asbestos company.

(6) "Asbestos-containing material" or “ACM” means a material or product that contains more than 1% of asbestos, as determined using the method specified in 40 CFR Part 763, Appendix E to Subpart E, Section I, “Polarized Light Microscopy,” and a material meeting the definition of suspect asbestos-containing material.

Note: In Appendix E to Subpart E, 40 CFR Part 763, Section I, EPA describes the acceptable method of identifying asbestos-containing materials, which uses polarized light microscopy (PLM). If the asbestos content of friable asbestos-containing material is less than 10%, as determined by a method other than point counting by PLM, EPA requires the asbestos content to be verified by point counting using PLM.

(7) "Asbestos inspection" means any activities undertaken to specifically determine the presence or location or assess the condition of asbestos-containing material or suspect asbestos-containing material, by visual or physical examination or by collecting a sample or samples of the materials. "Asbestos inspection" includes re-inspection of known or suspect asbestos-containing material that has been previously identified. “Asbestos inspection” does not include:

(a) Visual inspections of the type described in 40 CFR 763.90 (i) that are conducted solely to determine the completeness of response actions in schools.

(b) Periodic surveillance of the type described in 40 CFR 763.92 (b) that are conducted solely for recording or reporting a change in the condition of known or suspect asbestos-containing material.

(c) Inspections conducted by employees or agents of federal, state or local government solely for determining compliance with applicable statutes or regulations.

(8) "Asbestos inspector" means an individual who performs asbestos inspections.

(9) "Asbestos management activity" means an inspection for asbestos-containing material, including collecting a sample of material, the design of an asbestos abatement activity or school asbestos response action, or the development of an asbestos management plan.

(10) "Asbestos management plan" means the document that specifies the plan for managing known or suspect asbestos-containing material in or on a facility to protect the occupants and the environment.

(11) "Asbestos management planner" means an individual who develops written plans to manage asbestos in or on a facility and make recommendations for the best response actions to be taken to manage asbestos-containing material in or on the facility.

(12) “Asbestos project designer” means an individual who develops written plans and designs for asbestos abatement activities.

(13) "Asbestos supervisor" means an individual who performs, or oversees or directs the performance of, asbestos abatement activities or conducts air sampling associated with asbestos abatement activities.

(14) “Asbestos training activity” means offering or providing a training course required for certification under subch. II.

(15) "Asbestos worker" means an individual who performs asbestos abatement activities.

(16) "Certification" means authorization by the department to conduct, supervise or offer to conduct or supervise asbestos abatement activities or asbestos management activities as issued to an individual in the form of a photo identification card or to an asbestos company in the form of a certificate.

(17) “Classroom contact hour” means 60 minutes of instructional activities, not including breaks and lunch.

(18) "Contingent approval" means an accreditation status that is provisionally granted based on a review of written training course curriculum and other information and materials that describe the training course.

(19) "Department" means the Wisconsin department of health services.

(20) “Designated person” means the individual who is authorized to act on behalf of the local education agency regarding asbestos work and who works with the local education agency to ensure compliance with EPA requirements under 40 CFR 763, Subpart E and with all other federal and state asbestos regulations.

(21) "Direct supervision" means supervision by a certified asbestos supervisor who is onsite during an asbestos abatement activity and readily available to observe and assist.

(22) “Disposal bag” means a heavy duty, impervious waste bag or glove bag.

(23) “DNR” means the Wisconsin department of natural resources.

(24) “DOT” means the Wisconsin department of transportation.

(25) "Encapsulation" means the treatment of asbestos-containing material with a product specifically designed to surround or embed asbestos fibers in an adhesive matrix.

(26) "Enclosure" means an airtight, impermeable, permanent barrier around asbestos-containing material.

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

(28) “Exterior asbestos company” means an asbestos company that conducts, supervises or offers to conduct or supervise regulated asbestos activities limited to non-friable asbestos-containing material that remains non-friable, on the exterior, or building envelope, of a facility.

(29) "Exterior asbestos supervisor" means an individual who performs, or oversees or directs the performance of, asbestos abatement activities involving only non-friable asbestos-containing material that remains non-friable, on the exterior, or building envelope, of a facility.

(30) "Exterior asbestos worker" means an individual who performs asbestos abatement activities involving only non-friable asbestos-containing material that remains non-friable, on the exterior, or building envelope, of a facility.

Note: If asbestos work conducted from the exterior of a building penetrates the building envelope then it is no longer exterior asbestos work and may not be performed by an exterior asbestos company, exterior asbestos supervisor or exterior asbestos worker. For work to be considered exterior asbestos work, which may be performed by an exterior asbestos company, the following must be true: 1) the material is non-friable and will remain non-friable throughout the project; 2) the asbestos work is performed only from the outside of the building and on the outside of the building; and 3) no air exchange may occur between the interior and exterior of the building. For window work to be considered exterior work, an impermeable barrier needs to be placed behind the window opening on the interior of the building before work starts to maintain complete separation of interior and exterior spaces.

(31) “Facility” means any institutional, commercial, public, industrial or residential structure or building.

(32) “Friable asbestos-containing material” means asbestos-containing material that, when dry, can be crumbled, pulverized or reduced to powder by hand pressure, including previously non-friable asbestos-containing material when that material is damaged to the extent that when dry it may be crumbled, pulverized or reduced to powder by hand pressure.

(33) "Full accreditation" means final approval status granted to a training course after an onsite audit of the training course determines that the course is in full compliance with this chapter.

(34) “Glove bag” means an impervious plastic bag-like enclosure with built-in glove appendages for handling tools and asbestos-containing materials that is meant to be affixed around an asbestos-containing material to provide a barrier between the operator and the enclosed material.

(35) "Guest instructor" means an individual designated by a training provider to assist the principal instructor with hands-on activities or to teach one or more topical areas under the general supervision of the principal instructor.

(36) “HEPA” means high efficiency particulate air filtration.

(37) “Initial certification" means the first certification that the department grants an individual for a specific discipline or a certification the department grants after a lapse in certification of 12 months or more.

(38) “Local educational agency” or “LEA” means any of the following:

(a) A public board of education or other public authority, institution or agency legally constituted for administrative control or direction of a public school that provides elementary or secondary education, including kindergarten and pre-kindergarten but excluding education provided beyond grade 12.

(b) The owner of a private, nonprofit school that provides elementary or secondary education, including kindergarten and pre-kindergarten but excluding education provided beyond grade 12.

(c) The governing authority of a school operated under the Defense Dependents' Education Act of 1978 under 20 USC 921 et seq.

(39) "NESHAP" means 40 CFR 61, the national emission standards for hazardous air pollutants regulation.

Note: NESHAP is administered in this state by DNR under NR 447 on behalf of EPA.

(40) "Operations and maintenance" or "O & M" means the repair, operation, service or maintenance of a building that may result in the disturbance of asbestos-containing material or suspect asbestos-containing material.

(41) "OSHA" means the U.S. occupational safety and health administration.

(42) "Person" means an individual or entity, including a sole proprietorship, corporation, limited liability corporation, partnership, association, church, school, college or university, state, local or tribal government agency, political subdivision of a state, interstate body, or department, agency or other instrumentality of the federal government.

(43) "Planned renovation project" means a renovation or a number of renovations in a facility, during which a number of asbestos abatement activities are planned or expected to occur within a given period of time.

(44) "Principal instructor" means an individual approved by the department under subch. V to teach and supervise an accredited asbestos training course.

(45) "Regulated area" means an area where an asbestos abatement activity is conducted, and adjoining areas where debris and waste from the asbestos abatement activity accumulate.

(46) "Regulated asbestos activity" means an asbestos abatement activity, asbestos management activity, or asbestos training activity for which certification or accreditation is required under this chapter.

(47) "Removal" means taking out any or all asbestos-containing material or suspect asbestos-containing material in or on a facility or taking out any or all facility components that contain or are covered with asbestos-containing material or suspect asbestos-containing material.

(48) "School" means an educational institution that provides elementary or secondary instruction, including kindergarten and pre-kindergarten but excluding education provided beyond grade 12.

(49) "School building" means a building or an area of a building under the control of a local education agency when the building or area is any of the following:

(a) A structure suitable for use as a classroom, including a school facility such as a laboratory, library, school eating facility or a facility used for the preparation of food.

(b) A gymnasium or other facility which is specially designed for athletic or recreational activities for an academic course in physical education.

(c) Any other facility used for the instruction or housing of students, or for the administration of educational or research programs.

(d) A maintenance, storage, or utility facility, including any hallway, essential to the operation of a facility under pars. (a), (b), or (c).

(e) A portico or covered exterior hallway or walkway of a facility under pars. (a), (b), (c) or (d).

(f) An exterior portion of a mechanical system used to condition interior space of a facility under pars. (a), (b), (c) or (d).

(50) “Suspect asbestos-containing material” means vermiculite insulation, unless a recommended EPA sampling and analysis protocol specific to vermiculite insulation proves that it does not contain asbestos, and any untested material used in or on a building component, except for metal, glass, wood, or fiberglass.

(51) “Training day” means 6 to 8 hours of classroom contact time, not including breaks and lunch times.

(52) "Training provider" means a person that owns, provides or offers to provide a training course for which accreditation is required under this chapter.

(53) "Vermiculite insulation" means vermiculite that has been expanded through a heating process and is used as loose-fill building insulation. It is a "suspect asbestos-containing material" under sub. (50).

Note: Vermiculite insulation is assumed to be asbestos-containing material unless proven otherwise in accordance with EPA recommended sampling and analysis protocols specific to vermiculite insulation. As of the publication of this chapter, the EPA has not published official guidance for sampling and testing protocols to test for the presence or absence of asbestos in vermiculite insulation. When recommended protocols are published, vermiculite insulation may be sampled and analyzed using the EPA recommended protocols to determine any asbestos content. Until such time, vermiculite insulation must be assumed to contain asbestos and be treated as an asbestos-containing material under this chapter.

(54) "Working day" means Monday through Friday and includes holidays that fall on any of the days Monday through Friday. For purposes of accepting notification under subch. III, a working day is deemed to end at 4:00 p.m.

SUBCHAPTER II CERTIFICATION REQUIREMENTS FOR INDIVIDUALS

HFS 159.05 Certification of an individual. (1) CERTIFICATION REQUIREMENTS. Except as provided in ss. HFS 159.06 and 159.09, no individual may perform, supervise or offer to perform or supervise an asbestos activity or asbestos management activity unless the individual has valid certification from the department in the applicable discipline under sub. (2) or sub. (3).

Note: See s. HFS 159.13 (1) for requirement that an individual be associated with a certified asbestos company before conducting a regulated asbestos activity.

(2) DISCIPLINES. An individual may be certified in one or more of the following disciplines:

(a) Asbestos supervisor.

(b) Asbestos worker.

(c) Asbestos inspector.

(d) Asbestos management planner.

(e) Asbestos project designer.

(f) Exterior asbestos supervisor.

(g) Exterior asbestos worker.

(3) ROOFING DISCIPLINES. An individual with an unexpired department-issued roofing supervisor certification or roofing worker certification may conduct roofing work authorized by the certification until the certification expiration date. An individual with an unexpired department-issued roofing supervisor certification may convert this certification to an exterior asbestos supervisor certification by completing the exterior asbestos supervisor refresher training course under s. HFS 159.12 (4) (f) and submitting the application and fee required under s. HFS 159.07. An individual with an unexpired department-issued roofing worker certification may convert this certification to an exterior asbestos worker certification by completing the initial exterior worker training course required under s. HFS 159.12 (3) (g) and submitting the application and fee required under s. HFS 159.07.

Note: The exterior asbestos supervisor discipline replaces the roofing supervisor discipline and the exterior asbestos worker discipline replaces the roofing worker discipline. The new exterior asbestos certifications authorize individuals to perform asbestos abatement activities on siding in addition to roofs.

(4) ELIGIBILITY REQUIREMENTS. An individual is eligible for certification in one or more disciplines under sub. (2) if the individual meets all of the following conditions:

(a) The individual is 18 years of age or older.

(b) The individual has completed required training under s. HFS 159.12 within the past 12 months.

(c) The individual has completed the application requirements under s. HFS 159.07 and paid the applicable certification fee under s. HFS 159.08.

HFS 159.06 Exceptions to certification. Individual certification is not required under any one of the following conditions:

(1) An asbestos abatement activity or asbestos management activity is performed by the owner on his or her own single-family, non-rental residential property that is occupied or intended to be occupied solely by the owner's family.

(2) An asbestos abatement activity involves only operations and maintenance work that disturbs or incidentally removes no more asbestos-containing material than would fit in a single glove bag or disposal bag no larger than 60 inches by 60 inches properly filled and sealed, is work that is non-repetitive and is not a series of small jobs that if performed sequentially would require certification, and is conducted by an individual or individuals with documented proof of completing at least a 16-hour operations and maintenance training course as described in 40 CFR 763.92 (a).

(3) An individual operates a motorized vehicle to demolish or remove a facility when asbestos-containing material is allowed to remain under s. NR 447.08 (1) (a) to (d).

HFS 159.07 Application requirements for initial and renewal certification. Only individuals who meet the eligibility requirements under s. HFS 159.05 (4) may apply for initial or renewal certification. An eligible individual shall apply to the department for initial or renewal certification on an

application form obtained from the department. The applicant shall submit the following to the department:

(1) The fully and accurately completed department application form signed and dated by the applicant.

(2) The applicable fee under s. HFS 159.08 for the discipline in which the applicant is applying.

(3) For initial application, the applicant's social security number or, if the applicant does not have a social security number, a signed statement, made under oath or affirmation, that the applicant does not have a social security number, as required under s. 250.041 and s. 254.115, Stats.

(4) For initial application, training certificates from any previously completed training courses required for certification in the discipline unless previously provided to the department by the applicant or a department-accredited training provider.

Note: Application forms are available on the department's website at www.dhs.wi.gov/asbestos or may be obtained from the Asbestos and Lead Unit: plicasbstoslead@dhs.state.wi.us; 608-261-6876; 1 W Wilson St, Room 137, PO Box 2659, Madison, WI 53701-2659.

Note: Submit application and fee to Asbestos and Lead Unit: 1 W Wilson St, Room 137, PO Box 2659, Madison, WI 53701-2659; (fax) 608-266-9711; plicasbestoslead@dhs.state.wi.us. For application submitted by fax or email payment may be made only by credit or debit charge to a VISA or MasterCard.

Note: Sections 250.041 and 254.115, Stats., require an applicant for certification to provide the department with the applicant's social security number. Under s. 254.115 (3), Stats., the department is required to deny certification to an applicant who does not provide the department his or her social security number or, if the applicant does not have a social security number, a signed statement, made under oath or affirmation, that the applicant does not have a social security number. The form required for the statement is available from the Asbestos and Lead Unit: plicasbestoslead@dhs.state.wi.us; 608-261-6876; or 1 W Wilson St, Room 137, PO Box 2659, Madison, WI 53701-2659.

Note: The department must have on file the appropriate initial training course certificate and all required annual refresher course certificates for each discipline for which an individual is applying. Training certificates submitted with previous applications to the department need not be re-submitted. Training certificates for training taken in Wisconsin after the publication date of this chapter need not be submitted. Under s. HFS 159.22 (18), Wisconsin training providers must submit students' course completion and certificate information directly to the department.

HFS 159.08 Certification and other fees. (1) An individual who applies for certification or renewal of certification shall pay the appropriate certification fee as follows:

(a) For certification as an asbestos supervisor, a fee of $125.

(b) For certification as an asbestos worker, a fee of $75.

(c) For certification as an exterior asbestos supervisor, a fee of $75.

(d) For certification as an asbestos inspector, a fee of $175.

(e) For certification as an asbestos management planner, a fee of $125.

(f) For certification as a project designer, a fee of $175.

(g) For certification as an exterior asbestos worker, a fee of $125.

Note: There is no annual renewal fee for the exterior asbestos worker certification because it is a non-expiring certification.

(2) An individual shall pay the following additional fees as applicable:

(a) For immediate processing of an application when this service is available, a fee of $25.

(b) For additional processing of an application required because an incomplete or incorrect application has been submitted, a fee of $25.

(c) For verifying out-of-state training or certification, a fee of $25.

(d) For providing copies of training records or certificates, a fee of $25.

(e) For replacing a damaged, lost or stolen certification card, a fee of $25.

(3) Payment of a fee shall be by check or money order payable to "Department of Health Services" or "DHS", or may be charged to a VISA or MasterCard. For application submitted by fax or email, payment may be made only by credit or debit charge to a VISA or MasterCard. The department will not accept cash payment. A person who submits a fee by a check that is not honored by a financial institution may be required to submit the fee in a form of payment that is guaranteed by a financial institution and to pay any processing charges assessed by the financial institution.

(4) Fees are nonrefundable and nontransferable.

HFS 159.09 Provisional certification. (1) An individual who is eligible for certification and who submits application for certification to the department may conduct regulated asbestos activities in the discipline in which certification is sought for 30 calendar days from the date the applicant completes training for the discipline, or until the department denies the individual's application, whichever occurs first.

(2) An individual who wishes to conduct regulated asbestos activities under provisional certification shall submit a complete application by fax, email, other method approved by the department, or by personal delivery before the applicant may begin conducting regulated asbestos activities.

(3) An individual who conducts regulated asbestos activities under provisional certification may only conduct the activities of the discipline for which the individual received training and applied for certification.

(4) An individual who conducts regulated asbestos activities under provisional certification shall comply with responsibilities of certified individuals under s. HFS 159.13.

(5) If an individual appeals the department's denial of certification, the individual may not conduct regulated asbestos activities pending the outcome of the appeal.

Note: Submit application and fee to Asbestos and Lead Unit: 1 W Wilson St, Room 137, PO Box 2659, Madison, WI 53701-2659; (fax) 608-266-9711; plicasbestoslead@dhs.state.wi.us. For application submitted by fax or email payment may be made only by credit or debit charge to a VISA or MasterCard.

HFS 159.10 Department decisions on initial and renewal applications for certification. (1) COMPLETE APPLICATION. Within 30 calendar days after receiving a complete application for initial or renewal certification, the department shall either approve the application and issue the applicant a photo certification card for the discipline, or deny the application. If the department denies certification, the department shall provide the applicant with written notification of the reason for denial and appeal rights under subchapter VI.

(2) INCOMPLETE APPLICATION. Within 15 calendar days after receiving an incomplete application, the department shall give the applicant instructions on how to complete the application. The department may require the applicant to submit a $25 processing fee when additional or corrected information must be obtained.

(3) VOID APPLICATION. An application the department determines is not complete within 90 calendar days after the department first receives the application is void. To be reconsidered for certification, the applicant shall submit a new application, and the applicable certification fee.

HFS 159.11 Certification effective dates and expiration dates. (1) EFFECTIVE DATES. Certification and renewal certification in a discipline are effective on the date the department issues the photo certification card to the applicant and expire annually, except for exterior asbestos worker certification, which does not expire.

(2) EXPIRATION DATES. The certification expiration date for a discipline other than the exterior asbestos worker discipline is determined as follows:

(a) *Initial certification*. The expiration date for initial certification shall be 12 months after the completion date of the applicant's most recently completed training required under s. HFS 159.12 (3).

(b) *Renewal certification.* 1. When an applicant completes the required refresher training under s. HFS 159.12 (4) more than 3 months before the expiration date of the applicant's certification, the expiration date for the renewal certification shall be 12 months from the date the individual completes the required refresher training.

2. When an applicant completes the required refresher training under s. HFS 159.12 (4) less than 3 months before the expiration date of the applicant's certification, the expiration date for the renewal certification shall be 12 months from the date the applicant's current certification expires.

3. When an applicant completes the required refresher training under s. HFS 159.12 (4) after the expiration date of the applicant's certification, but no later than 24 months after completion of the applicant's most recent accredited training, the expiration date for the renewal certification shall be one year from the date the individual completes the required refresher training.

HFS 159.12 Initial and Refresher Training Requirements. (1) ACCREDITED TRAINING REQUIREMENT. Only training certificates from courses with accreditation from the department, listed as accredited in the U.S. EPA's National Directory of AHERA Accredited Courses, or confirmed as accredited by a state approved by EPA to administer an asbestos accreditation program under 40 CFR Part 763, Appendix C to Subpart E, at the time the course was delivered, shall be accepted as proof of completing required training.

Note: The U.S. EPA National Directory of AHERA Accredited Courses includes EPA-accredited courses and EPA authorized state accredited courses and is located on the Internet at www.epa.gov/opptintr/asbestos/pubs/ndaac.html. Department-accredited courses may be found on the Internet at www.dhs.wisconsin.gov/asbestos.

(2) WISCONSIN TRAINING REQUIREMENT. The most recent training the applicant completes for certification in a discipline shall be a department-accredited initial or refresher training course that is held in Wisconsin. Training is not complete until all of the following requirements are met:

(a) The applicant attends the entire course, completes all course requirements and passes the course test.

(b) The applicant presents 2 official forms of identification to the training provider for review, at least one of which shall be photo identification.

(c) The applicant's photograph is taken by the training provider.

(d) The applicant receives the applicable training certificate from the accredited training provider.

(3) INITIAL TRAINING. To qualify for certification, an individual shall first complete the accredited initial training required for the discipline before applying for certification under s. HFS 159.07. Initial training requirements for certification in each discipline are as follows:

(a) For asbestos supervisor certification, a 5-day asbestos supervisor initial course.

(b) For asbestos worker certification, a 4-day asbestos worker initial course.

(c) For asbestos inspector certification, a 3-day asbestos inspector initial course.

(d) For asbestos management planner certification, a 3-day asbestos inspector initial course followed by a 2-day asbestos management planner initial course.

(e) For asbestos project designer certification, a 3-day asbestos project designer initial course.

(f) For exterior asbestos supervisor certification, a 1-day exterior asbestos worker course followed by a 1-day exterior asbestos supervisor initial course.

(g) For exterior asbestos worker certification, a 1-day exterior asbestos worker course.

(4) ANNUAL REFRESHER TRAINING. Except for exterior asbestos worker certification which does not require accredited refresher training, to maintain certification eligibility, an individual who has completed the initial training requirement shall annually complete the accredited refresher training required for the discipline, before applying for certification renewal. Refresher training requirements are as follows:

(a) For asbestos supervisor certification, a 1-day asbestos supervisor refresher course.

(b) For asbestos worker certification, a 1-day asbestos worker refresher course.

(c) For asbestos inspector certification, a half-day asbestos inspector refresher course.

(d) For asbestos management planner certification, a half-day asbestos inspector refresher course and a half-day asbestos management planner refresher course.

(e) For asbestos project designer certification, a 1-day asbestos project designer refresher course.

(f) For exterior asbestos supervisor certification, a 2-hour exterior asbestos supervisor refresher course.

(5) CONTINUITY OF TRAINING. In order to maintain eligibility for certification in the discipline, an individual shall complete all required training for the discipline within the following timeframes:

(a) The applicant shall complete the most recent required training no more than 12 months before submitting application for certification or renewal of certification.

(b) To be eligible to renew certification in a discipline, the applicant's training history shall show a gap of no more than 24 months between the completion dates of any two consecutive accredited training courses required for certification in the discipline.

(c) If the applicant does not complete refresher training required under sub. (4) for the discipline within 24 months after completing a previous training course for the discipline, the individual shall retake the initial training course for the discipline to qualify for certification.

HFS 159.13 Responsibilities of individuals conducting regulated asbestos activities. (1) ASSOCIATION WITH A CERTIFIED ASBESTOS COMPANY. An individual shall be associated with a certified asbestos company under subch. III by ownership, contract or employment before the individual may perform, supervise or offer to perform or supervise a regulated asbestos activity.

(2) COMPLIANCE WITH ASBESTOS-RELATED LAWS. An individual conducting regulated asbestos activities shall comply with this chapter and all applicable local, state and federal asbestos ordinances, statutes and regulations, including:

(a) 15 U.S.C. sec. 2643 and 2646, Title II of the U.S. Toxic Substances Control Act (TSCA).

(b) Wisconsin department of commerce asbestos regulations for public sector employees under ch. Comm 32.

(c) Wisconsin DNR regulations for control of asbestos emissions under ch. NR 447, and collection and transportation of asbestos waste under s. NR 502.06.

(d) U.S. department of transportation asbestos waste transportation requirements under 49 CFR Parts 100 to 185.

(e) U.S. EPA regulations for asbestos worker protection under 40 CFR 763 subpart G, asbestos in schools regulations under 40 CFR 763 subpart E, and national emission standards for hazardous air pollutants under 40 CFR 61 subparts A and M.

(f) U.S. OSHA regulations for asbestos construction under 29 CFR 1926.1101, hazard communication under 29 CFR 1926.59, and respiratory protection under 29 CFR 1910.134.

(3) TRAINING CERTIFICATES. (a) No person may give, trade, sell, or loan a training certificate to another person or use a training certificate that belongs to another person.

(b) A training certificate may be copied only for record keeping purposes. If a training certificate is copied, the person who makes the copy shall clearly label the copy with the word "copy" across the front.

(c) The individual to whom a training certificate is issued is the owner of that training certificate and shall do all of the following:

1. Retain the original training certificate for each required training course completed for the duration of the individual's certification.

2. Have the original training certificate at the work site, if it qualifies the individual to provisionally conduct regulated asbestos activities under s. HFS 159.09.

3. Make the original training certificate for each completed course available for inspection by the department upon request.

(4) CERTIFICATION CARDS. (a) No person may give, trade, sell, or loan a certification card to another person, or use a certification card that belongs to another person.

(b) A certification card may be photocopied only for record keeping purposes. If a certification card is copied, the person who makes the copy shall clearly label the copy with the word "copy" across the front.

(c) The individual to whom a certification card is issued is the owner of that certification card and shall do all of the following:

1. Have the original certification card at the work site when conducting or supervising regulated asbestos activities.

2. Retain the original certification card until the card expires or is returned to the department.

3. Make the original certification card available for inspection upon request.

4. Return a suspended, revoked, or otherwise invalid certification card to the department within 10 calendar days after the department's request.

5. Promptly request a replacement card whenever the certification card is lost, stolen, or damaged, by submitting a form obtained from the department and payment of a $25 replacement fee.

Note: An application for a replacement card is available on the department's website at www.dhs.wi.gov/asbestos or may be obtained from the Asbestos and Lead Unit: plicasbstoslead@dhs.state.wi.us; 608-261-6876; 1 W Wilson St, Room 137, PO Box 2659, Madison, WI 53701-2659.

(5) WORK PRACTICE. An individual conducting a regulated asbestos activity shall protect the health and safety of occupants, visitors, and persons outside the regulated area by using engineering controls and work practices that prevent the release of asbestos fibers into the air outside of the regulated area. For asbestos abatement activities involving the exterior of a structure, an individual shall use engineering controls that prevent debris and fibers from entering the interior of the structure. For all regulated asbestos activities, an individual shall follow any other applicable work practice standards and protocols under local ordinance or state or federal statutes or regulations.

(6) RESPONSIBILITIES DURING DEPARTMENT INSPECTIONS. (a) Upon the request of a department representative, an individual shall exit containment or other regulated area and make himself or herself available to the department representative for the purposes of determining identification and certification.

(b) A person may not prevent a representative of the department from doing any of the following:

1. Entering any property or premises where any person required to be certified under this chapter is engaged in a regulated asbestos activity or where the person conducts business.

2. Reviewing or copying records required to be maintained under s. HFS 159.19 (7) or any other records relating to regulated asbestos activities.

3. Entering any property where a regulated asbestos activity is being or has been conducted, collecting air or bulk samples, taking photographs or video recordings, interviewing any person on the premises, or conducting any other activity necessary to determine compliance with this chapter.

SUBCHAPTER III ASBESTOS COMPANY CERTIFICATION REQUIREMENTS

HFS 159.14 Certification for asbestos companies. (1) CERTIFICATION REQUIREMENT. Beginning on the first day of the sixth month following publication of this section… (revisor inserts date), before performing, supervising, advertising, claiming to provide, or offering to perform or supervise an asbestos abatement or management activity for which certification is required under s. HFS 159.05 or an asbestos training activity for which accreditation is required under s. HFS 159.23, a person shall be certified by the department under this subchapter as an asbestos company and shall employ or contract with appropriately certified individuals.

(2) CERTIFICATION TYPES. A company performing regulated asbestos activities shall be certified as either an asbestos company or exterior asbestos company. A company certified as an exterior asbestos company may perform only those activities identified in s. HFS 159.04 (28).

(3) MULTIPLE OFFICE CERTIFICATIONS. An asbestos company operating from multiple locations may request certification for a primary office location only, or it may request certification for the primary office and one or more satellite office locations. A primary office certified to represent multiple offices not otherwise certified is responsible for the regulatory compliance of all office locations.

Note: Only certified offices are included in department-published listings of certified asbestos companies. Only certified offices receive communications directly from the department regarding matters such as changes to asbestos-related regulations.

HFS 159.15 Application requirements for initial and renewal asbestos company certification. A person shall apply to the department for initial or renewal company certification on an application form obtained from the department. The applicant shall submit the following to the department:

(1) The fully and accurately completed department application form signed and dated by the applicant, which shall include the following:

(a) Company name, mailing address, physical address of records required under s. HFS 159.19 (7), telephone, and other contact information.

(b) If the applicant is not a sole proprietorship, the applicant's federal employer identification number; if the applicant is a sole proprietorship, the applicant's social security number or a signed statement made under oath or affirmation that the applicant does not have a social security number.

(c) Company type: asbestos or exterior asbestos company.

(d) Office type: primary or satellite office, and if applying for satellite office certification, the primary office company certification number.

(e) Whether the company is exempt from paying the certification fee as a state or local government agency or a K-12 public school.

(f) Name of one or more individuals authorized to represent the company, including department certification number for each representative certified under subch. II.

(g) Signature of an authorized company representative, identifying any company violations of federal, state or local asbestos regulations within the past three years and verifying the truth and accuracy of the information provided on the application.

(2) The applicable fee.

Note: Under s. 254.115, Stats., the department is required to deny certification to an applicant who does not provide either a federal employer identification number or a social security number or signed statement that the individual does not have a social security number.

Note: Application forms are available on the department's website at www.dhs.wi.gov/asbestos or may be obtained from the Asbestos and Lead Unit: plicasbstoslead@dhs.state.wi.us; 608-261-6876; 1 W Wilson St, Room 137, PO Box 2659, Madison, WI 53701-2659.

Note: Submit application and fee to Asbestos and Lead Unit: 1 W Wilson St, Room 137, PO Box 2659, Madison, WI 53701-2659; (fax) 608-266-9711; plicasbestoslead@dhs.state.wi.us. For application submitted by fax or email payment may be made only by credit or debit charge to a VISA or MasterCard.

HFS 159.16 Company certification fees. (1) FEES. Except as provided in sub. (2), a person who applies for company certification or renewal of company certification shall pay the appropriate fee as follows:

(a) Except as provided in par. (b), for asbestos company certification, a fee of $400.

(b) For exterior asbestos company certification, a fee of $200.

(c) For each satellite office of a certified asbestos company, a fee of $200.

(d) For each satellite office of a certified exterior asbestos company, a fee of $100.

(2) EXEMPTION. Local education agencies, local governmental agencies and state agencies are exempt from paying company certification fees under sub. (1).

(3) METHODS OF PAYMENT. Payment of a fee shall be by check or money order payable to "Department of Health Services" or "DHS", or may be charged to a VISA or MasterCard. For application submitted by fax or email, payment may be made only by credit or debit charge to a VISA or MasterCard. The department will not accept cash payment. A person who submits a fee by a check that is not honored by a financial institution may be required to submit the fee in a form of payment that is guaranteed by a financial institution and to pay any processing charges assessed by the financial institution.

(4) NONREFUNDABLE AND NONTRANSFERABLE. Fees are nonrefundable and nontransferable.

(5) PROCESSING FEE. The department may charge a $25 fee for processing an incomplete or incorrect application returned for correction or completion.

HFS 159.17 Department decisions on initial and renewal applications for company certification. (1) COMPLETE APPLICATION. Within 30 calendar days after receiving a complete application for initial or renewal company certification, the department shall either approve the application and issue the applicant a certificate or deny the application. If the department denies

certification, the department shall provide the applicant with written notification of the reason for denial and appeal rights under subchapter VI.

(2) INCOMPLETE APPLICATION. Within 15 calendar days after receiving an incomplete application for initial or renewal company certification, the department shall give the applicant instructions on how to complete the application. The department may require the applicant to submit a $25 processing fee when additional or corrected information must be obtained.

(3) VOID APPLICATION. An application the department determines is not complete within 90 calendar days after the department first receives the application is void. To be reconsidered for company certification, the applicant shall submit a new application to the department.

HFS 159.18 Company Certification effective dates and expiration dates. (1) EFFECTIVE DATES. Certification is effective on the date the department issues the company certificate to the applicant.

(2) EXPIRATION DATES. Certification shall expire 24 months after the certification effective date.

HFS 159.19 General responsibilities of asbestos companies. (1) COMPANY ADVERTISING. Advertisement for conducting regulated asbestos activities shall include the name and address of the asbestos company as it appears on the application for company certification submitted to the department under this subchapter, or as later changed by notification to the department under sub. (2).

(2) NOTIFICATION OF COMPANY CHANGE. The asbestos company shall notify the department in writing at least 10 working days before any of the following:

(a) The company name or address changes.

(b) The company ownership changes.

(3) NOTIFICATION OF ASBESTOS ABATEMENT. Before an asbestos company may begin an asbestos abatement activity, the company shall notify the department as required under s. HFS 159.20.

(4) EXTERIOR ASBESTOS WORKER TRAINING. An asbestos company shall ensure that annual asbestos refresher training is completed by each exterior asbestos worker it employs or with whom it contracts. The company shall maintain documentation of training completion for each employee, as required under sub. (7). This documentation shall identify the training as annual training for the exterior asbestos worker discipline and include the training provider name, address and telephone number, names of instructors and students in attendance, training date, and class start and end times.

(5) COMPANY CERTIFICATES. No person may give, trade, sell, loan, or use a company certificate that belongs to another person. A certificate may be copied only for record keeping purposes. If a certificate is copied, the person who makes the copy shall clearly label the copy with the word “copy” across the front. The person to whom the department issues a certificate is the owner of that certificate and shall do all of the following:

(a) Retain the certificate until the certification expires.

(b) Make the certificate available for inspection upon request.

(c) Return a suspended, revoked, or otherwise invalid certificate to the department within 10 calendar days of the department's request.

(d) Promptly request a replacement certificate if the certificate is lost, stolen or damaged by submitting an application form obtained from the department and payment of a $25 replacement fee.

Note: Application forms are available on the department's website at www.DHS.wi.gov/asbestos or may be obtained from the Asbestos and Lead Unit: plicasbstoslead@dhs.state.wi.us; 608-261-6876; 1 W Wilson St, Room 137, PO Box 2659, Madison, WI 53701-2659.

(6) DEPARTMENT INSPECTIONS AND AUDITS. (a) An asbestos company shall cooperate with the department when the department conducts inspection or audit activities to determine compliance with this chapter or any other applicable statute or rule.

(b) An asbestos company shall comply with department requests that all individuals exit containment or other regulated areas.

(c) An asbestos company may not prevent or hinder a representative of the department from doing any the following:

1. Entering any property or premises on which the company, a company employee or a person under contract with the company is engaged in a regulated asbestos activity, or where the asbestos company conducts business.

2. Reviewing or copying records required under sub. (7) or any other records relating to regulated asbestos activities.

3. Collecting air or bulk samples.

4. Conducting an on-site audit of a training course.

5. Conducting other activities necessary to determine compliance with this chapter.

(d) An asbestos company may not confiscate an individual's original training certificate or certification card, unless the department directs it to do so, and it may not copy an individual's training certificate or certification card except for record keeping purposes. If a training certificate or certification card is copied, the person who makes the copy shall clearly label "copy" across the front.

(e) An asbestos company may not charge a fee for the department to conduct an on-site audit of a training course.

(7) RECORD KEEPING. (a) *Asbestos abatement and management activities.* An asbestos company shall retain all records related to its asbestos abatement or management activities for at least 3 years after the documents are created or received by the company. The company shall maintain the records at the address provided on the company application. Records shall be made available for department inspection on site, by mail, or by other means as requested by the department. The company shall retain all of the following records as appropriate to the type of regulated activities the company performs:

1. Copies of project notifications submitted to the department under HFS 159.20 and to DNR under s. NR 447.

2. Project logs created under s. HFS 159.21 (2).

3. Occupant protection plans created under s. HFS 159.21 (3).

4. Any written contracts for asbestos abatement, inspection, management planning, or project design activities conducted by the company.

5. Any asbestos inspection reports and any asbestos bulk sampling laboratory results.
6. Documentation of annual training required under sub. (4) for any certified exterior asbestos workers.

(b) *Asbestos training activities.* An asbestos company that is a training provider shall retain all records related to regulated asbestos training activities for at least 3 years after the documents are created or received by the company, except t course curriculum materials, which shall be retained for at least 3 years after the materials are no longer used. The company shall maintain the records at the address provided on the company application. Records shall be made available for department inspection on site, by mail, or by other means as requested by the department. The records retained by the company shall include all of the following:

1. The original certificate of course accreditation from the department.

2. A complete copy of the approved course curriculum, including the instructor and student manuals, course agenda, course test, printed and audiovisual materials used in the course, any other material submitted as part of the application for accreditation and any documents reflecting later changes made to an accredited course.

3. For each class conducted, the course test questions, answer key, date the test was administered, discipline of the training course, name of the person who administered the test, names of students who completed the test, and the scored test or answer sheet for each student including passing and failing tests.

4. A copy of each student's training certificate.

5. Class and student information required under s. HFS 159.22 (18).

6. Copies of the photographs required under s. HFS 159.22 (7) (d).

7. Original class attendance student sign in records.

8. Documentation of principal instructor and guest instructor qualifications, including copies of principal instructor approvals.

9. The quality control plan required under s. HFS 159.22 (5), including documentation of activities conducted in compliance with the quality control plan.

(8) COMPLIANCE WITH APPLICABLE LAWS. When conducting regulated asbestos activities, the asbestos company shall comply with this chapter, other applicable state and federal asbestos laws and regulations, and local ordinances relating to asbestos, including the following:

(a) Department of commerce asbestos regulations for public sector employee health and safety under ch. Comm 32.

(b) DNR regulations for control of asbestos emissions under ch. NR 447, and for collection and transportation of asbestos waste under s. NR 502.06 (3).

(c) 15 USC 2643 and 2646, Title II of the U.S. Toxic Substances Control Act (TSCA).

(d) U.S. EPA regulations under 40 CFR 763 subpart E, asbestos-containing materials in schools, including appendix C, asbestos model accreditation plan, and appendix D, transport and disposal of asbestos waste, and subpart G to 40 CFR 763, asbestos worker protection.

(e) U.S. EPA national emission standards for hazardous air pollutants under 40 CFR 61 subparts A, general provisions, and M, national emission standards for asbestos.

(e) U.S. OSHA regulations under 29 CFR 1926.1101, asbestos construction standard, 29 CFR 1926.59, hazard communication standard, and, 29 CFR 1910.134, respiratory protection standard.

(f) U.S. Department of Transportation requirements under 49 CFR Part 172, hazardous materials transportation standard.

HFS 159.20 Asbestos abatement notification. (1) NOTIFICATION REQUIREMENT. Before it may set up to perform an asbestos abatement activity, an asbestos company shall notify the department as required under this section on a form obtained from or approved by the department and shall pay the applicable fee specified under sub. (8).

(2) ABATEMENT ACTIVITIES THAT REQUIRE NOTIFICATION. (a) An asbestos company shall notify the department of any of the following asbestos abatement activities performed on the interior or exterior of a residential structure that has fewer than 5 dwelling units:

1. Removal of more than one glove bag or disposal bag, which is no larger than 60 inches by 60 inches properly filled and sealed, of friable or non-friable asbestos-containing material.

2. Enclosure, encapsulation or repair of more than 3 square feet or 3 linear feet of friable asbestos-containing material.

(b) An asbestos company shall notify the department of any of the following asbestos abatement activities performed on the interior or exterior of any facility other than a residential structure that has fewer than 5 dwelling units:

1. Removal of more than one glove bag or disposal bag, which is no larger than 60 inches by 60 inches properly filled and sealed, of non-friable asbestos-containing material.

2. Removal of more than one glove bag or disposal bag, which is no larger than 60 inches by 60 inches properly filled and sealed, but less than 160 square feet, 260 linear feet, 35 cubic feet of friable asbestos-containing material, or less than 5,580 square feet of asbestos-containing roofing using mechanical methods.

3. Enclosure, encapsulation or repair of more than 3 square feet or 3 linear feet of friable asbestos-containing material.

(3) EXCEPTIONS TO NOTIFICATION. Notification is not required when removal is conducted before a fire burn or demolition regulated under NR 447 and notification is made to the Wisconsin department of natural resources.

Note: The Department of Natural Resources also has notification requirements under NR 447 that apply to structures other than residential structures with fewer than 5 dwelling units. Notification to the DNR is required before the removal of any amount of asbestos-containing material for DNR-regulated demolitions and before the removal of friable asbestos or regulated asbestos-containing material in amounts of 160 sq. ft., 260 lnr. ft., or 35 cu. ft., or more, for renovation and planned

renovation projects. For more information on DNR requirements, visit the DNR website at www.dnr.wi.gov and type in keyword “asbestos” in the Site Search.

(4) REQUIRED CONTENT OF NOTIFICATION. Notification shall include all of the following:

(a) A unique company project number assigned by the asbestos company.

(b) The following information regarding the asbestos abatement activity site: type of property, property name if applicable, address, and the name and telephone number of the authorized property contact person.

(c) The asbestos abatement type: removal, enclosure, encapsulation or repair of asbestos-containing material, or any combination of these activities.

(d) The occupancy status: whether the structure will be occupied or vacant during the project.

(e) The notification type: original, cancellation, revision, planned renovation project, or sub-project to a planned renovation project.

(f) The asbestos abatement activity schedule including start date beginning with set up, end date, and work days and hours.

(g) Information about any pre-project asbestos inspection conducted and the name and department certification number of the inspector.

(h) The asbestos company name, department certification number and address, and the name and telephone number of the project contact person.

(i) The amount and type of asbestos-containing material involved in the project.

(j) Signature of an authorized company representative and the date of signature.

(5) NOTIFICATION FOR PLANNED RENOVATION. (a) An asbestos company may submit notification for a planned renovation project, for a time period not to exceed 12 months, when the company anticipates that multiple sub-projects of a planned renovation will include asbestos abatement activities. A company submitting notification for a planned renovation shall subsequently submit notification for each asbestos sub-project that meets the notification requirements under sub. (1).

(b) Notification for a sub-project to a notified planned renovation project shall include all of the following:

1. The company project number for the planned renovation from the original planned renovation notification.

2. The sequential number of the asbestos sub-project conducted under the planned renovation project.

3. All other asbestos abatement activity information required under sub. (2).

Note: Department notification forms are available on the department’s website at www.dhs.wi.gov/asbestos or may be obtained from the Asbestos and Lead Unit: plicasbstoslead@dhs.state.wi.us; 608-261-6876; 1 W Wilson St, Room 137, PO Box 2659, Madison, WI 53701-2659.

(6) NOTIFICATION OF REVISED OR CANCELLED PROJECT. (a) Whenever any information required under sub. (2) changes or when a project is cancelled, the asbestos company shall submit a revised notification to the department using a copy of the original notification with the following:

1. In the section labeled ”notification type” on the notification form, either “cancellation” or “revision” checked and the number of the revision entered.

2. All revised information circled or highlighted.

(b) A notification of revision or cancellation shall be submitted as soon as the need for revision or cancellation is known, accompanied by the appropriate fee if required under subd. (8) (b).

(c) An asbestos abatement activity notification is considered expired once the abatement activity has been cancelled or the abatement activity end date has passed. A notification may be revised after it expires only if the project fails air clearance and re-cleaning is necessary. “Re-cleaning” shall be clearly stated on the revised notification form.

(d) If an expired asbestos abatement activity is rescheduled, a new notification and fee is required.

Note: Submit revised notifications by fax, 608-266-9711; email, plicasbestoslead@dhs.state.wi.us; or personal delivery to Room 137, 1 W. Wilson St, Madison, WI.

(7) NOTIFICATION SUBMITTAL. (a) Original asbestos abatement activity notification and planned renovation project notification and fees may be submitted by means of fax, email, personal delivery, delivery service, another method if approved by the department, or by U.S. postal service if postmarked at least 4 working days before the project start date. U.S. postal service may not be used when submitting notification less than 4 working days before the asbestos abatement activity start date.

(b) Revised and cancelled asbestos abatement activity notification may be submitted by means of fax, email, personal delivery, or another method if approved by the department.

(8) NOTIFICATION FEES. The appropriate fee shall accompany the asbestos abatement activity notification.

(a) For an original asbestos abatement activity notification, the following fees apply:

1. A $50 fee when submitted to the department 2 working days or more before the project start date. Notification submitted by U.S. postal service that is postmarked at least 4 working days before the project start date will be deemed in compliance with a 2 working day notification.

2. A $100 fee when submitted to the department less than 2 working days before the project start date.

(b) For revisions to an asbestos abatement activity notification, the following fees apply:

1. A $50 fee when a revision to an earlier start date is submitted to the department less than 2 working days before the new start date.

2. No fee is required with any other revision submitted to the department.

(c) For an original planned renovation project or sub-project notification, the following fees apply:

1. A $100 fee for an original planned renovation project notification.

2. A $50 fee for a sub-project notification when submitted to the department less than 2 working days before the sub-project start date.

3. No fee for a sub-project notification when submitted to the department 2 working days or more before the sub-project start date.

(d) An asbestos abatement activity notification fee shall be paid by the following means:

1. When submitting notification by fax or email, payment shall be made by credit or debit charge to VISA or MasterCard.

2. When submitting notification by personal delivery, delivery service, or U.S. postal service, payment may be made by check, money order, or credit or debit charge to VISA or MasterCard.

3. The department does not accept cash payment.

4. Payment by check or money order shall be made payable to “Department of Health Services” or “DHS”.

(e) A person who submits a fee that is not honored by a financial institution may be required to submit the fee in a form of payment that is guaranteed by a financial institution and to pay any processing charges.

(f) Fees are nonrefundable and nontransferable.

(g) A school that is subject to AHERA regulations is exempt from notification fees when the asbestos abatement activity is conducted solely by a school district employee.

Note: Submit notification to Asbestos and Lead Unit: 1 W Wilson St, Room 137, PO Box 2659, Madison, WI 53701-2659; (fax) 608-266-9711; plicasbestoslead@dhs.state.wi.us. For notification submitted by fax or email payment may be made only by credit or debit charge to a VISA or MasterCard.

HFS 159.21 Responsibilities when conducting asbestos abatement. Except when certification is not required under s. HFS 159.06, an asbestos company shall ensure compliance with the following when conducting an asbestos abatement activity:

(1) PROTECTION OF PUBLIC HEALTH. The asbestos company shall protect the health of occupants, visitors, workers, and any other persons near an asbestos abatement activity by using documented engineering controls and work practices that prevent the release of asbestos fibers into the air.

(a) For all asbestos abatement activities, the company shall follow work practice standards established by DNR under s. NR 447.08, by OSHA under 29 CFR 1926.1101, and by the Wisconsin department of commerce under ch. Comm 32.

(b) For asbestos abatement activities involving the exterior of a structure, the company shall use appropriate engineering controls to prevent asbestos debris and fibers from entering the interior of the structure.

(2) PROJECT LOG. The company shall maintain a project log onsite for each workday of an asbestos abatement activity. The daily project log shall include the date, project number as identified

on the notification form required under s. HFS 159.20, project address, printed name and certification number of the site supervisor, and the printed name, signature, reason for entry, department certification number, if appropriate, and the in and out times for each person who enters the regulated area.

(3) OCCUPANT PROTECTION PLAN. A written occupant protection plan shall be posted in plain view outside each regulated area when the structure on which the asbestos abatement activity is being conducted is occupied or furnished. The plan shall be written on a form provided or approved by the department and shall describe how occupants and furnishings will be protected from exposure to asbestos fibers during the asbestos abatement activity and shall include all of the following:

(a) The name, address, and telephone number of the company conducting the asbestos abatement activity.

(b) The address of the property where the project is being conducted and the name and telephone number of the property contact person.

(c) The project starting and ending dates and work schedule or shifts.

(d) A statement that only authorized persons using appropriate personal protection may enter regulated areas.

(e) A description of the engineering controls that will be used to prevent contamination of the structure, including the heating, ventilating, and air conditioning systems.

(f) A description of any clearance activities that will be conducted.

Note: Occupant protection forms are available on the department's website at www.dhs.wi.gov/asbestos or may be obtained from the Asbestos and Lead Unit: plicasbstoslead@dhs.state.wi.us; 608-261-6876; 1 W Wilson St, Room 137, PO Box 2659, Madison, WI 53701-2659.

(4) WORKER SUPERVISION. The asbestos company shall ensure that each asbestos worker conducting asbestos abatement activities has direct onsite supervision by an asbestos supervisor certified under this chapter and that each exterior asbestos worker conducting asbestos abatement activities has direct onsite supervision by an asbestos supervisor or exterior asbestos supervisor certified under this chapter.

(5) VERIFICATION OF WORKER CERTIFICATION STATUS. The asbestos company shall verify that each individual who conducts or supervises an asbestos abatement or asbestos management activity for the company is certified in the appropriate discipline required for the activity.

(6) SUPERVISOR AUTHORITY. The asbestos supervisor or exterior asbestos supervisor shall have the authority to shut down an asbestos abatement activity or take other prompt corrective measures to eliminate asbestos hazards and to ensure compliance with asbestos regulations.

HFS 159.22 Responsibilities when providing an accredited training course. An asbestos company that is a training provider shall ensure compliance with all of the following:

(1) COURSE ADVERTISING. Advertisement for a training course shall include the name and address of the training provider as it appears on the application for training course accreditation submitted to the department, or as later changed by notification to the department.

(2) COURSE CHANGES. The training provider shall submit proposed course changes to training course curriculum, including student manuals, instructor manuals, audiovisual materials and course tests, to the department for review and approval before implementing such changes in a class.

(3) TRANSFER OF COURSE OWNERSHIP. A training provider may transfer ownership of an accredited training course if the transfer is requested by the training provider and the person to whom the course is being transferred, and a transfer fee of $50 is paid to the department.

(4) DISPOSITION OF TRAINING RECORDS. The training provider, upon closing its business or ceasing to offer an accredited training course, shall give the department an opportunity to take possession of relevant training records.

Note: Submit changes to Asbestos and Lead Unit: 1 W Wilson St, Room 137, PO Box 2659, Madison, WI 53701-2659; (fax) 608-266-9711; plicasbestoslead@dhs.state.wi.us.

(5) QUALITY CONTROL. To ensure that training courses, principal instructors and guest instructors remain in compliance with this chapter, the training provider shall implement a quality control plan that includes the following:

(a) Annual review and update, as needed, of training materials and course tests.

(b) Annual compilation and review of student-completed course evaluation forms with course improvements made to address student concerns.

(6) CLASS SCHEDULE NOTIFICATION. (a) S*ubmittal requirements.* The training provider shall submit class schedule notification using the department online database at least 10 working days before the class starting date. If a temporary computer problem prevents use of the Internet to submit class schedule notification, the training provider shall notify the department by email, fax, or telephone using a form obtained from the department. The class schedule notification shall include all of the following:

1. The name of the training provider.

2. The course discipline and whether it is an initial or refresher course.

3. The class location, including city, street address, and building name and room number if applicable.

4. The class start and end dates.

5. The class daily start and end times.

6. The name of the principal instructor.

Note: Instructions for completing the course schedule notification form on the Internet may be obtained from the Asbestos and Lead Unit at plicasbestoslead@dhs.state.wi.us or 608-261-6876.

Note: To submit class schedule notification when Internet submittal is not available: 608-261-6876, plicasbestoslead@dhs.state.wi.us; (fax) 608-266-9711.

Note: Class schedule notification forms for use only if Internet access is interrupted may be obtained from the Asbestos and Lead Unit at 608-261-6876 or fax 608-266-9711.

(b) *Department approval for a class scheduled less than 10 days in advance.* The training provider shall contact the department by telephone and obtain verbal approval before scheduling a class less than 10 days in advance. The department may grant or deny approval at its discretion.

(c) *Class change or cancellation.* Whenever any required class notification information changes or when a training class is cancelled, the training provider shall revise the online class schedule notification form. When the change or cancellation is made less than 10 working days before the scheduled class starting date, the provider shall also notify the department by telephone as soon as the need for revision or cancellation is known.

Note: To notify the department about a class scheduled with less than 10 working days notification or to advise the department of a revision to a class notification, contact the Asbestos and Lead Unit by telephone at 608-261-6876.

(7) STUDENT ADMISSIONS. Before admitting a student into a class, the training provider shall do the following:

(a) *Verify student age*. Verify that each student is at least 18 years of age or will attain 18 years of age no later than 12 months after completing training.

(b) *Examine student identification*. Examine at least one form of official photo identification. The training provider shall also verify that the individual who presents identification bears a reasonable likeness to the photograph. The following forms of photo identification may be accepted:

1. Driver's license.

2. Identification card issued by the U.S. military, or a federal, state, local, or tribal agency.

3. U.S. and foreign issued passports.

4. Permanent resident alien card.

(c) *Document student identification.* Record the type of identification examined, the name of the issuing agency, the identification number, the student's full name as it appears on the identification, and the student's date of birth.

(d) *Photograph student.* Take a digital, color photograph of the student for inclusion on the training certificate issued under sub. (17) and submittal to the department with the training class student data required under sub. (18). The photograph shall be a clear, passport-style, shot of the student's face and upper torso. The student may not be permitted to wear any hat, dark glasses, or other item that obstructs the view of the student's hair and facial features when the photograph is being taken. A copy of the student photograph shall be saved electronically and the filename shall include the student's first and last name.

(e) *Determine student competency in the language of class instruction*. Admit only students who demonstrate the ability to successfully complete course requirements in the language of instruction. The training provider shall have procedures for prescreening language competency when a registered student's ability to read and communicate in the language of instruction is in doubt. An accredited training course shall be taught entirely in the language in which it was accredited and interpreters, other than sign language interpreters, may not be used.

(f) *Determine eligibility for refresher training.* Verify that the student is eligible to attend the refresher course before admitting the student into a refresher class by one of the following means:

1. Asking the student to produce the student's certification card for the discipline that is valid or has been expired for less than 12 months.

2. Reviewing the student's training history in the training provider's student database or files to verify training in the discipline within the last 24 months.

3. Asking the student to produce the student's most recent training certificate in the discipline to verify training within the last 24 months.

Note: Training providers may download Wisconsin certification information including a student's name, address, certification discipline, certification expiration date, and training due date from the department asbestos database, or may require a certification card or most recent training certificate from out-of-state students. This information can be used to determine student eligibility to take refresher training. If no information can be found through these means, the provider may contact the department for assistance.

(8) STUDENT ATTENDANCE DOCUMENTATION. The training provider shall require each student to sign in on a daily attendance record at the beginning of each training day and after each lunch break.

(9) CLASS LENGTH. A training day shall be at least 6 classroom contact hours but not more than 8 classroom contact hours, not including lunch and breaks. Once instruction has begun, a course shall be completed within a continuous 30-day period.

(10) COURSE AGENDA. The training provider shall provide each student a written agenda for the course that describes the following class schedule information:

(a) Start and end times for each day of training.

(b) Each major topic area as provided under ss. HFS 159.29 to 159.36.

(c) Each hands-on training segment required for the course under ss. HFS 159.29 to 159.36.

(d) Class time of at least 15 minutes for the student to complete the department certification application form.

(e) Break and lunch periods.

(11) TRAINING RESOURCES AND FACILITIES**.** The curriculum approved by the department under subch. IV shall be used to teach the course and shall be revised as new information or regulations apply. Up-to-date equipment and materials for the course shall be readily available to the instructor and maintained in proper working condition. The training provider shall provide sufficient and appropriate space for classroom and hands-on instruction, seating and table or desk space for all students, appropriate lighting, and an environment conducive to learning and free of distractions.

(12) INSTRUCTORS. The training provider shall assign a principal instructor approved under subch. V to conduct a training course. Any other person teaching a portion of a training course shall be either a department-approved principal instructor or a designated guest instructor under s. HFS 159.42.

(a) The assigned principal instructor shall be responsible for the following:

1. Organizing, teaching, supervising other instructors and remaining readily available onsite.

2. Ensuring that student manuals and materials are available for each student.

3. Ensuring that required training equipment is available and in good working order.

4. Reviewing student identification, taking student photographs, and completing student attendance sign in records.

5. Managing the classroom, ensuring that all students are actively involved in classroom and hands-on learning activities, and monitoring and coaching student skill-building activities.

6. Administering the course test, monitoring the students taking the course test and ensuring exam security.

(b) A principal instructor shall not teach or supervise concurrently held training courses.

(c) A designated guest instructor may assist the principal instructor to teach hands-on skills or may provide classroom instruction in one or more topical areas of the course if qualified by education or experience in each topic area and under supervision by the principal instructor.

(d) The department may limit the student-to-instructor ratio allowed for classes managed by a principal instructor, or require a second principal instructor to participate in the class, if the first principal instructor fails to meet classroom responsibilities under this section as determined by a class audit conducted by the department.

(13) TEACHING METHODS. Teaching methods shall be designed to meet the curriculum requirements under ss. HFS 159.29 to 159.36 and shall support the course learning goals and objectives. The training provider shall ensure that each training class uses a variety of teaching methods, including methods that require active student participation. Teaching methods shall include a combination of lectures, discussions, interactive learning activities, demonstrations, and hands-on skills practice. Hands-on training shall give students actual experience performing tasks or simulated tasks associated with the asbestos discipline.

(14) INSTRUCTOR MANUAL. The training provider shall ensure that each principal instructor has the instructor manual approved by the department under subch. IV for each training course the instructor teaches, which includes all of the following:

(a) A teaching outline, teaching methods, detailed training and activity instructions, timeframes for each learning activity and each topic area required under ss. HFS 159.29 to 159.36.

(b) Audio-visual materials used for each topic, including copies of electronic presentations and titles and descriptions of all video, film, slide or other types of audio-visual material.

(c) A description of the interactive training exercises used in the course that meet the applicable curriculum requirements for the course under ss. HFS 159.29 to 159.36, including student learning objectives, teaching instructions and timeframes for each exercise.

(d) A description of the hands-on skills training exercises in the course curriculum as required under ss. HFS 159.29 to HFS 159.36, including student learning objectives, teaching instructions and step-by-step skill instructions for students, a list of required materials and equipment, and timeframes for each hands-on skill training exercise.

(15) STUDENT MANUAL. The training provider shall provide each student with the student manual or other written materials approved by the department under subch. IV for the course and

shall provide copies of all relevant regulations, including a copy of ch. HFS 159, for student use during the course.

(16) COURSE TESTS. The training provider shall maintain the validity, security, and integrity of each course test and answer key to ensure that the test accurately evaluates a student's knowledge and skills and that only course tests that have been approved by the department under subch. IV are administered. The training provider shall ensure that only the full course test is administered and not a portion of the course test and that a principal instructor is physically present and monitors each administered course test. The training provider and principal instructor shall guard against cheating, allow no talking or sharing of information in any way amongst students during the test, and shall not coach students on the test questions before or during the test. Course tests shall be administered as follows:

(a) *Test questions.* A training course shall include a written, closed-book course test that covers course topics, reflects the learning goals and objectives of the training course, and consists of the following number of multiple-choice questions:

1. For an exterior asbestos worker course, 25 multiple-choice questions.

2. For an initial exterior asbestos supervisor course, 25 multiple-choice questions.

3. For an initial asbestos worker course, asbestos inspector course or asbestos management planner course, 50 multiple-choice questions.

4. For an initial asbestos supervisor course or project designer course, 100 multiple-choice questions.

5. For any refresher course, 25 multiple-choice questions.

(b) *Minimum passing score.* The minimum passing score on a course test shall be correct answers to 70% of the total number of questions. The number of correct answers required for a passing score shall be rounded up to the nearest whole number when 70% falls between two whole numbers.

(c) T*est retakes*. A student who fails a course test may retake the course test. A course test may not be taken more than once in a 24 hour period and the student shall retake the test in its entirety. A student who fails to pass the course test within 30 days after the first attempt, or after three attempts, whichever occurs first, shall retake the course before again taking the course test.

(17) ISSUANCE OF TRAINING CERTIFICATE. The training provider shall issue a training certificate to the student after examining the student’s identification as required under sub. (7) and after the student completes all course requirements. Each training certificate issued shall include all the following:

(a) A unique certificate number.

(b) The date the certificate is issued, which shall be no earlier than the day the student passes the course test.

(c) The course discipline and whether the course is an initial course or a refresher course.

(d) The student's full name, which shall be as it appears on the student’s official identification under sub. (7).

(e) A clearly identifiable passport style, color picture of the student's face with no hat or dark glasses, which is no smaller than 1.5 inches by 1.5 inches.

(f) The course dates, including start and end dates for single or consecutive day courses, and each date of training for courses conducted on nonconsecutive dates.

(g) A statement that the student passed the course test.

(h) The date the student passed the course test.

(i) The name, address and telephone number of the training provider as the information appears on the application for accreditation or is later changed by notification to the department under s. HFS 159.19 (2).

(j) The printed name and original signature written in blue ink, of the person issuing the certificate, which shall be an authorized representative of the asbestos company or the course principal instructor.

(k) The following statement: "This training course complies with the requirements of TSCA Title II and is accredited by the State of Wisconsin, Department of Health Services under ch. HFS 159, Wis. Admin. Code," except that certificates for the exterior asbestos supervisor and exterior asbestos worker disciplines shall include the following statement: “This training course complies with the requirements of and is accredited by the State of Wisconsin, Department of Health Services under ch. HFS 159, Wis. Admin. Code.”

(L) The location of the class given as a street address, city, and state.

(m) A training certificate expiration date that is one year after the date of the last day of class.

(18) SUBMISSION OF CLASS AND STUDENT DATA. The training provider shall submit the following information to the department electronically or by another means approved by the department within ~~2~~5 working days after the completion of a training course:

(a) *Class information.* The name of the course and whether the course was an initial or refresher, the class beginning and ending dates, the principal instructor’s name, and the city and location of the class.

(b) *Student data.* The training provider shall provide student information for all persons attending the course, including any student who does not complete all course requirements. For each student attending the course, the following information shall be provided as applicable:

1. The student’s full name as it appears on the student’s official identification, and current address.

2. The student’s date of birth as given on the student’s identification.

3. The student’s course test score. The training provider shall provide passing and failing test scores. If a student passes the course test on a date other than the last day of the class, the training provider shall provide the date the student passes the course test.

4. The student’s unique training certificate number as it appears on the training certificate.

5. The date the training certificate was issued to the student.

6. The photograph of the student.

SUBCHAPTER IV REQUIREMENTS FOR TRAINING COURSE ACCREDITATION

HFS 159.23 Training course accreditation requirements. (1) No person may conduct, advertise, offer, or claim to provide an initial or refresher training course that prepares an individual for certification under subchapter II unless the person holds certification under subchapter III as an asbestos company and the training course is accredited by the department. Accreditation is required for each distinct training course.

(2) The department shall accredit asbestos training courses in the following disciplines:

(a) Asbestos supervisor initial and refresher courses.

(b) Asbestos worker initial and refresher courses.

(c) Asbestos worker initial and refresher courses conducted in a language other than English.

(d) Asbestos inspector initial and refresher courses.

(e) Asbestos management planner initial and refresher courses.

(f) Asbestos project designer initial and refresher courses.

(g) Exterior asbestos supervisor initial and refresher courses.

(h) Exterior asbestos worker course.

(i) Exterior asbestos worker course conducted in a language other than English.

(3) A course application that meets the requirements for accreditation under this subchapter shall be granted contingent accreditation, which allows a person to offer and conduct the course pending a full onsite training course audit to determine if the course qualifies for full accreditation.

HFS 159.24 Application requirements for contingent accreditation. Separate application is required for each course for which accreditation is requested. Application for original accreditation of a training course, or for accreditation of a course for which accreditation has been expired for 12 months or longer, shall be submitted to the department on an application form obtained from the department and shall include all of the following application materials:

(1) APPLICATION FORM. The fully and accurately completed department application form signed and dated by the applicant.

(2) FEES. The accreditation fees required under s. HFS 159.26 (1) for the training course discipline.

(3) PREVIOUS ACCREDITATION CERTIFICATES. Documentation of training course accreditation if the training course has been previously accredited by the EPA or by a state.

(4) ASBESTOS COMPANY APPLICATION. An application for certification as an asbestos company under subchapter III if the applicant is not already certified as an asbestos company.

(5) COURSE DESCRIPTION AND MATERIALS. The complete course description, information and materials, as follows:

(a) *Training resources.* A written description of the training resources that will be provided for the course, including a description of all of the following:

1. The classroom space and set-up for lecture and hands-on training and training sites for field trips.

2. Training supplies and equipment for demonstration and hands-on activities.

3. Audiovisual equipment, computer software and any other classroom technology.

(b) *Principal Instructor.* The name of at least one department-approved principal instructor who will teach the course, or an application for principal instructor approval under subchapter V.

(c) *Record keeping*. A written description of record keeping administered under s. HFS 159.19 (7) (b) that includes all the following:

1. The types of records kept and for what lengths of time.

2. The complete street address for the location where records will be kept.

3. The normal business days and hours at the location.

(d) *Student admissions plan*. A written description of the student admissions plan that meets the requirements under s. HFS 159.22 (7).

(e) *Course curriculum.* Course curriculum materials provided to the department that include all of the following:

1. 'Course agenda'. A course agenda that meets the requirements under s. HFS 159.22 (10).

2. 'Instructor manual'. An instructor manual for the course that meets the requirements under s. HFS 159.22 (14).

3. 'Student manual'. The student course manual required under s. HFS 159.22 (15), also including copies of regulations, handouts and any other written materials provided to students.

4. 'Topic analysis worksheet'. A completed topic analysis worksheet, obtained from the department, for the course as required under ss. HFS 159.29 to HFS 159.35 on which the applicant has entered the page locations in the course manuals and other written materials of each required topic .

(f) *Course test information.* The course test as required under s. HFS 159.22 (16), the answer key, and a course test blueprint that clearly shows how the course test was developed to reflect course content and student learning goals and objectives.

(g) *Evaluation form*. A course and instructor evaluation form as required under s. HFS 159.22 (5).

(h) *Training certificate*. A sample of the training certificate required under s. HFS 159.22 (17) for the course that is printed on the same paper and in the same color as the actual certificate that the training provider issues to students who successfully complete all training course requirements.

(i) *Non-English courses.* If accreditation is being requested for an exterior asbestos worker, asbestos worker initial, or asbestos worker refresher course in a language other than English, all course materials for students and instructors shall be provided in the language and in English

translation. These materials include the course agenda, instructor manual, student manual and any other handouts, course test and evaluation form.

(6) INDEX OF SUBMITTED INFORMATION. A written index of all information and materials submitted with the application for accreditation under subs. (1) through (5).

Note: Application forms are available on the department's website at www.dhs.wi.gov/asbestos or may be obtained from the Asbestos and Lead Unit: plicasbstoslead@dhs.state.wi.us; 608-261-6876; 1 W Wilson St, Room 137, PO Box 2659, Madison, WI 53701-2659.

Note: Submit application and fee to Asbestos and Lead Unit: 1 W Wilson St, Room 137, PO Box 2659, Madison, WI 53701-2659; (fax) 608-266-9711; plicasbestoslead@dhs.state.wi.us. For application submitted by fax or email payment may be made only by credit or debit charge to a VISA or MasterCard.

HFS 159.25 Application requirements for renewal of contingent or full course accreditation. A separate application is required for each course for which renewal of accreditation is requested. Application for renewal of a course accreditation shall be submitted to the department and shall include all of the following:

(1) APPLICATION FORM. The fully and accurately completed department application form, signed and dated by the applicant.

(2) FEES. The accreditation renewal fee required under s. HFS 159.26 (1) for the training course discipline, and any past audit fees the provider owes.

(3) COURSE CHANGES. A complete description of any changes made to the training course or training resources since the last application was approved.

Note: Application forms are available on the department's website at www.dhs.wi.gov/asbestos or may be obtained from the Asbestos and Lead Unit: plicasbstoslead@dhs.state.wi.us; 608-261-6876; 1 W Wilson St, Room 137, PO Box 2659, Madison, WI 53701-2659.

HFS 159.26 Accreditation and audit fees. The appropriate course accreditation fee is required when making application for contingent course accreditation. The appropriate accreditation renewal fee is required for each training course for which renewal of accreditation is requested.

(1) ACCREDITATION FEES. Fees for accreditation and annual renewal of accreditation for a training course are as follows:

(a) Effective effective date of this section…. [legislative reference bureau inserts date] and until June 30, 2011, a fee of $300 for each initial training course.

(b) Effective July 1, 2011, for an initial asbestos worker, asbestos supervisor or asbestos inspector training course, a fee of $500 for each course. For all other initial training courses, a fee of $300 per year for each course.

(c) Effective effective date of this section…. [legislative reference bureau inserts date] and until June 30, 2011, a fee of $150 per year for each refresher training course.

(d) Effective July 1, 2011, a fee of $250 per year for each refresher training course.

(2) METHODS OF PAYMENT. Payment of a fee shall be by check or money order payable to "Department of Health Services" or "DHS," or may be charged to a VISA or MasterCard. For application submitted by fax or email, payment may be made only by credit or debit charge to a VISA or MasterCard. The department will not accept cash payment. A person who submits a fee by a check that is not honored by a financial institution may be required to submit the fee in a form of payment that is guaranteed by a financial institution and to pay any processing charges assessed by the financial institution.

~~(4)~~ (3) NONREFUNDABLE AND NONTRANSFERABLE. Fees are nonrefundable and nontransferable.

HFS 159.27 Department decisions on training course accreditation and renewal of accreditation. (1) CONTINGENT ACCREDITATION. Accreditation for a training course that has not been previously accredited or for a course for which accreditation has been expired for 12 months or more shall be contingent accreditation pending a successful on-site audit of the course that determines the course qualifies for full accreditation. The department shall make a decision on an application for contingent accreditation as follows:

(a) *Incomplete application*. 1. Within 15 calendar days after receiving an incomplete application for training course accreditation, the department shall provide instructions to the applicant regarding what action the applicant must take to complete the application. The department may require the applicant to submit a $25 processing fee when the department must obtain additional information due to an incomplete application.

2. If a complete application is not received by the department within 60 days after the department first receives the application, the application is void. For a training course to be reconsidered for accreditation, the applicant shall submit a new complete application, including the required fees, to the department.

(b) *Complete application*. Within 90 calendar days after receiving a complete application for training course accreditation, the department shall review the application and accompanying materials and do one of the following:

1. Grant contingent accreditation. If the department determines that the training course as described in written materials is in compliance with this chapter and meets the requirements for accreditation, the department shall issue the applicant a certificate of contingent accreditation.

2. Require changes. If the department determines that the training course as described in written materials is not in compliance with this chapter and does not meet the requirements for accreditation, the department may inform the applicant in writing of any changes required to course documentation or structure. The department shall review changes received from the applicant within 60 days after receipt. If the required changes to course documentation or structure are not received by the department within 60 days after the department sends written instructions to the applicant, the application is void. For a training course to be reconsidered for accreditation, the applicant shall submit a new application, including the required fees, to the department.

3. Deny contingent accreditation. If the department determines that the training course as described in written materials is not in compliance with this chapter and does not meet the requirements for accreditation, the department may deny contingent accreditation and shall provide the applicant with written notification of the reason for denial and appeal rights under subchapter VI.

(c) *Number of renewals allowed for contingent accreditation.* The department may renew contingent course accreditation a maximum of 2 times.

(2) FULL ACCREDITATION. The department shall conduct an onsite in-state audit of a training course that has been granted contingent accreditation to determine whether the training course as delivered meets the training course requirements of this chapter. Based on the results of the audit, the department shall take one of the following actions:

(a) Grant full accreditation. If the department determines that the training course is in compliance with this chapter and meets the requirements for full accreditation the department shall issue the training provider a certificate of full accreditation to replace the certificate of contingent accreditation. The course expiration date shall remain the same.

(b) Continue contingent accreditation. If the department determines that the training course is not in compliance with this chapter and does not meet the requirements for full accreditation, the department may allow contingent accreditation to remain in effect to allow the training provider to bring the course into compliance.

(c) Suspend or revoke accreditation. If the department determines that the training course is not in compliance with this chapter the department may suspend or revoke the course contingent accreditation and shall provide the applicant with written notification of the reason for suspension or revocation and appeal rights under subchapter VI.

(3) COMPLIANCE AUDITS. In addition to audits conducted to determine full accreditation, the department may conduct onsite audits of any accredited training course to determine compliance with this chapter.

(4) CONDUCT OF AUDITS. A training provider, instructor or other provider representative may not deny department representatives entry to a training class or place of business to conduct an audit.

(a) An audit may review any of the following:

1. Records.

2. Facilities.

3. Instructional curriculum.

4. Classroom instruction.

5. Classroom and time management.

6. Course test administration and security procedures.

(b) The department may require a training provider to submit to the department records required under s. HFS 159.19 (7) (b) for purposes of determining compliance.

(c) Within 60 calendar days after completing an audit, the department shall notify the training provider in writing of the audit results.

HFS 159.28 Training course accreditation effective dates and expiration dates.

(1) EFFECTIVE DATES. Original or renewed course accreditation is effective on the date the department issues the accreditation certificate.

(2) EXPIRATION DATES. Course accreditation expires as follows.

(a) Except as provided under par. (c), original course accreditation expires one year after the course accreditation issue date.

(b) Except as provided under par. (c), renewed accreditation expires as follows:

1. When an application for accreditation renewal is submitted to the department before the current course accreditation expiration date, the renewed course accreditation expires one year from the date the current course accreditation expires.

2. When an application for accreditation renewal is submitted to the department within 12 months after the course accreditation expiration date the renewed course accreditation expires one year after the renewal issue date.

(c) Accreditation of a training course that is in effect on the effective date of this rule, (revisor insert date) shall expire one year after the effective date of this rule …(revisor insert date).

(3) EXPIRED ACCREDITATION. (a) To obtain accreditation for a course that has been expired for more than 12 months, the training provider shall submit application for contingent accreditation under s. HFS 159.24.

(b) A training provider may not conduct a training course if accreditation for the course is expired.

HFS 159.29 Curriculum requirements for exterior asbestos worker course. The training course for the exterior asbestos worker discipline shall be one training day in length. Course instruction shall include: lecture, supplemented with audiovisual materials, and learning exercises and activities; at least 3 hours of hands-on skills training and practice; course review with time to answer questions; a written course test that meets requirements under s. HFS 159.22 (16); and time to assist students to complete the department application for certification. Course instruction for the exterior asbestos worker discipline shall address all of the following topics:

(1) ASBESTOS CHARACTERISTICS. The physical characteristics of asbestos, including all of the following:

(a) Identification of asbestos.

(b) Aerodynamic characteristics.

(c) Friable and non-friable asbestos-containing materials.

(d). Typical asbestos uses on the exterior of structures including NESHAP category I and II non-friable asbestos-containing material (e.g., built-up roofing materials, cementitious roofing materials, cementitious siding materials) and incidental asbestos-containing exterior building products.

(e) Overview of abatement control options.

(2) HEALTH EFFECTS. Potential health effects related to asbestos exposure, including all of the following:

(a) The nature of asbestos-related diseases.

(b) Dose-response relationship and lack of a safe exposure level.

(c) Synergistic effect between cigarette smoking and asbestos exposure.

(d) Routes of exposure.

(e) Latency period of asbestos-related diseases.

(f) Relationship of asbestos exposure to asbestosis, lung cancer, mesothelioma, and cancers of other organs.

(3) PERSONAL PROTECTIVE EQUIPMENT. The use of personal protective equipment, including all of the following:

(a) Classes and characteristics of respirators, including respirator protection factors.

(b) Limitations of respirators.

(c) Proper respirator selection, inspection, donning, use, maintenance, and storage procedures.

(d) Selection of cartridges.

(e) Methods for field testing of the face piece-to-face seal, including positive and negative pressure fit checks.

(f) Qualitative and quantitative fit testing procedures.

(g) Variability between field and laboratory protection and factors that alter respirator fit, such as facial hair.

(h) Components of a proper respiratory protection program and employer responsibilities.

(i) Selection and use of disposable and non-disposable personal protective clothing.

(j) Regulations covering personal protective equipment.

(k) A demonstration of donning, fit checking and fit testing.

(L) Hands-on skills training and practice in the following:

1. Selecting proper respirators and cartridges.

2. Inspecting, disassembling, cleaning and assembling half-face respirators.

3. Donning and doffing personal protective clothing.

(4) MEDICAL MONITORING. Medical monitoring, including worker protection requirements under OSHA and EPA for physical examinations, pulmonary function test, chest e-rays and medical history for each employee.

(5) EXTERIOR ABATEMENT WORK PRACTICES. State-of-the-art work practices for exterior abatement projects, including all of the following:

(a) Proper construction and maintenance of regulated areas.

(b) Positioning of warning signs.

(c) Sealing openings to the building.

(d) Proper working techniques for minimizing fiber release.

(e) Use of wet methods.

(f) Use of HEPA vacuums.

(g) Proper clean-up and disposal procedures.

(h) Work practices for removal, enclosure and repair of asbestos-containing material.

(i) Emergency procedures for sudden releases.

(j) Potential exposure issues.

(k) Transport and disposal procedures.

(L) Recommended and prohibited work practices.

(m) Controlling for possible impact of roofing and siding activities on interior asbestos-containing materials.

(n) Proper use of power equipment and other tools.

(o) Proper waste handling and disposal, including systems for lowering roofing and siding materials to minimize breakage.

(p) Decontamination requirements.

(q) Hands-on skills training and practice in the following:

1. Establishing regulated areas.

2. Positioning warning signs.

3. Selecting proper tools.

4. Using wet methods.

5. Proper use of HEPA vacuums.

6. Waste handling and disposal.

7. Decontamination of tools and person.

(6) PERSONAL HYGIENE. Personal hygiene, including all of the following:

(a) Entry and exit procedures for the work area.

(b) Proper use of decontamination.

(c) Avoidance of eating, drinking, smoking, and chewing gum or tobacco in the work area.

(d) Potential exposures, such as family exposure.

(7) OTHER SAFETY HAZARDS. Additional safety hazards encountered during abatement activities and how to deal with them including all of the following:

(a) Electrical hazards.

(b) Heat stress.

(c) Fire and explosion hazards.

(d) Scaffold and ladder hazards.

(e) Slips, trips, and falls.

(8) ASBESTOS REGULATIONS. Asbestos-related regulations for workers, including all of the following:

(a) Overview of federal and state government agencies that regulate asbestos removal.

(b) Overview of EPA national emission standards for hazardous air pollutants under 40 CFR 61 subparts A, general provisions, and M, national emissions standards for asbestos.

(c) OSHA regulations for worker protection under 29 CFR 1926.1101, asbestos construction standard, 29 CFR 1926.59, hazard communication standard, and 29 CFR 1910.134, respiratory protection standard.

(d) The OSHA roofing settlement agreement.

(e) Overview of current state asbestos-related regulations of the department of commerce under ch. Comm 32, department of natural resources under ch. NR 447, and this chapter, including asbestos training and certification requirements, procedures for submitting an application for certification, required fees, and provisional certification.

HFS 159.30 Curriculum requirements for exterior asbestos supervisor initial course. The initial training course for the exterior asbestos supervisor discipline shall be one training day in length. Course instruction shall include: lecture, supplemented with audiovisual materials, and learning exercises and activities; at least 3 hours of hands-on skills training and practice; course review with time to answer questions; a written course test that meets the requirements under s. HFS 159.22 (16); and time to assist students to complete the department application for certification. Instruction for the exterior asbestos supervisor initial training course shall address all of the following topics:

(1) BULK SAMPLING. Bulk sampling of non-friable exterior suspect asbestos-containing materials, including all of the following:

(a) Understanding roofing and siding systems.

(b) Techniques to ensure sampling in a randomly distributed manner for other than friable surfacing materials.

(c) Techniques for bulk sampling.

(d) Sampling and repair equipment.

(e) Patching or repair of damage from sampling.

(f) Discussion of polarized light microscopy.

(g) Choosing an accredited laboratory to analyze bulk samples.

(h) Quality control and quality assurance procedures.

(i) Sample analysis recommended by EPA be performed by laboratories accredited by the National Institute of Standards and Technology's (NIST) National Voluntary Laboratory Accreditation Program (NVLAP).

(j) Hands-on instruction in all of the following:

1. Determining homogeneous areas.

2. Determining proper number of samples to take and locations for taking bulk samples.

3. Sampling methods for non-friable materials.

4. Taking samples using a variety of tools on non-asbestos containing material.

5. Repairing damage after taking samples.

(2) AIR MONITORING. Air sampling for airborne asbestos fibers, including all of the following:

(a) Sampling equipment including high volume and low volume sampling pumps.

(b) Sampling media, including types of filter and cassettes, cassette orientation, storage, and shipment.

(c) Calibration techniques and frequency of calibration including record keeping and field work documentation and calculations.

(d) Phase contrast microscopy air sampling and its limitations including cassette overloading and inability to identify asbestos structures.

(e) OSHA air sampling requirements.

(f) Sampling strategies, types of air samples (personal breathing zone versus fixed-station area) sampling locations and number of samples to be collected, minimum and maximum air volumes.

(g) Quality assurance

(h) Hands-on skills training and practice in the following:

1. Air sampling equipment selection and set-up for area and personal air monitoring.

2. Calibration of air monitoring equipment including primary and secondary standards.

3. Determining number, locations and length of time for sampling.

4. Completing a chain of custody form for air samples.

5. Interpreting personal, area and clearance air sampling results.

(3) ABATEMENT PROJECT WORK PRACTICES. State-of-the-art work practices for asbestos abatement projects, including all of the following:

(a) Assessment of the work area, including:

1. Site preparation considerations.

2. Conducting a negative exposure assessment.

3. Considerations for areas adjacent to the regulated asbestos work.

4. Occupant protection considerations for work in occupied building.

(b) Supervisor responsibilities for isolating the work area, preparation and set-up, including:

1. Proper construction and maintenance of regulated area.

2. Positioning of warning signs.

3. Sealing openings to the building.

4. Worker personal protective equipment and other worksite safety preparations.

(c) Supervisor responsibilities for proper abatement work techniques to minimize fiber release, including:

1. Use of wet methods.

2. Use of HEPA vacuums.

3. Proper use of power equipment and other tools.

4. Work practices for removal, enclosure and repair of asbestos-containing material.

5. Recommended and prohibited work practices.

6. Controlling for possible impact of roofing and siding activities on interior asbestos-containing materials.

(d) Supervisor responsibilities for proper worksite cleanup, waste handling and decontamination, including:

1. Proper clean-up procedures.

2. Use of HEPA vacuums.

3. Waste handling procedures, including systems for lowering roofing and siding materials to minimize breakage.

4. Transport and disposal procedures.

5. Decontamination procedures, including proper doffing of personal protective clothing and respirators in decontamination units.

(e) Other asbestos worksite issues, including:

1. Emergency procedures for sudden releases.

2. Potential exposure situations on the job.

(f) Hands-on skills training and practice in the following:

1. Completing project notification form.

2. Completing occupant protection plans.

3. Completing waste handling and disposal paperwork.

(4) INSURANCE AND LIABILITY. Insurance, bonding, legal liabilities and defenses, including all of the following:

(a) Contractor issues regarding liability, including tort, regulatory and contractual.

(b) Third-party liabilities and defenses.

(c) Worker's compensation coverage and exclusions.

(d) Insurance coverage and exclusions, including claims-made and occurrence policies, comprehensive general liability policies, environmental and pollution liability policy coverage and exclusions, liability insurance requirements, and hold harmless clauses.

(e) Bonding and the relationship between insurance availability and bond availability.

(5) RECORD KEEPING AND PROJECT FORMS. Records, forms and documentation, including all of the following:

(a) Records required by federal, state and local regulations.

(b) Project notification, project logs and occupant protection plans for asbestos abatement activities.

(c) Records recommended for legal and insurance purposes.

(d) Hands-on skills training and practice for completing asbestos abatement project notification forms and occupant protection plans.

(6) SUPERVISING ASBESTOS ACTIVITIES. Activities addressed shall include all of the following:

(a) Enforcing and reinforcing required work practices and discouraging unsafe work practices.

(b) Exterior supervisor responsibility to determine if ACM or suspect ACM is friable.

(c) Exterior supervisor responsibility and authority to shut down a project to bring in a certified asbestos company if ACM or suspect ACM, which is being disturbed or removed, becomes, or is found to be, friable.

(d) Supervisor responsibility for emergency planning.

(e) Use of supervisory authority under this chapter, including stopping jobs.

(f) Ensuring each employee on the jobsite is appropriately certified.

(g) Considerations when coordinating with other contractors on site.

(7) CONTRACT SPECIFICATIONS. Discussions of essential elements that may be included in contract specifications for exterior asbestos abatement projects.

HFS 159.31 Curriculum requirements for asbestos worker initial course. The initial training course for the asbestos worker discipline shall be 4 training days in length. Course instruction shall include lecture supplemented by audiovisual materials, learning exercises and activities; at least 14 hours of hands-on skills training and practice; course review with time to answer questions; a written course test that meets the requirements under s. HFS 159.22 (16); and time to assist students to complete the department application for certification. Course instruction for the asbestos worker initial training course shall address all of the following:

(1) ASBESTOS CHARACTERISTICS. Physical characteristics of asbestos, including all of the following:

(a) Identification of asbestos.

(b) Aerodynamic characteristics.

(c) Typical uses of asbestos-containing materials.

(d) Physical appearance.

(e) Overview of abatement control options.

(2) HEALTH EFFECTS. Potential health effects related to asbestos exposure, including all of the following:

(a) The nature of asbestos-related diseases.

(b) Routes of exposure.

(c) Dose-response relationship and the lack of a safe exposure level.

(d) Synergistic effect between cigarette smoking and asbestos exposure.

(e) Latency periods for asbestos-related diseases.

(f) Relationship of asbestos exposure to asbestosis, lung cancer, mesothelioma, and cancers of other organs.

(3) PERSONAL PROTECTIVE EQUIPMENT. The use of personal protective equipment, including all of the following:

(a) Classes and characteristics of respirators, including respirator protection factors.

(b) Limitations of respirators.

(c) Proper respirator selection, inspection, donning, use, maintenance, and storage procedures.

(d) Selection of cartridges.

(e) Methods for field testing of the facepiece-to-face seal, including positive and negative pressure fit checks.

(f) Qualitative and quantitative fit testing procedures.

(g) Variability between field and laboratory protection and factors that alter respirator fit, such as facial hair.

(h) Components of a proper respiratory protection program and employer responsibilities.

(i) Selection and use of disposable and non-disposable personal protective clothing.

(j) Regulations covering personal protective equipment.

(k) A demonstration of donning, fit checking and fit testing.

(L) Hands-on skills training and practice in the following:

1. Selecting proper respirators and cartridges.

2. Inspecting, disassembling, cleaning and assembling half-face respirators.

3. Donning and doffing personal protective clothing.

(4) ABATEMENT PROJECT WORK PRACTICES. State-of-the-art work practices for asbestos abatement projects, including all of the following:

(a) Assessment of the work area, including site preparation considerations.

(b) Isolating the work area, preparation and set-up, including:

1. Proper construction and maintenance of barriers, containments, and decontamination enclosure systems.

2. Positioning of warning signs.

3. Lock-out of electrical and ventilation systems.

(c) Proper abatement work techniques to minimize fiber release, including:

1. Use of wet methods.

2. Use of negative pressure ventilation equipment.

3. Use of HEPA vacuums.

4. Work practices for removal, encapsulation, enclosure and repair.

5. Glove bag use and methods.

6. Recommended and prohibited work practices.

7. Encapsulation, enclosure, and repair of asbestos-containing material

8. Recommended and prohibited work practices

(d) Proper worksite cleanup, waste handling and decontamination, including:

1. Proper clean-up and disposal procedures.

2. Use of HEPA vacuums.

3. Transport and disposal procedures.

4. Proper donning and doffing of personal protective clothing and respirators in decontamination units.

(e) Other asbestos worksite issues, including:

1. Emergency procedures for sudden releases.

2. Potential exposure situations on the job.

(f) Hands-on skills training and practice in the following:

1. Constructing containment and decontamination systems.

2. Positioning warning signs.

3. Proper use of HEPA vacuums.

4. Proper use of negative air machines.

5. Waste handling and disposal.

6. Using wet methods.

7. Proper glove-bagging techniques.

(5) PERSONAL HYGIENE. Personal hygiene, including all of the following:

(a) Entry and exit procedures for the work area.

(b) Proper use of showers.

(c) Avoidance of eating, drinking, smoking and chewing gum or tobacco in the work area.

(d) Potential exposures, such as family exposure.

(6) OTHER SAFETY HAZARDS. Additional safety hazards encountered during abatement activities and how to deal with them, including all of the following:

(a) Electrical hazards.

(b) Heat stress.

(c) Air contaminants other than asbestos.

(d) Fire and explosion hazards.

(e) Scaffold and ladder hazards.

(f) Slips, trips and falls.

(g) Confined spaces.

(7) MEDICAL MONITORING. Medical monitoring, including worker protection requirements under OSHA and EPA for physical examinations, pulmonary function tests, chest x-rays and medical history for each employee.

(8) AIR MONITORING. Air monitoring, including all of the following:

(a) Procedures to determine airborne concentrations of asbestos fibers.

(b) Personal air sampling procedures.

(c) Reasons for personal air monitoring and understanding air monitoring results.

(9) ASBESTOS REGULATIONS. Asbestos-related regulations for workers, including all of the following:

(a) Overview of federal, state and local government agencies that regulate asbestos removal.

(b) Overview of EPA regulations for asbestos in schools under 40 CFR 763 subpart E and EPA national emission standards for hazardous air pollutants under 40 CFR 61 subparts A and M.

(c) OSHA asbestos construction standard under 29 CFR 1926.1101, hazard communication standard under 29 CFR 1926.59, and respiratory protection under 29 CFR 1910.134.

(d) Current state asbestos-related regulations of the department of commerce, department of natural resources, and this chapter, including asbestos training and certification requirements, procedures for submitting an application for certification, required fees, and provisional certification.

HFS 159.32 Curriculum requirements for asbestos supervisor initial course. The initial training course for the asbestos supervisor discipline shall be 5 training days in length. Course instruction shall include lecture supplemented by audiovisual materials, learning exercises and activities; at least 16 hours of hands-on skills training and practice; course review with time to answer questions; a written course test that meets the requirements under s. HFS 159.22 (16); and time to assist students to complete the department application for certification. Course instruction for the asbestos supervisor initial training course shall address all of the following:

(1) ASBESTOS CHARACTERISTICS. Physical characteristics of asbestos, including all of the following:

(a) Identification of asbestos.

(b) Aerodynamic characteristics.

(c) Typical uses of asbestos-containing materials.

(d) Physical appearance.

(e) Overview of abatement control options.

(f) Hazard assessment considerations, including friability.

(2) HEALTH EFFECTS. Potential health effects related to asbestos exposure, including all of the following:

(a) The nature of asbestos-related diseases.

(b) Routes of exposure.

(c) Dose-response relationship and the lack of a safe exposure level.

(d) Synergistic effect between cigarette smoking and asbestos exposure.

(e) Latency periods for asbestos-related diseases.

(f) Relationship of asbestos exposure to asbestosis, lung cancer, mesothelioma, and cancers of other organs.

(3) PERSONAL PROTECTIVE EQUIPMENT. The use of personal protective equipment, including all of the following:

(a) Classes and characteristics of respirators, including respirator protection factors.

(b) Limitations of respirators.

(c) Proper respirator selection, inspection, donning, use, maintenance, and storage procedures.

(d) Selection of cartridges.

(e) Methods for field testing of the facepiece-to-face seal, including positive and negative pressure fit checks.

(f) Qualitative and quantitative fit testing procedures.

(g) Variability between field and laboratory protection and factors that alter respirator fit, such as facial hair.

(h) Components of a proper respiratory protection program and employer responsibilities.

(i) Selection and use of disposable and non-disposable personal protective clothing.

(j) Regulations covering personal protective equipment.

(k) A demonstration of donning, fit checking and fit testing.

(L) Hands-on skills training and practice in the following:

1. Selecting proper respirators and cartridges.

2. Inspecting, disassembling, cleaning and assembling half-face respirators.

3. Donning and doffing personal protective clothing.

(4) ABATEMENT PROJECT WORK PRACTICES. State-of-the-art work practices for asbestos abatement projects, including all of the following:

(a) Assessment of the work area, including:

1. Site preparation considerations.

2. Conducting a negative exposure assessment.

3. Considerations for areas adjacent to the regulated asbestos work.

4. Occupant protection considerations for work in occupied building.

(b) Isolating the work area, preparation and set-up, including:

1. Proper construction and maintenance of barriers, containments, and decontamination enclosure systems.

2. Positioning of warning signs.

3. Lock-out of electrical and ventilation systems.

(c) Proper abatement work techniques to minimize fiber release, including:

1. Use of wet methods.

2. Use of negative pressure ventilation equipment.

3. Use of HEPA vacuums.

4. Work practices for removal, encapsulation, enclosure and repair.

5. Glove bag use and methods.

6. Recommended and prohibited work practices.

7. Encapsulation, enclosure, and repair of asbestos-containing material.

8. Recommended and prohibited work practices.

(d) Proper worksite cleanup, waste handling and decontamination, including:

1. Proper clean-up and disposal procedures.

2. Use of HEPA vacuums.

3. Transport and disposal procedures.

4. Proper donning and doffing of personal protective clothing and respirators in decontamination units.

(e) Other asbestos worksite issues, including:

1. Emergency procedures for sudden releases.

2. Potential exposure situations on the job.

(f) Hands-on skills training and practice in the following:

1. Completing occupant protection plans.

2. Constructing containment and decontamination systems.

3. Positioning warning signs.

4. Proper use of HEPA vacuums.

5. Proper use and location for negative air machines.

6. Determining number of negative air machines needed.

7. Waste handling and disposal.

8. Using wet methods.

9. Proper glovebagging techniques.

(5) PERSONAL HYGIENE. Personal hygiene, including all of the following:

(a) Entry and exit procedures for the work area.

(b) Proper use of showers.

(c) Avoidance of eating, drinking, smoking, and chewing gum or tobacco in the work area.

(d) Potential exposures, such as family exposure.

(6) OTHER SAFETY HAZARDS. Additional safety hazards encountered during abatement activities and how to deal with them, including all of the following:

(a) Electrical hazards.

(b) Heat stress.

(c) Air contaminants other than asbestos.

(d) Fire and explosion hazards.

(e) Scaffold and ladder hazards.

(f) Slips, trips and falls.

(g) Confined spaces.

(7) MEDICAL MONITORING. Medical monitoring, including worker protection requirements under OSHA and EPA for physical examinations, pulmonary function tests, chest x-rays and medical histories of employees, and establishing employee respiratory protection programs and medical monitoring programs required by OSHA.

(8) AIR MONITORING. Supervisor role in on-the-job air monitoring, including all of the following:

(a) Reasons for air monitoring.

(b) Procedures to determine airborne concentrations of asbestos fibers including a description of aggressive air sampling.

(c) Sampling equipment, including low volume and high volume sampling pumps.

(d) Sampling media, including types of filters and cassettes, cassette orientation and storage, and shipment.

(e) Calibration techniques, primary calibration standards, secondary calibration standards, temperature and pressure effects, and frequency of calibration, record keeping and field work documentation and calculations.

(f) AHERA air sampling analysis using phase contrast microscopy and transmission electron microscopy and their limitations including cassette overload and their ability to identify asbestos structures.

(g) AHERA and OSHA air sampling requirements.

1. Sampling strategies, types of air samples (personal breathing zone versus fixed-station area) sampling location and objectives (pre-abatement, abatement, perimeter, and clearance sampling), number of samples to be collected, minimum and maximum air volumes.

2. Clearance monitoring, including post visual inspection, number of samples required, selection of sampling locations, period of sampling, aggressive sampling, interpretations of sampling results, and calculations.

3. Quality assurance plan including field blanks.

4. Sample analysis by laboratories accredited by the National Institute of Standards and Technology's (NIST) National Voluntary Laboratory Accreditation Program (NVLAP).

(h) Special sampling problems including crawl spaces and multiple contractor sites.

(i) Hands-on skills training and practice in the following:

1. Air sampling equipment selection and set-up for area and personal air monitoring.

2. Calibration of air monitoring equipment including primary and secondary standards.

3. Determining number, locations and length of time for sampling.

4. Completing a chain of custody form for air samples.

5. Interpreting personal, area and clearance air sampling results.

(9) ASBESTOS REGULATIONS. Asbestos-related regulations for supervisors, including all of the following:

(a) Requirements of TSCA (Toxic Substances Control Act) Title II (15 U.S.C. secs. 2643 and 2646).

(b) EPA National Emission Standards for Hazardous Air Pollutants (40 CFR part 61), Subparts A (General Provisions) and M (National Emission Standard for Asbestos).

(c) EPA Asbestos-Containing Materials in Schools (40 CFR 763, Subpart E).

(d) EPA Worker Protection Rule (40 CFR 763, Subpart G).

(e) OSHA Asbestos Construction Standard (29 CFR 1926.1101), Hazard Communication Standard (29 CFR 1926.59), and Respiratory Protection (29 CFR 1910.134).

(f) U.S. department of transportation requirements under 49 CFR Part 172, hazardous materials transportation standard.

(g) Asbestos training, certification, provisional certification, and notification requirements and responsibilities under this chapter, including procedures for submitting certification applications and project notifications, and required fees.

(h) Department of commerce asbestos regulations for public sector employees under ch. Comm 32.

(i) Department of natural resources regulations for the control of asbestos emissions under ch. NR 447.

(j) Department of natural resources regulations for the collection and transportation of asbestos waste under s. NR 502.06 (3).

(k) Hands-on skills training and practice in reading, finding information, and determining regulatory requirements of federal and state regulations.

(10) INSURANCE AND LIABILITY. Insurance, bonding, legal liabilities and defenses, including all of the following:

(a) Contractor issues regarding liability, including tort, regulatory and contractual.

(b) Third-party liabilities and defenses.

(c) Worker's compensation coverage and exclusions.

(d) Insurance coverage and exclusions, including claims-made and occurrence policies, comprehensive general liability policies, environmental and pollution liability policy coverage and exclusions, liability insurance requirements, and hold harmless clauses.

(e) Bonding and the relationship between insurance availability and bond availability.

(11) RECORD KEEPING AND PROJECT FORMS. Records, forms and documentation, including all of the following:

(a) Records required by federal, state and local regulations.

(b) Project notification, project logs and occupant protection plans for asbestos abatement activities.

(c) Records recommended for legal and insurance purposes.

(d) Hands-on skills training and practice for completing asbestos abatement project notification forms and occupant protection plans.

(12) SUPERVISING ASBESTOS ACTIVITIES. Activities addressed shall include all of the following:

(a) Enforcing and reinforcing required work practices and discouraging unsafe work practices.

(b) Supervisor responsibility for emergency planning.

(c) Use of supervisory authority under this chapter, including stopping jobs.

(d) Ensuring each employee on the jobsite has their appropriate certification.

(e) Monitoring negative pressure enclosures and local exhaust ventilation systems.

(f) Considerations when coordinating with other contractors on site.

(13) CONTRACT SPECIFICATIONS. Discussions of essential elements that may be included in contract specifications for asbestos abatement projects.

HFS 159.33 Curriculum requirements for asbestos inspector initial course. The initial training course for the asbestos inspector discipline shall be 3 training days in length. Course instruction shall include lecture supplemented by audiovisual materials, learning exercises and activities; at least 4 hours of hands-on skills training and practice; a field trip to practice inspection skills; course review with time to answer questions; a written course test that meets the requirements under s. HFS 159.22 (16); and time to assist students to complete the department application for certification. Course instruction for the asbestos inspector training course shall address all of the following:

(1) ASBESTOS CHARACTERISTICS. Physical characteristics of asbestos, including all of the following:

(a) Identification of asbestos.

(b) Aerodynamic characteristics.

(c) Typical uses of asbestos-containing materials.

(d) Physical appearance.

(2) HEALTH EFFECTS. Potential health effects related to asbestos exposure, including all of the following:

(a) The nature of asbestos-related diseases.

(b) Routes of exposure.

(c) Dose-response relationship and the lack of a safe exposure level.

(d) Synergistic effect between cigarette smoking and asbestos exposure.

(e) Latency periods for asbestos-related diseases.

(f) Relationship of asbestos exposure to asbestosis, lung cancer, mesothelioma, and cancers of other organs.

(3) FUNCTIONS, QUALIFICATIONS AND ROLE OF INSPECTORS. The work of the asbestos inspector and qualifications for inspectors, including all of the following:

(a) Discussion of prior experience and qualifications for inspectors and management planners.

(b) Discussion of the functions of a certified inspector as compared to those of a certified management planner.

(c) Discussion of inspection process including inventory of asbestos-containing materials and physical assessment.

(4) INSURANCE AND LIABILITY. Insurance, bonding, legal liabilities and defenses, including all of the following:

(a) Responsibilities of the inspector and management planner.

(b) Issues regarding liability, including tort, regulatory and contractual law.

(c) Third-party liabilities and defenses.

(d) Insurance coverage and exclusions, including claims-made and occurrence policies, comprehensive general liability policies, environmental and pollution liability policy coverage and exclusions and hold harmless clauses, and liability insurance requirements.

(e) Bonding and the relationship between insurance availability and bond availability.

(5) BUILDING SYSTEMS. Understanding the interrelationship of building systems and the uses of asbestos in and on these systems, including all of the following:

(a) Overview of common building physical plan layouts.

(b) Heat, ventilation and air conditioning system types, physical organization, and where asbestos is found on heating, ventilation and air conditioning components.

(c) Building mechanical systems, their types and organization, and where to look for asbestos in these systems.

(d) Inspecting electrical systems, including appropriate safety precautions.

(e) Reading blueprints and as-built drawings.

(6) PUBLIC RELATIONS. Relations with the public, employees and occupants of structures, including all of the following:

(a) Notifying employee organizations or other building occupants about the inspection.

(b) Signs to warn building occupants.

(c) Tact in dealing with occupants and the press.

(d) Scheduling of inspections to minimize disruption.

(e) Education of occupants about actions being taken.

(7) PRE-INSPECTION PLANNING. Planning the inspection and review of previous inspection records, including all of the following:

(a) Scheduling the inspection and obtaining access.

(b) Building record review.

(c) Identification of probable homogeneous areas from blueprints or as-built drawings.

(d) Consultation with maintenance or building personnel.

(e) Review of previous inspection, sampling and abatement records of a building.

(f) The role of the inspector in exclusions for previously conducted inspections.

(8) INSPECTION WORK PRACTICES AND PROCESSES. Inspecting for friable and non-friable asbestos-containing material and assessing the condition of friable asbestos-containing material, including all of the following:

(a) Procedures to follow in conducting visual inspections for friable and non-friable asbestos-containing material.

(b) Types of building materials that may contain asbestos.

(c) Touching materials to determine friability.

(d) Open return air plenums and their importance in heating, ventilation and air conditioning systems.

(e) Assessing damage, significant damage, potential damage and potential significant damage.

(f) Amount of suspected asbestos-containing material, both in total quantity and as a percentage of the total area.

(g) Type of damage to the asbestos-containing or suspect asbestos-containing material.

(h) Accessibility of the material.

(i) Potential for disturbance of the material.

(j) Known or suspected causes of damage or significant damage.

(k) Deterioration as an assessment factor.

(L) Hands-on skills training and practice in of the following:

1. Procedures for visual inspections for friable and non-friable asbestos-containing material or suspect asbestos-containing material.

2. Assessing amount and types of damaged asbestos-containing or suspect asbestos-containing material.

3. Determining quantities of asbestos-containing material by size and percent of area.

4. Determining accessibility, potential for disturbance, causes of damage and deterioration of asbestos-containing material.

(9) BULK SAMPLING. Bulk sampling of suspect asbestos containing materials, including all of the following:

(a) Detailed discussion of the EPA publication, "Simplified Sampling Scheme for Friable Surfacing Materials."

(b) Techniques to ensure sampling in a randomly distributed manner for other than friable surfacing materials.

(c) Sampling of non-friable materials.

(d) Techniques for bulk sampling.

(e) Sampling and repair equipment.

(f) Patching or repair of damage from sampling.

(g) Discussion of polarized light microscopy.

(h) Choosing an accredited laboratory to analyze bulk samples.

(i) Quality control and quality assurance procedures.

(j) Sample analysis recommended by EPA be performed by laboratories accredited by the National Institute of Standards and Technology's (NIST) National Voluntary Laboratory Accreditation Program (NVLAP).

(k) Hands-on skills training and practice in all of the following:

1. Determining homogeneous areas.

2. Determining proper number of samples to take and locations for taking bulk samples.

3. Sampling methods for friable materials.

4. Sampling methods for non-friable materials.

5. Taking samples using a variety of tools on non-asbestos containing material.

6. Repairing damage after taking samples.

(10) PERSONAL PROTECTIVE EQUIPMENT. The use of personal protective equipment, including all of the following:

(a) Classes and characteristics of respirators, including respirator protection factors.

(b) Limitations of respirators.

(c) Proper respirator selection, inspection, donning, use, maintenance, and storage procedures.

(d) Selection of cartridges.

(e) Methods for field testing of the face piece-to-face seal, including positive and negative pressure fit checks.

(f) Qualitative and quantitative fit testing procedures.

(g) Variability between field and laboratory protection and factors that alter respirator fit, such as facial hair.

(h) Components of a proper respiratory protection program and employer responsibilities.

(i) Selection and use of disposable and non-disposable personal protective clothing.

(j) Regulations covering personal protective equipment.

(k) A demonstration of donning, fit checking and fit testing.

(L) Hands-on skills training and practice in the following:

1. Selecting proper respirators and cartridges.

2. Inspecting, disassembling, cleaning and assembling half-face respirators.

3. Donning and doffing personal protective clothing.

(11) INSPECTION REPORTS AND RECORD KEEPING. Writing an inspection report and required documentation and records, including all of the following:

(a) Labeling of samples and keying sample identification to sampling location.

(b) Recommendations on sample labeling.

(c) Detailing the asbestos-containing material inventory.

(d) Photographing selected sampling areas and examples of asbestos-containing material condition.

(e) Inspection information required for inclusion in a school management plan under title II, section 203 (i) (1) of the Toxic Substance Control Act.

(f) Hands-on skills training and practice in all of the following:

1. Labeling samples and photographs.

2. Keying sample identification to sample locations and completing chain-of-custody sample forms for bulk sample analysis.

3. Completing an inspection report and asbestos-containing material inventory.

(12) ASBESTOS REGULATIONS. Asbestos-related regulations for inspectors, including all of the following:

(a) Requirements of TSCA (Toxic Substances Control Act) Title II (15 U.S.C. secs. 2643 and 2646).

(b) EPA National Emission Standards for Hazardous Air Pollutants (40 CFR part 61), Subparts A (General Provisions) and M (National Emission Standard for Asbestos).

(c) EPA Asbestos-Containing Materials in Schools (40 CFR 763, Subpart E).

(d) EPA Worker Protection Rule (40 CFR 763, Subpart G).

(e) OSHA Asbestos Construction Standard (29 CFR 1926.1101), Hazard Communication Standard (29 CFR 1926.59), and Respiratory Protection (29 CFR 1910.134).

(f) OSHA and EPA clarifications and interpretations as they apply to asbestos.

(g) Asbestos training, certification, provisional certification, and notification requirements and responsibilities under this chapter, including procedures for submitting certification applications and project notifications, and required fees.

(h) Department of commerce asbestos regulations for public sector employees under ch. Comm 32.

(i) Department of natural resources regulations for the control of asbestos emissions under ch. NR 447.

(j) Hands-on skills training and practice in reading, finding information, and determining regulatory requirements of federal and state regulations.

(13) FIELD TRIP. Class field trip to a suitable building, with hands-on inspection skills training and practice, including all of the following:

(a) Walk-through inspection.

(b) On-site discussion on information gathering and determination of sampling locations.

(c) On-site practice in physical assessment.

(d) A post-field trip classroom discussion of the field exercise.

HFS 159.34 Curriculum requirements for asbestos management planner initial course. The initial training course for the asbestos management planner discipline shall be 2 training days in length. Course instruction shall include lecture supplemented by audiovisual materials, learning exercises and activities; at least 2 hours of hands-on skills training and practice; course review with time to answer questions; a written course test that meets requirements under s. HFS 159.22 (16); and time to assist students to complete the department application for certification. Course instruction for the asbestos management planner initial training course shall address all of the following:

(1) MANAGEMENT PLANNING OVERVIEW. Management plan purposes and management planner responsibilities, including all of the following:

(a) The role and responsibilities of the asbestos management planner.

(b) Operations and maintenance programs.

(c) Setting work priorities.

(d) Protecting building occupants.

(2) EVALUATION AND INTERPRETATION OF SURVEY RESULTS. Management planner’s role in reviewing and interpreting inspection field data and laboratory results, including all of the following:

(a) Review of requirements for inspection and management plans for school buildings under section 203 (i) (1) of Title II of the Toxic Substance Control Act (15 U.S.C. secs. 2643 and 2646).

(b) Interpretation of field data and laboratory results.

(c) A comparison of field inspector's data sheet with laboratory results and site survey.

(3) HAZARD ASSESSMENT. Management planner’s role in assessing asbestos hazards, including all of the following:

(a) Amplification of the difference between physical assessment and hazard assessment.

(b) The role of the management planner in hazard assessment.

(c) Explanation of significant damage, damage, potential damage, and potential significant damage.

(d) Use of a description or decision tree code for assessment of asbestos-containing material.

(e) Assessment of friable asbestos-containing material.

(f) The relationship of accessibility, vibration sources, use of adjoining space, air plenums and other factors to hazard assessment.

(4) LEGAL ISSUES AND INSURANCE. Insurance and legal liabilities of management planners, including all of the following:

(a) Liability.

(b) Insurance issues specific to a planner.

(c) Liabilities associated with interim control measures, in-house maintenance, repair and removal.

(d) The use of results from previously performed inspections.

(5) EVALUATION AND SELECTION OF CONTROL OPTIONS. Abatement and other control options, including all of the following:

(a) Overview of encapsulation, enclosure, operations and maintenance, and removal.

(b) Advantages and disadvantages of each control method.

(c) Response actions described via a decision tree or other appropriate method.

(d) Work practices for each response action.

(e) Staging and prioritizing of work in both vacant and occupied structures.

(f) The need for containment barriers and decontamination in response actions.

(6) OTHER PROFESSIONALS. Management planner's role in working with other disciplines, including all of the following:

(a) The use of industrial hygienists, engineers, and architects in developing technical specifications for response actions.

(b) Any requirements that may exist for architect sign-off plans.

(c) Team approach to design of high-quality job specifications.

(7) OPERATIONS AND MAINTENANCE. Developing an operations and maintenance plan, including all of the following:

(a) The purpose of the plan.

(b) Discussion of EPA guidance documents.

(c) Role and actions that should be taken by custodial staff.

(d) Proper cleaning procedures.

(e) Use of steam cleaning and HEPA vacuuming.

(f) Reducing disturbance of asbestos-containing material.

(g) Scheduling operations and maintenance work for off-hours.

(h) Rescheduling or canceling renovation in areas with asbestos-containing material.

(i) Boiler room maintenance.

(j) Disposal of asbestos-containing material.

(k) In-house procedures for bridging and penetrating encapsulants; pipe fittings; metal sleeves; polyvinyl chloride (PVC), canvas and wet wraps; muslin with straps; fiber mesh cloth; mineral wool; and insulating cement.

(L) Discussion of employee protection programs and staff training.

(m) Group case study exercise to develop an operations and maintenance plan, including development, implementation process, and potential problems that may be experienced.

(8) REGULATIONS. Review of regulations as they relate to management planning activities, including all of the following:

(a) Requirements of TSCA (Toxic Substances Control Act) Title II (15 U.S.C. secs. 2643 and 2646).

(b) EPA National Emission Standards for Hazardous Air Pollutants (40 CFR part 61), Subparts A (General Provisions) and M (National Emission Standard for Asbestos).

(c) EPA Asbestos-Containing Materials in Schools (40 CFR 763, Subpart E).

(d) EPA Worker Protection Rule (40 CFR 763, Subpart G).

(e) OSHA Asbestos Construction Standard (29 CFR 1926.1101), Hazard Communication Standard (29 CFR 1926.59), and Respiratory Protection (29 CFR 1910.134).

(f) Asbestos training, certification, provisional certification, and notification requirements and responsibilities under this chapter, including procedures for submitting certification applications and project notifications, and required fees.

(g) Department of commerce asbestos regulations for public sector employees under ch. Comm 32.

(h) Department of natural resources regulations for the control of asbestos emissions under ch. NR 447.

(9) RECORD KEEPING. Recordkeeping for the management planner, including all of the following:

(a) Use of field inspector's data sheet along with laboratory results.

(b) On-going recordkeeping as a means to track asbestos disturbance.

(c) Procedures for recordkeeping.

(10) MANAGEMENT PLAN. Assembling and submitting the management plan, including all of the following:

(a) Plan requirements for schools under section 203 (i) (1) of Title II of the Toxic Substance Control Act (15 U.S.C. sec. 2643).

(b) The management plan as a planning tool.

(c) Hands-on skills training and practice to include the following:

1. Review inspection report.

2. Assign hazard ranking.

3. Recommend response actions.

4. Review a Management Plan to ensure it is compliant with 40 CFR 763, Subpart E.

(11) FINANCING. Financing abatement actions, including all of the following:

(a) Economic analysis and cost estimates.

(b) Development of cost estimates.

(c) Present cost of abatement versus future operations and maintenance costs.

HFS 159.35 Curriculum requirements for asbestos project designer initial course. The initial training course for the asbestos project designer discipline shall be 3 training days in length. Course instruction shall include lecture supplemented by audiovisual materials; learning exercises and activities; at least 2 hours of hands-on skills training and practice; demonstrations; a field trip; course review with time to answer questions; a written course test that meets requirements under s. HFS 159.22 (16); and time to assist students to complete the department application for certification. Course instruction for the asbestos project designer initial training course shall address all of the following:

(1) ASBESTOS CHARACTERISTICS. Physical characteristics of asbestos, including all of the following:

(a) Identification of asbestos.

(b) Typical uses of asbestos-containing materials.

(c) Physical appearance.

(d) Overview of abatement control options.

(e) Hazard assessment considerations, including friability.

(2) HEALTH EFFECTS. Potential health effects related to asbestos exposure, including all of the following:

(a) The nature of asbestos-related diseases.

(b) Routes of exposure.

(c) Dose-response relationship and the lack of a safe exposure level.

(d) Synergistic effect between cigarette smoking and asbestos exposure.

(e) Latency periods for asbestos-related diseases.

(f) Relationship of asbestos exposure to asbestosis, lung cancer, mesothelioma, and cancers of other organs.

(3) ABATEMENT CONSTRUCTION PROJECTS. Overview of abatement projects including the following:

(a) Abatement as a portion of a renovation project.

(b) OSHA requirements for notification of other contractors on a multi-employer site under 29 CFR 1926.1101.

(4) SAFETY DESIGN FOR ABATEMENT. Safety system design specifications, including all of the following:

(a) Assessment of the work area, including:

1. Site preparation considerations.

2. Considerations for areas adjacent to the regulated asbestos work.

3. Occupant protection considerations for work in occupied building.

(b) Isolating the work area, preparation and set-up, including:

1. Design, construction and maintenance of barriers, containments, and decontamination enclosure systems.

2. Positioning of warning signs.

3. Lock-out of electrical and ventilation systems.

4. Proper techniques for initial cleaning.

(c) Proper abatement work techniques to minimize fiber release, including:

1. Use of wet methods.

2. Use of negative pressure ventilation equipment.

3. Use of HEPA vacuums.

4. Work practices for removal, encapsulation, enclosure and repair.

5. Glove bag use and methods including a demonstration.

6. Encapsulation, enclosure, and repair of asbestos-containing material.

(d) Proper worksite cleanup, waste handling and decontamination, including:

1. Proper clean-up and disposal procedures.

2. Use of HEPA vacuums.

3. Transport and disposal procedures.

4. Entry and exit procedures for the work area.

(5) FIELD TRIP. Field trip to an abatement site or other suitable building site, including all of the following:

(a) On-site discussion of abatement design.

(b) Walk-through inspection of the structure.

(c) Discussion of the rationale for functional spaces during the walk-through.

(6) PERSONAL PROTECTIVE EQUIPMENT. The use of personal protective equipment, including all of the following:

(a) Classes and characteristics of respirators, including respirator protection factors.

(b) Limitations of respirators.

(c) Proper respirator selection, inspection, donning, use, maintenance, and storage procedures.

(d) Selection of cartridges.

(e) Methods for field testing of the facepiece-to-face seal, including positive and negative pressure fit checks.

(f) Qualitative and quantitative fit testing procedures.

(g) Variability between field and laboratory protection and factors that alter respirator fit, such as facial hair.

(h) Components of a proper respiratory protection program and employer responsibilities.

(i) Selection and use of disposable and non-disposable personal protective clothing.

(j) Regulations covering personal protective equipment.

(7) OTHER SAFETY HAZARDS. Additional safety hazards encountered during abatement activities and how to deal with them, including all of the following:

(a) Electrical hazards.

(b) Heat stress.

(c) Air contaminants other than asbestos.

(d) Fire and explosion hazards.

(e) Scaffold and ladder hazards.

(f) Slips, trips and falls.

(g) Confined spaces.

(8) CONTROLLING AIRBORNE ASBESTOS FIBERS. Fiber aerodynamics and control, including all of the following:

(a) Aerodynamic characteristics of asbestos fibers.

(b) Importance of proper containment barriers.

(c) Settling time for asbestos fibers.

(d) Wet methods in abatement.

(e) Aggressive air monitoring following abatement.

(f) Aggressive air movement and negative pressure exhaust ventilation as a clean-up method.

(9). DESIGNING ABATEMENT SOLUTIONS. Designing abatement projects, including a discussion of removal, enclosure and encapsulation methods and asbestos waste disposal.

(10) OCCUPIED BUILDINGS. Designing asbestos abatement activities for occupied structures, including all of the following:

(a) Special design procedures required in occupied structures.

(b) Education of occupants.

(c) Extra monitoring recommendations.

(d) Staging of work to minimize occupant exposure.

(e) Scheduling of renovation to minimize exposure.

(11) FINAL CLEARANCE. Final clearance process, including all of the following:

(a) Discussion of the need for a written sampling rationale for aggressive final air clearance.

(b) Requirements of a complete visual inspection.

(c) The relationship of the visual inspection to final air clearance.

(d) Recommended use of transmission electron microscopy in air clearance.

(e) Sample analysis recommended by EPA be performed by laboratories accredited by the National Institute of Standards and Technology's (NIST) National Voluntary Laboratory Accreditation Program (NVLAP).

(12) COST ESTIMATION. Budgeting and cost estimation for asbestos management and abatement projects, including all of the following:

(a) Developing cost estimates.

(b) Present cost of abatement versus future operations and maintenance costs.

(c) Setting priorities for abatement jobs to reduce cost.

(13) ABATEMENT SPECIFICATIONS. Writing abatement specifications, including all of the following:

(a) Preparation of and the need for written project design.

(b) Means and methods specifications versus performance specifications.

(c) Design of abatement in occupied structures.

(d) Modification of guide specifications for a particular structure.

(e) Worker and occupant health and medical considerations.

(f) Replacement of asbestos-containing materials with non-asbestos substitutes.

(g) Hands-on skills training and practice to include: Developing a written abatement design and specifications for an occupied structure with a combination of friable and non-friable asbestos, including site considerations, containment, abatement methods, safety issues, clean-up and clearance.

(14) ABATEMENT DRAWINGS. Preparing abatement drawings, including all of the following:

(a) The significance and need for drawings.

(b) Use of as-built drawings as base drawings.

(c) Use of inspection photographs and on-site reports.

(d) Methods of preparing abatement drawings.

(e) Diagramming containment barriers.

(f) Relationship of drawings to design specifications.

(g) Particular problems related to abatement drawings.

(15) CONTRACTS. Contract preparation and administration.

(16) LEGAL ISSUES AND INSURANCE. Insurance and legal liabilities of project designers, including all of the following:

(a) Liability, including tort, regulatory and contractual law.

(b) Insurance considerations for the project designer including claims made and occurrence policies, comprehensive general liabilities policies, environmental and pollution liability policy coverage and exclusions, use of abatement contractor's liability insurance, and hold harmless clauses.

(c) Bonding issues.

(17) ROLE OF OTHER CONSULTANTS. Roles other consultants may perform in developing and designing abatement projects, including the following:

(a) The development of technical specifications sections by industrial hygienists or engineers.

(b) The multidisciplinary team approach to abatement design.

(18) REGULATIONS. Relevant federal, state and local regulatory requirements, including all of the following:

(a) Requirements of TSCA (Toxic Substances Control Act) Title II (15 U.S.C. secs. 2643 and 2646).

(b) EPA National Emission Standards for Hazardous Air Pollutants (40 CFR part 61), Subparts A (General Provisions) and M (National Emission Standard for Asbestos).

(c) EPA Asbestos-Containing Materials in Schools (40 CFR 763, Subpart E).

(d) EPA Worker Protection Rule (40 CFR 763, Subpart G).

(e) OSHA Asbestos Construction Standard (29 CFR 1926.1101), Hazard Communication Standard (29 CFR 1926.59), and Respiratory Protection (29 CFR 1910.134).

(f) Asbestos training, certification, provisional certification, and notification requirements and responsibilities under this chapter, including procedures for submitting certification applications and project notifications, and required fees.

(g) Department of commerce asbestos regulations for public sector employees under ch. Comm 32.

(h) Department of natural resources regulations for the control of asbestos emissions under ch. NR 447.

(g) Collection and transportation of asbestos waste under s. NR 502.06 (3).

HFS 159.36 Curriculum requirements for refresher courses. Asbestos refresher training courses shall meet the required minimum classroom contact hours and shall include class discussions, learning exercises and activities such as case studies, hands-on skills training and practices as appropriate to the discipline, a written course test under s. HFS 159.22 (16) and time for the student to complete a department application for certification renewal. The asbestos refresher training course for a discipline shall be based on department-approved curricula and shall provide instruction and written materials that cover course topics for the discipline, as follows:

(1) EXTERIOR ASBESTOS SUPERVISOR REFRESHER COURSE. The course shall be at least 2 classroom contact hours in length and include the following:

(a) Changes in regulations or technologies related to asbestos activities in general and exterior asbestos activities in particular.

(b) In-depth review of one or more of the following topics:

1. Proper work practices for exterior asbestos abatement projects.

2. Worker safety and occupant protection considerations.

3. Review and discussion of federal and state rules, regulations and guidance related to exterior asbestos abatement, recent court cases, and news articles related to asbestos and the asbestos industry.

4. Records, forms and documentation for exterior asbestos abatement, such as project notifications, occupant protection plans, project logs, contracts and recordkeeping requirements.

(2) ASBESTOS WORKER REFRESHER COURSE. The course shall be one training day in length and include the following:

(a) Review of the key topics covered in the asbestos worker initial course.

(b) Overview of current worker safety practice relating to asbestos abatement.

(c) Review and discussion of federal and state rules, regulations and guidance related to asbestos abatement, recent court cases, and news articles related to asbestos and the asbestos industry.

(d) Current state-of-the-art procedures and technologies for asbestos abatement, including hands-on instruction.

(e) Hands-on skills training and practice in one or more of the activities listed in the Asbestos Worker Initial Course.

(3) ASBESTOS SUPERVISOR REFRESHER COURSE. The course shall be one training day in length and include the following:

(a) Review of the key topics covered in the asbestos supervisor initial course.

(b) Overview of current worker safety and occupant protection practice relating to asbestos abatement.

(c) Review and discussion of federal and state rules, regulations and guidance related to asbestos abatement, recent court cases, and news articles related to asbestos and the asbestos industry.

(d) Current state-of-the-art procedures and technologies for asbestos abatement, including hands-on instruction.

(e) Records, forms and documentation required for asbestos abatement, such as project notifications, occupant protection plans, project logs, contracts and recordkeeping requirements.

(f) Hands-on skills training and practice in one or more of the activities listed in the Asbestos Supervisor Initial Course.

(4) ASBESTOS INSPECTOR REFRESHER COURSE. The course shall be one-half training day in length and include the following:

(a) Review of the key topics covered in the asbestos inspector initial course.

(b) Review and discussion of federal and state rules, regulations and guidance related to asbestos inspection activities, recent court cases, and news articles related to asbestos and the asbestos industry.

(c) State-of-the-art procedures and technologies for asbestos inspections.

(d) Records, forms and reporting required for asbestos inspections, such as laboratory chain of custody forms, inspection reports and recordkeeping requirements.

(e) Hands-on skills training and practice in one or more of the activities listed in the Asbestos Inspector Initial Course.

(5) ASBESTOS MANAGEMENT PLANNER REFRESHER COURSE. The course shall be one-half training day in length and include the following:

(a) Review of the key topics covered in the asbestos management planner initial course.

(b) Review and discussion of federal and state rules, regulations and guidance related to school asbestos activities and management plans.

(c) State-of-the-art procedures and technologies relating to asbestos activities in general and asbestos inspection in particular.

(d) Records and reporting required for asbestos management planning, such as previous inspections and abatement reports, the management plan report and recordkeeping requirements.

(e) Hands-on skills training and practice in one or more of the activities listed in the Asbestos Management Planner Initial Course.

(6) ASBESTOS PROJECT DESIGNER REFRESHER COURSE. The course shall be one training day in length and include the following:

(a) Review of the key topics covered in the asbestos project designer initial course.

(b) Overview of current safety practices relating to asbestos activities.

(c) Review and discussion of federal and state rules, regulations and guidance related to designing, conducting and monitoring asbestos abatement activities; recent court cases; and news articles related to asbestos and the asbestos industry.

(d) State-of-the-art procedures and technologies relating to asbestos abatement activities.

(e) Records and reporting required for asbestos project designing, such as previous inspections and abatement reports, building blueprints and as-built drawings, the project design and job specifications.

(f) Hands-on skills training and practice in one or more of the activities listed in the Asbestos Project Designer Initial Course.

SUBCHAPTER V TRAINING COURSE INSTRUCTORS

HFS 159.37 Approval requirements for principal instructor. Except as provided in s. HFS 159.42, no person may instruct, supervise or offer to instruct or supervise, an accredited asbestos training course unless the individual is approved by the department as a principal instructor for the course discipline. To be eligible for approval as a principal instructor, an applicant shall meet the following qualifications:

(1) The applicant shall have completed at least one college-level course in educational course development and teaching methods as documented by college transcripts, or shall have successfully completed a train-the-trainer course of at least 2 days in length that covered all of the following topics:

(a) Principles of adult learning.

(b) Instructional methods, including non-lecture interactive teaching methods.

(c) Effective use of audio-visual and other instructional resources.

(d) Learning objectives.

(e) Adult learning styles.

(f) Effective classroom and learning environment management.

(g) Hands-on practice teaching involving critique and evaluation of the applicant's teaching skills.

(2) The applicant shall be certified by the department as follows:

(a) To teach an asbestos supervisor initial or refresher course, asbestos worker initial or refresher course, exterior asbestos supervisor initial or refresher course, or exterior asbestos worker course, the applicant shall be certified as an asbestos supervisor.

(b) To teach an asbestos inspector initial or refresher course, the applicant shall be certified as an asbestos inspector.

(c) To teach an asbestos management planner initial or refresher course, the applicant shall be certified as an asbestos management planner.

(d) To teach an asbestos project designer initial or refresher course, the applicant shall be certified as an asbestos project designer.

(3) The applicant shall have at least one year of relevant work experience.

HFS 159.38 Application requirements for initial and renewal principal instructor approval. An individual who seeks approval as a principal instructor shall apply to the department on an application form obtained from the department. The applicant shall submit all of the following to the department:

(1) A fully and accurately completed department application form signed and dated by the applicant.

(2) The applicable approval fee under s. HFS 159.39.

(3) For initial approval, a current résumé that includes dates and descriptions of required experience under HFS 159.37 (3).

(4) For initial approval, at least 3 professional references with contact information. Only one reference may be from the applicant's current employer.

(5) For initial approval, a certificate of completion from a train-the-trainer course, college transcript or other documentation that shows the applicant meets the requirements under s. HFS 159.37 (1).

Note: Application forms are available on the department's website at www.dhs.wi.gov/asbestos or may be obtained from the Asbestos and Lead Unit: plicasbstoslead@dhs.state.wi.us; 608-261-6876; 1 W Wilson St, Room 137, PO Box 2659, Madison, WI 53701-2659.

Note: Submit application and fee to Asbestos and Lead Unit: 1 W Wilson St, Room 137, PO Box 2659, Madison, WI 53701-2659; (fax) 608-266-9711; plicasbestoslead@dhs.state.wi.us. For application submitted by fax or email payment may be made only by credit or debit charge to a VISA or MasterCard.

HFS 159.39 Principal instructor approval fees. (1) An individual who applies for approval or renewal of approval as a principal instructor shall pay the applicable fee as follows:

(a) To teach the asbestos worker, asbestos supervisor, exterior asbestos worker and exterior asbestos supervisor initial or refresher courses, a fee of $50.

(b) To teach the asbestos inspector initial or refresher course, a fee of $50.

(c) To teach the asbestos management planner initial or refresher course, a fee of $50.

(d) To teach the asbestos project designer initial of refresher course, a fee of $50.

(2) Payment shall be by check or money order payable to “Department of Health Services” or “DHS,” or may be charged to a VISA or MasterCard. For application submitted by fax or email, payment may be made only by credit or debit charge to a VISA or MasterCard. The department will not accept cash payment. A person who submits a fee by a check that is not honored by a financial institution may be required to submit the fee in a form of payment that is guaranteed by a financial institution and to pay any processing charges assessed by the financial institution.

(3) Fees are nonrefundable and nontransferable.

(4) The department may charge a $25 nonrefundable fee for immediate processing of an application, or for re-processing an incomplete application.

HFS 159.40 Department decisions on initial and renewal applications for principal instructor approval. (1) COMPLETE APPLICATION. Within 30 calendar days after receiving a complete application for initial or renewal of approval, the department shall either approve the application and issue the applicant a certificate of approval for the disciplines in which the individual may instruct, or deny the application. If the department denies approval, the department shall provide the applicant with written notification of the reason for the denial and the appeal rights under subchapter VI.

(2) INCOMPLETE APPLICATION. Within 15 calendar days after receiving an incomplete application for initial or renewal of approval, the department shall provide instructions to the applicant for completion of the application.

(3) VOID APPLICATION. An application the department determines is not complete within 90 calendar days after the department first receives the application is void. To be reconsidered for approval, the applicant shall submit a new application, and the applicable fee.

HFS 159.41 Principal instructor approval effective dates and expiration dates. (1) Principal instructor approval is effective on the date the department issues the certificate of approval.

(2) Principal instructor approval shall expire on the date the instructor’s qualifying certification under s. HFS 159.37 (2) expires.

HFS 159.42 Guest instructor designation. (1) ELIGIBILITY. No person may act as a guest instructor for an accredited asbestos training course unless the person is designated by the training provider of the accredited training course and meets all of the following qualifications:

(a) Appropriate work experience or professional training in each topic the guest instructor will teach.

(b) Certification in a discipline that qualifies an individual to perform the hands-on activities the guest instructor will teach.

(2) DESIGNATION BY TRAINING PROVIDER. The training provider shall designate a guest instructor by submitting to the department verifiable documentation describing the person’s qualifications before the person may assist in teaching an accredited asbestos training course.

(3) WITHDRAWAL OF DESIGNATION. If the department determines that the individual’s work experience, training or certification does not meet the eligibility requirements, or if the individual fails

to comply with applicable regulations, the department shall notify the training provider that the designated guest instructor does not meet the qualifications. Upon notification from the department, the training provider shall immediately withdraw the guest instructor designation. If the training provider submits additional documentation of the individual's work experience or training to the department that demonstrates to the department's satisfaction that the person meets guest instructor qualifications, the training provider may again designate the individual as a guest instructor.

SUBCHAPTER VI ENFORCEMENT

HFS 159.43 General provisions. (1) DEPARTMENTAL ACTION. The department may initiate an action in the name of this state against any person for violating a provision of this chapter or to require compliance with this chapter.

(2) OTHER AGENCY ACTION. (a) If any other state agency, in the course of performing its duties, determines that a person has committed a violation of the certification requirements of this chapter or s. 254.20, Stats., and notifies the department pursuant to s. 254.20 (10) (d), Stats., the department may take enforcement action against that person under this subchapter based on the other agency's determination.

(b) If a local governmental agency, in the course of performing its duties, determines that a person has committed a violation of this chapter, s. 254.20, Stats., or a local ordinance that adopts or incorporates all or part of this chapter, the department may take enforcement action against that person under this chapter based on the local agency's determination.

(3) AUTHORITY TO INVESTIGATE. (a) An authorized representative of the department may enter at any reasonable time any property in order to determine compliance with this chapter or s. 254.20, Stats., where the department has reason to believe that at least one of the following applies:

1. A person is violating or has violated any provision of this chapter or s. 254.20, Stats.

2. A regulated asbestos activity is being or has been conducted.

3. Asbestos waste or alleged asbestos waste is stored or disposed.

4. Business relating to regulated asbestos activities is conducted or records relating to a regulated activity are stored.

(b) The department representative may conduct tests, interview persons, take samples, review work practices, review and copy records, and conduct other activities to determine compliance with this chapter.

(c) An authorized representative of the department may conduct an onsite audit of a course to determine if an accredited training course meets requirements for accreditation.

(d) No person may refuse entry or access to any representative of the department authorized by the department to act under this subsection if that representative requests entry for the purposes of determining compliance with this chapter and the representative complies with sub. (e). No person required to maintain records under s. HFS 159.19 (7) may refuse to permit access to records, refuse to provide original records to, or refuse to copy or permit the copying of records for, an authorized representative of the department, if that representative complies with sub. (e). No person may obstruct, hamper, or interfere with the actions of the representative under this subsection.

(e) An authorized representative of the department entering the site of an investigation under this subchapter shall present identification and shall comply with applicable health and safety procedures established by law for persons engaged in asbestos abatement activities.

HFS 159.44 Reasons for enforcement actions. (1) REASONS FOR ACCREDITATION ENFORCEMENT ACTIONS. The department may take an action under s. HFS 159.45 against a person owning, managing, offering or conducting a training course that is regulated under this chapter, regardless whether the course is accredited, if the person has violated a provision of this chapter. The specific reason for an accreditation enforcement action may include, but is not limited to, any of the following:

(a) The person owes the department payment of fees.

(b) The person issued a training certificate to an individual who did not successfully complete an accredited course, or otherwise deceptively issued or used a training certificate.

(c) The person misrepresented the accreditation status of a training course or the contents of a training course to the department, EPA, another state, or the student population.

(d) The person made false or misleading statements to the department in the application for accreditation or reaccredidation.

(e) The person provided any false or misleading information to the department relating to a regulated activity.

(f) The person failed to establish or maintain records required under this chapter, or to give an authorized representative of the department copies of or access to such records.

(g) The person falsified records required under this chapter, including but not limited to accreditation records, class rosters, or other accreditation-related information or documentation.

(h) The person offered or conducted a course that failed to meet a requirement of this chapter.

(i) The person conducted a course using individuals who were not certified when certification was required or individuals who were not approved when approval was required.

(j) The person failed to comply with the accreditation standards and requirements under this chapter.

(k) The person failed to submit a required course notification or revised notification to the department in a timely manner.

(L) The person failed or refused to permit a department representative to attend, evaluate, or monitor a training course, without charge or hindrance.

(m) The person failed to respond to a letter of inquiry, a notice of noncompliance, or written order within the required time.

(n) The person failed to comply with a federal, state, or local government statute, rule, regulation, or ordinance relating to a regulated asbestos activity.

(2) REASONS FOR APPROVAL ENFORCEMENT ACTIONS. The department may take an action under s. HFS 159.45 against a person required to be an approved principal instructor under this chapter, regardless whether the person is approved, if the person has violated a provision of this

chapter. The specific reason for an approval enforcement action may include, but is not limited to, any of the following:

(a) The person owes the department payment of fees.

(b) The person failed to comply with accreditation standards and requirements under this chapter while instructing or supervising a department-regulated training course.

(c) The person failed to submit a required course notification or revised notification to the department in a timely manner.

(d) The person violated a provision of this chapter, including certification requirements, or a related federal, state, or local statute, rule, regulation, or ordinance.

(e) The person provided false or misleading information, or misrepresented credentials or documentation of qualifications submitted to the department as the basis for approval.

(f) The person provided any false or misleading information relating to a regulated activity to the department.

(g) The person issued a training certificate to an individual who did not successfully complete an accredited course, or otherwise deceptively issued a training certificate.

(h) The person failed to respond to a letter of inquiry, a notification of noncompliance or written orders within the required time.

(i) The person failed or refused to permit a department representative to attend, evaluate, or monitor a training course, without charge or hindrance.

(3) REASONS FOR CERTIFICATION ENFORCEMENT ACTIONS. The department may take an action under s. HFS 159.45 against a person required to be certified under this chapter, regardless whether the person is certified, if the person has violated a provision of this chapter. The specific reason for a certification enforcement action may include, but is not limited to, any of the following:

(a) The person owes the department payment of fees.

(b) The person obtained training documentation by fraudulent means.

(c) The individual used a training certificate, or electronic equivalent, without having successfully completed the course for which the certificate was issued.

(d) The individual gained admission to and completed an accredited training program through misrepresentation of admission requirements.

(e) The person misrepresented facts or made false or misleading statements in applying for certification.

(f) The individual completed a course that was not in compliance with accreditation standards under this chapter.

(g) The person permitted the use of a training certificate or certification card by an individual to whom the certificate or card was not issued, or permitted duplication of a training certificate or card without labeling the duplicate a "copy."

(h) The person withheld or confiscated an employee's training certificate or certification card.

(i) The individual performed regulated work under provisional certification without meeting all conditions for provisional certification.

(j) The person allowed an individual to work without supervision when supervision was required.

(k) The person conducted regulated work requiring certification without being certified by the department.

(L) The individual performed work that required certification without having proof of certification at the job site in violation of s. HFS 159.13 (4) (c).

(m) The person conducted, advertised, claimed to provide, or offered to conduct or supervise work for which certification was required, without being appropriately certified.

(n) The person conducted work using individuals who were not certified when certification was required or individuals who were not approved when approval was required.

(o) The person failed to establish or maintain records required under this chapter, or to give an authorized representative of the department copies of or access to such records by.

(p) The person failed or refused to permit entry to or inspection of a work site or place of business by an authorized representative of the department.

(q) The person displayed conduct relating to a regulated asbestos activity that in the department's judgment constitutes unreasonable risk to the health or safety of a person or the environment.

(r) The person displayed a pattern of conduct that in the department's judgment constitutes unreasonable risk to the health or safety of persons or the environment.

(s) The person obtained certification when not eligible for certification.

(t) The person failed to comply with a federal, state, or local government statute, rule, regulation, or ordinance relating to a regulated asbestos activity.

(u) The person failed to submit a completed and timely notification under s. HFS 159.19 (2) or 159.20.

(v) The person failed to respond to a letter of inquiry, a notice of noncompliance or written order within the required time.

(w) The person provided false or misleading information to the department relating to a regulated activity.

(4) REASONS FOR DENIAL. In addition to the reasons for enforcement actions under subs. (1) to (3), the department may deny an application for certification, recertification, accreditation, renewal of accreditation or approval for any of the following reasons:

(a) A person’s certification, accreditation, or approval under this chapter was revoked within the previous 5 years.

(b) The department determines that the person is not fit and qualified. In determining whether the person is fit and qualified, the department shall consider the person’s qualifications and any history of

civil or criminal violations of statutes, regulations or ordinances of the United States, this state, any other state, or a local government, that are substantially related to regulated asbestos activities or other environmental remediation.

(c) The person submitted false or inaccurate information in the application process.

(d) The person seeks to renew contingent accreditation of a training course that has remained in contingent accreditation status for three years without obtaining full accreditation.

(5) REASONS FOR SUMMARY SUSPENSION. The reasons the department may impose summary suspension under s. HFS 159.45 (7) include, but are not limited to, the following:

(a) A person commits a substantial violation of s. 254.20 or 254.21, Stats., this chapter, or an order issued under s. HFS 159.45 (3), involving any of the following:

1. Performing work requiring certification without being appropriately certified.

2. Performing work using individuals who are not certified when certification is required.

3. Failing or refusing to comply with work practice standards under s. HFS 159.13 or under s. HFS 159.21 to ensure that employed or contracted personnel comply with work practice standards.

(b) A person commits any other action, or creates a condition relating to a regulated asbestos activity, that directly threatens the health, safety, or welfare of a person or the environment.

HFS 159.45 Enforcement actions. The department may take one or more of the following actions for any applicable reason stated under s. HFS 159.44 against a person required to comply with this chapter:

(1) LETTER OF INQUIRY. The department may issue a non-appealable letter of inquiry regarding a potential violation of a provision of this chapter or s. 254.20 or 254.21, Stats.

(2) NOTICE OF NONCOMPLIANCE. The department may issue a non-appealable notice of noncompliance for a violation of a provision of this chapter or s. 254.20 or 254.21, Stats.

(3) ORDER. The department may issue any of the following orders, which shall be effective upon issuance, when a person violates a provision of this chapter or s. 254.20 or 254.21, Stats, if the department provides written notice of the grounds for the order and an explanation of the process for appeal of the order under s. HFS 159.46:

(a) That the person stop performing, supervising, advertising, claiming to provide or offering to perform activities for which certification is required under this chapter.

(b) That the person stop advertising, claiming to provide, offering, or conducting a training course for which accreditation is required under this chapter or which is represented as qualifying an individual for certification under this chapter.

(c) That the individual stop serving as a principal instructor for a training course for which accreditation under this chapter is required.

(d) That the person stops violating a provision of this chapter or a federal, state, or local asbestos statute, rule, or ordinance.

(e) That within a specified time the person submits for department approval, and implements as approved by the department, a plan of correction for a violation of any provision under this chapter.

(f) That within a specified time the person implements and complies with a plan of correction provided by the department or previously submitted by the person and approved by the department.

(4) DENIAL. The department may deny an application for certification, accreditation, or approval under this chapter if the department provides written notice of the decision to deny the application that includes the reason for denial and an explanation of the process for appeal under s. HFS 159.46.

(5) CIVIL FORFEITURE. The department may impose a daily forfeiture under chap. 254, subchap. II, Stats., against any person who violates a provision of the this chapter or s. 254.20 or 254.21, Stats, fails to respond to a letter of inquiry or a notice of non-compliance by the time specified in the letter or notice, or fails to comply with an order issued under sub. (3) by the time specified in the order, if the department provides written notice of the grounds for forfeiture and an explanation of the process for appeal under s. HFS 159.46. All of the following apply to a civil forfeiture:

(a) The department may directly assess a forfeiture by specifying the amount of the forfeiture in the notice provided under this subsection.

(b) Each day of continued violation constitutes a separate offense.

(c) A person against whom the department assesses a forfeiture shall pay the forfeiture to the department within 10 working days after receiving notice of the forfeiture assessment or, if the person appeals the assessment under s. HFS 159.46, within 10 working days after receiving the final decision of administrative review or, if the person petitions for judicial review under ch. 227, Stats., within 10 working days after receiving the final decision of judicial review. The department shall remit all forfeitures paid under this subsection to the state treasurer for deposit in the school fund.

Note: Section 254.20 (11), Stats., provides that a person who violates this chapter or an order issued under s. 254.20, Stats., shall forfeit not less than $25 nor more than $100 for each day of a violation. The attorney general may bring an action in the name of the state to collect any forfeiture imposed under this subsection that has not been paid.

(6) SUSPENSION. The department may suspend certification, accreditation or approval issued under this chapter if the department provides written notice of the suspension, the grounds for suspension and an explanation of the process for appeal under s. HFS 159.46 not less than 30 days before the date of the suspension, and the violation on which the suspension is based remains substantially uncorrected at the end of the 30-day period. Suspension is effective 30 days from the date of the notice, unless the department notifies the person that substantial compliance has been achieved. A suspension shall remain in effect, regardless whether it is appealed, until the department determines that the interests of the residents of the state are served or a final decision issued in an appeal reverses the department's action. No person may perform an activity for which certification, accreditation or approval has been suspended.

(7) SUMMARY SUSPENSION. (a) The department may summarily suspend certification, accreditation, or approval under the authority of s. 227.51 (3), Stats., based on but not limited to one of the reasons under s. HFS 159.44 (5), if the department finds that the health, safety or welfare of any person imperatively requires emergency action and incorporates a finding to that effect in the order.

(b) An order for summary suspension shall be in writing and is effective immediately upon issuance. A person may not perform any activity for which certification, accreditation, or approval has been summarily suspended. Within 7 working days after an order is given, the department shall either

permit the continuation of the regulated activity or initiate proceedings to revoke certification. If the department initiates revocation proceedings, an informal hearing on the sole issue of whether certification, accreditation or approval shall remain suspended during revocation proceedings shall be conducted by a department representative or designee within 15 working days after the date of suspension, unless waived by the person subject to the order.

(8) REVOCATION. The department may revoke a certification, accreditation or approval issued under this chapter if the department provides written notice of the revocation, including the grounds for revocation and an explanation of the process for appealing a revocation under s. HFS 159.46, not less than 30 days before the date the revocation will take effect, and the violation on which the revocation is based remains substantially uncorrected at the end of the 30-day notice period. Revocation is effective 30 days from the date of the notice, unless the department notifies the person that substantial compliance has been achieved. A revocation shall remain in effect, regardless whether it is appealed, until the person reapplies for certification, accreditation or approval, and the department determines that the interests of the residents of the state are served, or a final decision issued in an appeal reverses the department's action. No person may perform an activity for which certification, accreditation or approval has been revoked.

HFS 159.46 Appeals. (1) RIGHT TO APPEAL. An action taken by the department under s. HFS 159.45 (3) to (8) is subject to review under ch. 227, Stats. To request a hearing under ch. 227, Stats., the aggrieved person shall submit a written request to the department of administration's division of hearings and appeals within 15 calendar days after the date of the department's action.

(2) APPEALS PROCESS. (a) *Filing Date.* A request for hearing that is mailed to the division of hearings and appeals shall be considered filed with the division on the date of the postmark. A request for a hearing that is hand-delivered to the division of hearings and appeals shall be considered filed on the date the request is received by the division of hearings and appeals. A request for a hearing that is transmitted by facsimile to the division of hearings and appeals shall be considered filed on the date and at the time imprinted by the division's facsimile machine on the transaction report that accompanies the document. Documents received by facsimile after midnight local time shall be deemed filed on the first following business day.

(b) *Content of Appeal*. Appeals shall contain the following information:

1. The name and address of the person requesting the hearing.

2. A description of the action that is being contested and a copy of the department's notice of action.

3. A concise statement of the reasons for objecting to the action.

4. The type of relief requested.

5. A request for hearing.

(c) *Service on Department*. The person requesting a hearing shall submit a copy of the hearing request to the department on the same day the request is filed with the division of hearings and appeals.

(3) ADMINISTRATIVE HEARING. The division of hearings and appeals shall conduct an administrative hearing under s. 227.42, Stats.

Note: A request for a hearing shall be submitted to the Division of Hearings and Appeals, 5005 University Ave, Suite 201, Madison, WI 53705-5400, or faxed to 608-264-9885. A copy of the

request for hearing shall be submitted to the department at 1 W Wilson St, Room 137, PO Box 2659, Madison, WI 53701-2659 or faxed to 608-261-6876.

SUBCHAPTER VII DESIGNATED ASBESTOS PERSON

Note: The purpose of this subchapter is to assist local education agencies (LEA's) in complying with the U.S. EPA school asbestos regulations under 40 CFR 763, Subpart E (AHERA). The department needs contact information for the designated asbestos person for communication regarding regulatory and other asbestos issues.

HFS 159.47 Responsibilities of a local education agency. (1) A local education agency shall designate an individual to serve as the designated asbestos person, also known as the designated person, under AHERA.

(2) The local education agency shall ensure that the designated asbestos person is trained to conduct duties assigned under this subchapter and shall maintain documentation that the training has been completed. Training shall provide basic knowledge of all the following:

(a) Health effects of asbestos.

(b) Detection, identification and assessment of asbestos-containing material.

(c) Options for controlling asbestos-containing material.

(d) Asbestos management programs.

(e) Relevant federal and state regulations.

(3) The local education agency shall notify the department by the first day of the sixth month of the effective date of this section….(revisor to inserts date), and annually by October 1 thereafter, of the name and contact information of the designated asbestos person on a form obtained from the department.

Note: Training may be obtained by taking a training course for designated school asbestos coordinators or by reading and understanding "How to Manage Asbestos in School Buildings, AHERA Designated Person's Self-Study Guide," which may be ordered by contacting the TSCA Hotline at 202-554-1404 between 7:30 a.m. and 4:00 p.m. Monday though Friday. For contact information about training providers that may offer designated asbestos person training, call 608-261-6876.

Note: Forms are available on the department's website at www.dhs.wi.gov/asbestos or may be obtained from the Asbestos and Lead Unit: plicasbstoslead@dhs.state.wi.us; 608-261-6876; 1 W Wilson St, Room 137, PO Box 2659, Madison, WI 53701-2659

HFS 159.48 Responsibilities of a designated asbestos coordinator. (1) The designated asbestos person shall ensure that the LEA complies with AHERA requirements under 40 CFR 763, Subpart E.

(2) The designated asbestos person shall ensure that the LEA complies with this chapter.

Note: The entire AHERA regulation and related materials may be found on EPA's Internet web site at www.epa.gov/asbestos/asbestos_in_schools.html. Publications may be ordered by contacting the TSCA Hotline at 202-554-1404 between 7:30 a.m. and 4:00 p.m. Monday though Friday.

SECTION 2. Chapter HFS 159 Appendix A is repealed.

SECTION3. EFFECTIVE DATE. This rule shall take effect on the first day of the third month beginning after publication in the Wisconsin administrative register, as provided in s. 227.22 (2) (intro.), Stats.

Wisconsin Department of Health Services

Dated: January 13, 2009

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Karen E. Timberlake, Department Secretary

SEAL: