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Chapter HFS 163

CERTIFICATION FOR THE IDENTIFICATION, REMOVAL AND REDUCTION OF LEAD–BASED PAINT HAZARDS

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Note: Chapter HFS 163 as it existed on February 28, 2002 was repealed and a new chapter HFS 163 was created, Register February 2002 No. 554, effective March 1, 2002.

Note: Chapter HFS 163 was created as an emergency rule effective February 18, 1997 and was created as a permanent rule Register, October, 1997, No. 502, effective November 1, 1997. Chapter HFS 163 was repealed and recreated by emergency rule effective August 29, 1998. Chapter HFS 163 as it existed on April 30, 1999 was repealed and a new chapter HFS 163 was created, Register, April, 1999, No. 520, effective May 1, 1999.

Subchapter I — General Provisions

HFS 163.01 Authority and purpose. (1) GENERAL. This chapter is promulgated under the authority of ss. 250.04 (7), 250.041, 254.115, 254.15, 254.167, 254.172, 254.176 (1) and (3), 254.178 (2) and 254.179, Stats.

(2) ACTIVITIES INVOLVING TARGET HOUSING AND CHILD–OCCUPIED FACILITIES. This chapter is intended to ensure that persons who perform lead hazard reduction activities or lead investigation activities do so safely to prevent exposure of building occupants to hazardous levels of lead. This is accomplished by requiring an individual to be trained and certified under s. HFS 163.10 before the individual performs, supervises or offers to perform or supervise specified lead hazard reduction or lead investigation activities involving target housing or a child–occupied facility or the real property on which the target housing or child–occupied facility stands. In addition, the certified individual is required to be associated with a lead company certified by the department under s. HFS 163.12. Subchapter II also requires that a training course that is represented as qualifying any person for certification to perform lead abatement or lead investigation activities be accredited by the department before the training course is offered, advertised or conducted and that training managers and principal instructors be separately approved by the department. Subchapter II further provides for the accreditation of lead–safe work courses.

(3) ACTIVITIES INVOLVING REGISTERED LEAD–FREE PROPERTY AND REGISTERED LEAD–SAFE PROPERTY. In addition to requirements under sub. (2), and subject to exceptions under s. HFS 163.43, a person who disturbs lead–based paint on registered lead–safe property shall successfully meet the requirements of this chapter and have documentation of certification issued by the department before performing, supervising or offering to perform or supervise a non–abatement lead–based paint activity on registered lead–safe property. In addition, this chapter establishes standards for registered lead–free and registered lead–safe property that encourage long–term lead hazard reduction, procedures for determining whether a property meets the standards, and procedures for issuing and maintaining certificates of lead–free status and lead–safe status.

History: CR 00–172: cr. Register February 2002 No. 554, eff. 3–1–02.

HFS 163.02 Scope. (1) APPLICABILITY. (a) This subchapter, subchs. II and IV apply to a person performing, supervising or offering to perform or supervise a lead hazard reduction activity or lead investigation activity involving target housing or a child–occupied facility or the real property on which the target housing or child–occupied facility stands, when certification is required under s. HFS 163.10 (1), and to a person performing an activity involving lead–based paint or a lead hazard when certification is required under a grant, contract or under an order issued by a court, the department, another state agency or a local agency. Persons certified under this chapter are also required to conduct activities in a manner that does not increase the hazards from lead–based paint to building occupants.

(b) This subchapter, subchs. III and IV apply to a training course that is offered, advertised, conducted or taught leading to, or intended to lead to, certification under this chapter, and to the training manager and instructors for the training course.

(c) In addition to provisions under subchs. I to IV that apply to target housing and child–occupied facilities, subch. V applies to real property for which a certificate of lead–free status or lead–safe status has been issued. Subject to the certification exceptions under s. HFS 163.43, subchs. IV and V also apply to a person performing, supervising or offering to perform or supervise a non–abatement lead–based paint activity on registered lead–safe property.

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

Note: Submit your request for approval of an alternative to a requirement to the Asbestos and Lead Section, Bureau of Occupational Health, Room 137, 1 W. Wilson

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St., P.O. Box 2659, Madison, WI 53701–2659; e–mail "plicasbestoslead@dhfs.state.wi.us"; ph. 608–261–6876; or fax 608–266–9711.

History: CR 00–172: cr. Register February 2002 No. 554, eff. 3–1–02.

HFS 163.03 Definitions. In this chapter:

(1) "Abatement" means any measure or set of measures intended to permanently eliminate lead–based paint hazards. Abatement includes any of the following:

(a) Activities intended to permanently eliminate a lead–based paint hazard, as follows:

1. Removal of lead–based paint or dust–lead.

2. Enclosure or encapsulation of lead–based paint.

3. Removal of lead–based painted surfaces or fixtures.

4. Removal or covering of lead–contaminated soil.

5. All preparation associated with the activities in subds. 1. to 4.

6. Cleanup associated with the activities in subds. 1. to 4.

7. Preparation for disposal of waste from the activities in subds. 1. to 4.

(b) The following projects:

1. A project involving target housing or a child–occupied facility conducted under a written contract or other documentation that indicates the project meets one of the following criteria:

a. The project will result in the permanent elimination of a lead–based paint hazard.

b. The project is intended to permanently eliminate a lead–based paint hazard and includes one of the activities described in par. (a).

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

3. A project resulting in the permanent elimination of a lead–based paint hazard, conducted by persons who, through their name or promotional literature, represent, advertise or hold themselves out to be in the business of performing abatement activities as identified and defined by this section, unless the project is covered by par. (c).

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

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

(c) "Abatement" does not include measures and activities intended to temporarily, but not permanently, reduce lead–based paint hazards. Furthermore, "abatement" does not include activities that are intended solely to repair, restore or remodel a given structure or dwelling, even though these activities may incidentally result in a reduction or elimination of lead–based paint hazards.

Note: Interim control activities and standard treatments, terms used in some federal and local regulations and publications are:

1. Abatement activities if they are intended to permanently reduce a lead–based paint hazard;

2. Non–abatement lead–based paint activities if they are intended to temporarily reduce a lead–based paint hazard and also disturb lead–based paint; and

3. Other activities not regulated under this chapter if they are intended to temporarily reduce a lead–based paint hazard and do not disturb lead–based paint.

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

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

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

(5) "Agent" means a person who is under a contract to manage or maintain real property.

(6) "Arithmetic mean" means the algebraic sum of data values divided by the number of data values.

Note: An example of an arithmetic mean is adding the values for the concentration of lead in several soil samples, as determined through analysis by a recognized laboratory, and dividing that total by the number of samples analyzed.

(7) "Bare soil" means soil or sand that is not covered by grass, sod, other live ground covers, wood chips, gravel, artificial turf, pavement or similar covering.

(8) "Certificate of lead–free status" or "lead–free certificate" means a certificate issued under this chapter by a certified lead inspector or risk assessor, and registered with the department that documents a finding by the inspector or risk assessor that a premises, dwelling or unit of a dwelling is free of lead–bearing paint as of the date specified on the certificate.

(9) "Certificate of lead–safe status" or "lead–safe certificate" means a certificate issued under this chapter by a certified lead hazard investigator or risk assessor, and registered with the department that documents that the hazard investigator or risk assessor detected no lead–based paint hazards affecting the premises, dwelling or unit of the dwelling on the date specified on the certificate.

(10) "Certification" means an approval status granted by the department to an individual or lead company meeting the conditions for certification under this chapter.

(11) "Certification examination" means a written, closed–book examination that evaluates the applicant's knowledge of information necessary to properly perform work in a specific discipline and is administered to an applicant for certification by the department or a person under the authority of the department.

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

(13) "Child–occupied facility" means any of the following:

(a) A facility licensed by the department to provide day care services.

(b) A public or private school or preschool attended by children younger than 6 years of age, including a state–operated residential treatment center.

(c) A building or portion of a building constructed prior to 1978, visited by the same child under 6 years of age, on at least 2 different days within any week, Sunday through Saturday, provided that each day's visit lasts at least 3 hours and the combined annual visits last at least 60 hours, except that for purposes of subchapter V, a dwelling is not a child–occupied facility unless educational or daycare services are provided to a child who is under 6 years of age and not an immediate family member.

(14) "Clearance" means the actions taken after a lead–based paint activity to make a final determination that the dust–lead levels are below the clearance levels.

(15) "Clearance level" means the value under s. HFS 163.14 (5) (c) 8. that indicates the maximum amount of lead permitted in dust on a surface following completion of a lead–based paint activity.

(16) "Common area" means a portion of a building, the land on which the building stands and other improvements on that land that are generally accessible to occupants of the building.

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

(17) "Component" means a specific design, architectural or structural element or fixture of a structure that is distinguished from another component by form, function or location. Interior components include ceiling, crown molding, wall, chair rail, door, door trim, floor, fireplace, radiator or other heating unit, shelf, shelf support, stair tread, stair riser, stair stringer, newel post, railing cap, balustrade, window and trim (including sash, window head, jamb, interior sill or stool and trough), built–in cabinet, column, beam, bathroom vanity, counter top and air conditioner.

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Exterior components include painted roofing, chimney, flashing, gutter, downspout, ceiling, soffit, fascia, rake board, cornerboard, bulkhead, door and door trim, fence, floor, joist, lattice work, railing, railing cap, siding, handrail, stair riser, stair tread, stair stringer, column, balustrade, exterior windowsill, window trough or well, casing, sash and air conditioner.

(18) "Containment" means the physical measures taken to isolate the work area in order to ensure that dust and debris created or released during activities are not spread, blown or tracked from inside to outside of the work area.

Note: Containment is more than simply laying plastic on the floor. For interior work involving an abatement or non−abatement lead−based paint activity that creates large amounts of dust, appropriate containment would include hanging plastic sheeting to create a barrier between the work area and the rest of the house, with an airlock entryway. For additional information on appropriate containment, refer to Chapter 8, Resident Protection and Worksite Preparation, of HUD's Guidelines for the Evaluation and Control for Lead−Based Paint Hazards in Housing.

(19) "Contingent accreditation" means a temporary approval status granted by the department to a training course for a specific discipline on the basis of a desk audit of accreditation application materials for compliance with this chapter.

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

(21) "Course test" means a written, closed−book test administered by a training provider at the end of a course that is intended to evaluate trainees' knowledge and retention of the course learning objectives.

(22) "Course test blueprint" means written documentation identifying the proportion of course test questions devoted to each major course learning objective.

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

(24) "Deteriorated paint" means paint that is cracking, flaking, chipping, peeling, chalking or otherwise separating from the substrate of a building component or from underlying paint on a component. "Deteriorated paint" does not include paint where nail holes, hair−line cracks, or small nicks or scratches are present, provided all layers of paint remain securely bonded.

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

(26) "Disturb" means to break up, burn, crush, cut into, dissolve, sand, scrape, abrade or otherwise manipulate a painted surface in a manner that generates dust−lead or debris.

Note: Washing or vacuuming painted surfaces does not, by itself, disturb paint unless the method used dislodges paint, such as by power washing. Although removal of a carpet does not disturb paint, the removal of a carpet contaminated with dust−lead can create a high dust lead−based paint hazard.

(27) "Discipline" means one of the specific job categories in s. HFS 163.10 (2) or 163.43 for which individuals are trained and become certified by the department.

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

(29) "Documented methodologies" means written protocols, standards or methods that are generally used and accepted for conducting regulated activities.

Note: Examples of documented methodologies include the following: The U.S. Department of Housing and Urban Development (HUD) Guidelines for the Evaluation and Control for Lead−Based Paint Hazards in Housing; the EPA Guidance on Residential Lead−Based Paint Hazards in Housing; the EPA Guidance on Residential Lead−Based Paint, Lead−Contaminated Dust and Lead−Contaminated Soil; the EPA Residential Sampling for Lead: Protocols for Dust and Soil Sampling (EPA report number 7474−R−95−001); Wisconsin Childhood Lead Poisoning Prevention and Control Handbook; regulations, guidance, methods or protocols issued by States and Indian Tribes that have been authorized by EPA; and other equivalent methods and guidelines. For non−abatement lead−based paint activities, additional documented methodologies include HUD's Lead Paint Safety, A Field Guide for Painting, Home Maintenance, and Renovation Work and EPA's Lead In Your Home: A Parent's Reference Guide. To request federal documents, contact HUD USER by telephone at 800−245−2691 or the National Lead Information Clearinghouse by telephone at 800−424−5323 or by fax at (202) 659−1192.

(30) "Door system" means all components associated with the operation or decoration of a door, including the frame, head, casing, latch jamb, transom, door stop, hinge jamb, door, threshold and door trim.

(31) "Dripline" means the area within 3 feet surrounding the exterior foundation of a building.

(32) "Durable material" means a construction product capable of withstanding use without significant deterioration, such as vinyl flooring, siding, paneling, aluminum coil stock, plasterboard or plywood.

(33) "Dust−lead" means dust that contains lead.

(34) "Dust−lead hazard" means dust that contains a dust−lead loading equal to or exceeding the level under s. HFS 163.15.

(35) "Dust sample" means a sample of dust collected using a documented methodology, such as a dust wipe sample or vacuum sampling.

(36) "Dust wipe sample" means a sample of dust collected by wiping a representative surface of a known area with an acceptable wipe material, such as a moist towelette.

(37) "Dwelling" means any structure, all or part of which is used or intended to be used for human habitation as a home or residence. A dwelling includes a structure that is being converted to a dwelling or that is intended for human habitation but is currently vacant.

(38) "Dwelling unit" means that part of a structure that is designed, used or intended to be used for human habitation by one or more persons maintaining a common household.

(39) "Elevated blood lead investigation" means the environmental investigation activities conducted in response to a report of a lead poisoning and intended to identify lead hazards that may contribute to the lead poisoning.

(40) "Elevated blood lead level" means a level of lead in blood that is any of the following:

(a) Twenty or more micrograms per 100 milliliters of blood, as confirmed by one venous blood test.

(b) Fifteen or more micrograms per 100 milliliters of blood as confirmed by 2 venous blood tests that are performed at least 90 days apart.

(41) "Employee" means an individual who an employer can require or direct to engage in any employment, or to go to work or to be at any time in any place of employment, except that an employee does not include an individual whose sole relationship with the employer is contractual and limited to performing periodic services for which the individual, not the employer, controls the means and method of performing the services and the individual meets the criteria under s. 108.02 (12) (b) 1. and 2., Stats.

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

Note: There are currently no national standards for liquid encapsulants, but some states approve encapsulants. Contact the National Lead Information Center at 1−800−424−5323 for the telephone numbers of states with lists of approved encapsulants.

(43) "Encapsulation" means the process of creating a barrier between lead−based paint and the environment by the application of an encapsulant.

(44) "Enclosure" means the use of rigid, durable materials that are mechanically fastened to the substrate, component or building structure, with all edges, joints and seams sealed in order to act as a dust−tight barrier between lead−based paint and the environment.

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

(46) "Friction surface" means an interior or exterior surface that is subject to repeated abrasion or friction during use, including certain surfaces of windows, floors and stairs.

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(47) "Full accreditation" means an approval status granted by the department to a training course for a specific discipline subsequent to contingent accreditation, which is granted on the basis of an on−site accreditation audit finding of compliance with this chapter.

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

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

(50) "Hands−on skills assessment" means an evaluation of a trainee's ability to satisfactorily perform hands−on skills taught in a training course.

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

(52) "HEPA filter" means a high efficiency particulate air filter that removes particles of 0.3 microns or larger from the air at 99.97 percent or greater efficiency.

(53) "HEPA vacuum" means a vacuum cleaner device with an integral HEPA filter through which the contaminated air flows when the cleaner is operated according to instructions from the manufacturer.

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

(55) "Immediate family" means any of the following:

(a) Spouse.

(b) Children, stepchildren, grandchildren, foster children.

(c) Parents, stepparents, grandparents, foster parents.

(d) Sons−in−law or daughters−in−law.

(e) Brothers and their spouses.

(f) Sisters and their spouses.

(g) Aunts and uncles.

(56) "Impact surface" means an interior or exterior surface that is subject to damage by repeated force during use, such as doors to certain parts of doorframes.

(57) "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.

(58) "Interim certification" means a temporary status the department may grant to an individual who has applied for and is qualified to take a certification examination but is not yet eligible for initial certification.

(59) "Interior windowsill" or "window stool" means the portion of the horizontal window ledge adjacent to the interior side of the window sash when the window is closed. On older homes, the interior windowsill frequently protrudes into the interior of the room.

(60) "Lead" means the metallic element known by the symbol "Pb" in the periodic table of chemical elements.

(61) "Lead−based paint" or "lead−bearing paint" means paint or any other surface coating material containing more than 0.06% lead by weight, calculated as lead metal, in the total nonvolatile content of liquid paint or in the dried film of applied paint, or more than 0.7 milligrams lead per square centimeter in the dried film of applied paint.

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

(62) "Lead−based paint activity" means an activity that disturbs paint when the paint is not proven to be lead−free. Lead−based paint activities include scraping, sanding, cutting, planing, drilling or sawing painted surfaces during modification, demolition, maintenance, rehabilitation, remodeling, renovation or restoration activities.

(63) "Lead−based paint hazard" means any condition that causes exposure to lead from dust−lead, soil−lead, deteriorated paint that is not proven to be lead−free, or lead−based paint that is present on friction surfaces, impact surfaces, or surfaces that are chewed or mouthed, as observed or evidenced by teeth marks and would result in adverse human health effects.

(64) "Lead abatement supervisor" means an individual who supervises or performs abatement activities.

(65) "Lead abatement worker" means an individual who performs abatement activities.

(66) "Lead company" means a company, partnership, corporation, sole proprietorship, association, governmental agency or other entity that performs, supervises, advertises, claims to provide or offers to perform or supervise a lead hazard reduction activity or lead investigation activity.

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

(68) "Lead−free inspection" means a lead investigation activity conducted to determine whether a dwelling, dwelling unit, child−occupied facility or other premises qualifies for a certificate of lead−free status.

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

(70) "Lead hazard investigator" means an individual who conducts lead hazard screen, risk assessment, lead−safe investigation or clearance activities or provides options to reduce specific lead hazards but does not use an XRF or conduct lead inspections.

(71) "Lead hazard reduction activity" means any action intended to permanently or temporarily reduce or eliminate human exposure to lead−based paint hazards.

(72) "Lead hazard reduction discipline" means a job category for which individuals are trained and become certified by the department to conduct specific lead hazard reduction activities. Lead hazard reduction disciplines are lead abatement supervisor, abatement worker and project designer.

(73) "Lead hazard screen" means a risk assessment activity to determine whether a structure in good condition is free of lead−based paint hazards or should have a full risk assessment. A lead hazard screen involves less paint or dust sampling or testing than in a full risk assessment.

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

(75) "Lead inspector" means an individual who conducts a lead−free inspection, or lead inspection and who may also conduct clearance activities.

(76) "Lead investigation activity" means any activity that determines whether lead−based paint or lead hazards are present. Lead investigation activities include clearance, dust−wipe sampling, elevated blood lead investigation, lead−free inspection, lead inspection, lead hazard screen, lead−safe investigation, paint chip testing, risk assessment and soil sampling activities.

(77) "Lead investigation discipline" means a job category for which individuals are trained and become certified by the department to conduct specific lead investigation activities. Lead investigation disciplines are lead hazard investigator, inspector, risk assessor and sampling technician.

(78) "Lead project designer" means an individual who designs abatement projects and who may also write occupant protection plans or abatement reports.

(79) "Lead risk assessor" means an individual who conducts lead investigation activities.

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(80) "Lead sampling technician" means an individual who performs limited clearance activities, collects paint−chip, dust−wipe or soil samples, or assists a lead hazard investigator, inspector or risk assessor in conducting other lead investigation activities.

(81) "Lead−safe investigation" means a lead investigation activity conducted to determine whether a dwelling, dwelling unit, child−occupied facility or other premises qualifies for a certificate of lead−safe status.

(82) "Lead−safe company" means a person with staff certified to conduct non−abatement lead−based paint activities in registered lead−safe property.

Note: Lead−safe company certification is not required to work in registered lead−safe property. Refer to s. HFS 163.43 for required certification of an individual as a lead−safe worker.

(83) "Lead−safe worker" means an individual who conducts non−abatement lead−based paint activities in registered lead−safe property.

(84) "Loading" means the quantity of a specific substance present per unit of surface area, such as the amount of lead in micrograms contained in the dust collected from a certain surface area divided by the surface area in square feet or square meters.

(85) "Mid−yard" means an area of a yard approximately midway between the outermost edge of the dripline of a structure and the nearest property boundary or midway between the outermost edges of the driplines of a structure and another building on the same property.

(86) "Multi−family dwelling" means a single structure that contains more than one dwelling unit.

(87) "Occupant" means one of the following:

(a) A person, other than a guest, who leases or lawfully resides in a dwelling as the person's home or residence.

(b) A person who leases or lawfully occupies a premises that is not a dwelling, such as a child−occupied facility.

(88) "Occupant protection plan" means a written plan developed prior to an activity that describes the measures that will be taken to protect the building occupants from exposure to lead−based paint hazards.

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

(90) "Person" means any individual or entity, including a sole proprietorship, corporation, limited liability corporation, partnership or association, Indian tribe, state or local agency or political subdivision of a state, interstate body, or department, agency or other instrumentality of the federal government.

(91) "Play area" means an area of frequent contact by children under age 6, as indicated by such factors as the use of the structure, observations of play patterns, information provided by parents or others, or the presence of play equipment, toys or other possessions of children.

(92) "Premises" means any of the following:

(a) An educational or child care facility, including attached structures and the real property upon which the facility stands, that provides services to children under 6 years of age.

(b) Other buildings and facilities, including attached structures and real property upon which the buildings or facilities stand, that might contain lead−based paint or a lead−based paint hazard.

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

(94) "Property owner" means a person who has both equitable title and legal possession of a dwelling, child−occupied facility, premises, registered lead−free property or registered lead−safe property.

(95) "Real property" means the land, buildings and improvements, and all contiguous property under the same ownership.

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

Note: : To obtain a list of recognized laboratories, write or phone the Asbestos and Lead Section, Bureau of Occupational Health, P.O. Box 2659, Madison, WI 53701−2659; e−mail "plicasbestoslead@dhfs.state.wi.us"; ph. 608−261−6876; or fax 608−266−9711. The National Lead Information Center (NLIC) Clearinghouse updates the NLLAP list on a monthly basis. Updated copies may be obtained by calling NLIC at 1−800−424−5323.

(97) "Regional lead training center" means an institution sponsored by the EPA before March 1, 1999, to develop or conduct lead training courses.

(98) "Registered lead−free property" means those portions of real property that were included in a lead−free inspection and are described as covered property on a current, valid certificate of lead−free status issued under this chapter and registered with the department.

(99) "Registered lead−safe property" means those portions of real property that were included in a lead−safe investigation and are described as covered property on a current, valid certificate of lead−safe status issued under this chapter and registered with the department.

(100) "Regulated activity" means an activity to which work practice standards apply or for which accreditation, approval or training and certification is required under this chapter.

(101) "Replacement" means a strategy of abatement that entails removing building components that have surfaces coated with lead−based paint and installing new components free of lead−based paint.

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

(103) "Soil−lead" means bare soil that contains lead.

Note: The Wisconsin Department of Natural Resources (DNR) standard for non−industrial lead in soil under s. NR 720.11, Table 2, is 50 parts per million. For additional information, contact the DNR at 608−266−5425.

(104) "Soil−lead hazard" means bare soil containing lead equal to or exceeding the applicable level under s. HFS 163.15 (2).

(105) "Substrate" means a surface on which paint, varnish or other coating has been or may be applied.

(106) "Target housing" means a dwelling constructed prior to 1978, except for any of the following:

(a) A dwelling for the elderly or persons with disabilities unless a child under 6 years of age resides or is expected to reside in the dwelling.

(b) A dwelling in which the living area is not separated from the sleeping area.

(107) "Tenancy" means occupancy, or a right to present occupancy under a rental agreement, and includes periodic tenancies and tenancies at will. The term does not include the occupancy of a dwelling unit without consent of the property owner after expiration of a lease or termination of tenancy under ch. 704, Stats.

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

(109) "Training hour" means 60 minutes of actual instruction, which shall include time devoted to learning activities, including lecture, small group activities, demonstrations, evaluations or hands−on activities.

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

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

(112) "Unkeyed plaster" means plaster whose mechanical bond with the supporting structure is broken and has not been repaired, causing the plaster to become loose or bowed.

(113) "Vacuum sampling" means collecting a sample of dust collected by vacuuming a representative surface of known area with a vacuum and using documented methodologies.

(114) "Visual inspection" means:

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

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

(c) For conditions for maintaining a certificate of lead−safe status, visual examination to determine the existence of deteriorated lead−based paint, failure of an enclosure, encapsulant or covering, or the presence of other potential lead−based paint hazards.

(115) "Wet sanding" or "wet scraping" means a process of removing loose paint in which the painted surface to be sanded or scraped is kept wet to minimize the dispersal of paint chips and airborne dust.

(116) "Window system" means all components associated with the operation or decoration of a window, including the framing, casing, lower and upper sash, jamb, parting bead, inside stop, outside stop, channel guide or track, interior sill or stool, trough or well, exterior sill, apron, storm window, screen window, muntin, mullion and window trim.

(117) "Window trough" or "window well" means the portion of the windowsill between the interior windowsill or stool and the frame of the storm window. If there is no storm window, the window trough is the area that would receive upper and lower sashes if they were lowered.

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

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

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Subchapter II — Certification of Persons to Perform Lead Hazard Reduction Activities or Lead Identification Activities

HFS 163.10 Certification of an individual. (1) REQUIREMENT. Except as provided under par. (c) and s. HFS 163.12 (1) (b), an individual shall be certified by the department under this subchapter and shall be associated with a certified lead company through ownership, employment or contract before the individual may do any of the following:

(a) Perform, supervise or offer to perform or supervise a lead abatement activity or lead investigation activity involving one of the following:

1. A child−occupied facility or the real property on which the child−occupied facility stands.

2. Target housing or the real property on which the target housing stands when one of the following applies:

a. The individual performing the work does not own the target housing or real property.

b. An individual other than the property owner or the property owner's immediate family rents or occupies the target housing or real property.

c. A child residing in the target housing has been identified as having an elevated blood lead level.

(b) Perform or supervise an activity when certification is required under an order issued by a court, the department, another state agency or a local agency, under a contract, or as a condition for payment of services.

(c) An individual is not required to be certified under this subchapter when any one of the following applies:

1. All activities are within the scope of a license, certification or registration issued to the individual by the department of commerce under s. 101.178, 101.87, Stats., or ch. 145, Stats.

2. The only activities performed involve installation or repair of wiring, cables or components of the dwelling or premises' security, electrical, heating, plumbing or cooling system.

3. All paint involved in the activity has been tested by a person certified in an appropriate lead investigation discipline, who has determined that the paint does not meet the definition of lead−based paint under s. HFS 163.03 (60).

Note: For the requirement that a lead company be certified to perform, supervise or offer to perform or supervise an abatement activity, see s. HFS 163.12.

(2) DISCIPLINES. Certification of individuals shall be specific to one of the following lead hazard reduction or lead investigation disciplines:

(a) *Lead hazard reduction disciplines.* 1. 'Lead abatement worker.' A certified lead abatement worker may perform any abatement or non−abatement lead−based paint activity, but must be supervised under s. HFS 163.14 (1) (c) when performing abatement. A lead abatement worker may not prepare an occupant protection plan for abatement, prepare an abatement report, conduct sampling or supervise abatement activities.

Note: For certification of a lead−safe worker to perform non−abatement lead−based paint activities on registered lead−safe property, refer to s. HFS 163.43.

2. 'Lead abatement supervisor.' A certified lead abatement supervisor may develop occupant protection plans, write abatement reports, and supervise or perform abatement activities. A certified lead abatement supervisor may take dust wipe samples before clearance is conducted to determine if cleanup is complete, but this activity does not meet the criteria for sampling under s. 901.055, Stats., or for clearance.

3. 'Lead project designer.' A certified lead project designer may design lead hazard reduction projects, develop occupant protection plans and write abatement reports. A certified lead project designer may not perform or supervise abatement or non−abatement lead−based paint activities without certification in an appropriate lead hazard reduction discipline.

(b) *Lead investigation disciplines.* 1. 'Lead sampling technician.' When no abatement activity was performed, a certified lead sampling technician may conduct clearance following a lead−based paint activity involving a single−family dwelling, multifamily housing with fewer than 5 units, or an individual dwelling unit in multifamily housing. A certified lead sampling technician may take dust wipe, paint chip and soil samples and may assist a certified lead investigator, inspector or risk assessor to conduct other lead investigation activities. A certified lead sampling technician may not use an XRF, conduct clearance after an abatement or provide recommendations for reducing a lead hazard.

2. 'Lead inspector.' A certified lead inspector may conduct any clearance, lead−free inspection or inspection activity, and may use an XRF. A certified lead inspector may assist a certified lead hazard investigator or risk assessor to conduct other lead investigation activities, but may not identify hazards or provide recommendations for reducing a lead hazard.

3. 'Lead hazard investigator.' A certified lead hazard investigator may conduct any clearance, elevated blood−lead investigation, lead hazard screen, lead−safe investigation or risk assess-

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ment activity. A certified lead hazard investigator may assist a certified lead inspector or risk assessor to conduct a lead inspection, but may not use an XRF.

4. 'Lead risk assessor.' A certified lead risk assessor may conduct any lead investigation activity, including clearance, lead−free inspection, lead inspection, elevated blood−lead investigation, lead hazard screen, lead−safe investigation and risk assessment activities, and may use an XRF.

(3) CONDITIONS FOR INITIAL CERTIFICATION. (a) *Summary.* 1. An applicant shall use this subsection and subs. (4) to (7) to apply for certification in a lead hazard reduction or lead investigation discipline for the first time or after certification in the discipline has lapsed for 12 months or more.

2. An individual applying for initial certification in any discipline identified under sub. (2) shall be 18 years of age or older, shall meet applicable education and experience qualifications under par. (b), shall successfully complete certification training requirements under s. HFS 163.11 and, to be certified as a lead abatement supervisor, hazard investigator, inspector, or risk assessor, shall pass a certification examination under par. (c).

3. Before certification as a lead inspector or lead risk assessor may be granted, an individual applying for certification as a lead inspector or risk assessor shall have completed XRF manufacturer's training under par. (d).

4. To apply for certification under subds. 1. to 3., the applicant shall submit to the department an application under sub. (5) and include the applicable fee.

Note: Use this subsection and subs. (4) to (7) to apply for certification in a discipline for the first time or after certification in the discipline has lapsed for 12 months or more. Use sub. (8) to apply for recertification before certification expires or within 12 months after certification expires. For certification of lead−safe workers, use s. HFS 163.43.

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

2. 'Abatement supervisor.' An applicant for lead abatement supervisor certification shall meet or exceed one of the following:

a. Have one year of experience as a certified lead worker or lead abatement supervisor.

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

3. 'Hazard investigator or risk assessor.' An applicant for lead risk assessor or lead hazard investigator certification shall meet one of the following:

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

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

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

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

e. Be a registered nurse or registered sanitarian and be employed by a health department that provides oversight of the individual's activities.

4. 'Project designer.' An applicant for lead project designer certification shall meet one of the following:

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

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

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

a. Pass a certification examination administered by the department or by a person authorized by the department to administer the certification examination under the department's direction or with the department's approval, no earlier than 12 months prior to applying for initial certification and no later than 6 months after applying for initial certification. A training provider may not administer a certification examination, except that the department may be a training provider and also administer a certification examination.

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

Note: To obtain a copy of the regulatory worksheet and regulations, write or phone the Asbestos and Lead Section, Bureau of Occupational Health, Room 137, 1 W. Wilson St., P.O. Box 2659, Madison, WI 53701−2659; e−mail "plicasbestoslead@dhfs.state.wi.us"; ph. 608−261−6876; or fax 608−266−9711. Return the completed worksheet, application and certification fee to the same office.

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

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

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

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

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

Note: To obtain a copy of the certification application, write or phone the Asbestos and Lead Section, Bureau of Occupational Health, Room 137, 1 W. Wilson St., P.O. Box 2659, Madison, WI 53701−2659; e−mail "plicasbestoslead@dhfs.state.wi.us"; ph. 608−261−6876; or fax 608−266−9711. Return the completed application and fees to the same office.

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

(d) *XRF manufacturer's training for lead inspectors or risk assessors.* 1. 'Requirement for training.' For certification as a lead inspector or risk assessor, an individual shall complete manufacturer's training meeting the requirements under ch. HFS 157 for at least one make and model of XRF that the individual will be using and shall submit a completion certificate for the training before certification as a lead inspector or risk assessor may be issued. Documentation of any other training completed to operate other makes or models of XRF shall be retained by the applicant and submitted upon request by the department.

2. 'Certification pending training.' Pending completion of XRF manufacturer's training to use an XRF, an applicant for lead inspector certification who meets all other qualifications shall be issued certification as a lead sampling technician, and an applicant for lead risk assessor certification who meets all other qualifications shall be issued certification as a lead hazard investigator.

(4) SUBMISSION OF DOCUMENTATION. If an applicant submits a photocopy rather than an original document, the applicant shall have the copy notarized as a true copy of the original before submitting the copy to the department.

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

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

(b) *Photograph.* Except when a photograph was submitted to the department by a training provider after the applicant completed a required course, a clearly identifiable photograph of the applicant's face in a standard passport size of 2″ x 2″, taken within the previous 24 months.

(c) *Verification of identification.* 1. 'Birth date.' A document that verifies the applicant's birth date, such as a birth certificate or official identification.

2. 'Photo identification.' An individual applying for certification who has not completed a course accredited by the department shall apply in person. When applying in person, the applicant shall provide 2 forms of identification, including an official photo identification, such as a motor vehicle driver's license or passport.

Note: Applications are accepted at the Asbestos and Lead Section, Bureau of Occupational Health, Room 137, 1 West Wilson Street, P.O. Box 2659, Madison, WI 53701−2659; e−mail "plicasbestoslead@dhfs.state.wi.us"; ph. 608−261−6876; fax 608−266−9711; or contact the Asbestos and Lead Section for information about other locations.

(d) *Documentation of training.* All previous required training certificates or other documentation for required training under s. HFS 163.11. In addition, the department may ask the training provider or another certification program to verify training was completed as documented.

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

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

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

a. A resume describing the relevant experience.

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

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

d. Copies of inspection reports prepared by the applicant.

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

3. 'Other professional certification.' For documentation of other professional certification, a copy of the certification.

(f) *Other documentation.* For an applicant requesting certification based on current certification issued by EPA or another EPA−authorized state or tribal program, both of the following:

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

2. A completed regulatory worksheet that has been personally completed by the applicant.

(g) *Fees.* 1. 'Initial certification fee.' A written request for a government certification fee exemption under subd. 1. h. or a nonrefundable initial certification fee as follows:

a. For certification as a lead abatement supervisor, a fee of $125.

b. For certification as a lead abatement worker, a fee of $75.

c. For certification as a lead hazard investigator, a fee of $150.

d. For certification as a lead inspector, a fee of $150.

e. For certification as a lead project designer, a fee of $175.

f. For certification as a lead risk assessor, a fee of $175.

g. For certification as a lead sampling technician, a fee of $50.

Note: For certification of a lead−safe worker to perform non−abatement lead−based paint activities on registered lead−safe property, see s. HFS 163.43.

h. To request a government certification fee exemption, the applicant shall complete the exemption section of the application and submit a letter from the employing governmental agency describing the job duties that qualify the employee for a government certification fee exemption.

2. 'Certification examination fee.' For lead abatement supervisor, hazard investigator, inspector or risk assessor initial certification, a nonrefundable certification examination registration of $50.

3. 'Replacement card fee.' If a certification card is lost, stolen or damaged, the individual who was issued the card may request the department to issue a replacement card and shall include with any request a fee of $25 and an identifying photograph in a standard passport size of 2″ by 2″, taken within the previous 24 months.

4. 'Other fees.' The department may assess other fees as necessary to cover costs of administering this chapter, such as walk−in service.

Note: For copies of the application form or affidavit of education and experience, write or phone the Asbestos and Lead Section, Bureau of Occupational Health, Room 137, 1 W. Wilson Street, P.O. Box 2659, Madison, WI 53701−2659; e−mail "plicasbestoslead@dhfs.state.wi.us"; ph. 608−261−6876; or fax 608−266−9711. Return the completed application and fee to the same office.

(6) ACTION BY THE DEPARTMENT. (a) *Time limit.* Within 10 working days after receipt of a fully and accurately completed cer-

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tification application, as specified in sub. (5), the department shall grant interim or initial certification or shall deny certification.

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

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

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

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

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

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

(b) *Initial certification.* 1. For a lead abatement supervisor, hazard investigator, inspector, project designer or risk assessor, initial certification shall remain valid for 1 year after the completion date of the most recent training required under s. HFS 163.11.

2. For lead abatement worker or sampling technician, initial certification shall remain valid as follows:

a. For an initial certification obtained during an odd−numbered calendar year, initial certification shall expire at midnight on August 1 of the subsequent odd−numbered year.

b. For an initial certification obtained during an even−numbered calendar year, initial certification shall expire at midnight on August 1 of the subsequent even−numbered year.

(8) RECERTIFICATION OF AN INDIVIDUAL. (a) *Requirement.* No individual certified under this subchapter may perform an activity for which certification is required after the expiration date on that individual's certification card until the individual is recertified by the department and possesses a new, unexpired certification card. An individual shall use this subsection to apply for recertification before certification expires or within 12 months after certification expires.

Note: If it is 12 months or more since a certification expired, the person wanting to renew certification must make reapplication for initial certification under subs. (3) to (7).

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

1. Be in compliance with all requirements of this chapter.

2. Be current with the certification training requirements under s. HFS 163.11.

3. Submit an application for recertification to the department under par. (c). The department shall refund the recertification fee if recertification is denied and the payer does not owe the department other fees.

4. Pass a certification examination under sub. (3) (c) when the department requires the individual to pass the certification examination because the department has reason to believe a training course or training certificate does not meet all requirements of this chapter.

Note: To request a certification exam registration form, write or phone the Asbestos and Lead Section, Bureau of Occupational Health, Room 137, 1 W. Wilson Street, P.O. Box 2659, Madison, WI 53701−2659; e−mail "plicasbestoslead@dhfs.state.wi.us"; ph. 608−261−6876; or fax 608−266−9711. Return the completed registration form and fee to the same office.

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

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

2. 'Photograph.' Except when a photograph was submitted to the department by a training provider after the applicant completed a required course, a recent, clearly identifiable photograph of the applicant's face in a standard passport size of 2″ x 2″, taken within the previous 24 months.

3. 'Training certificates.' Except when training information was submitted to the department by a training provider after the applicant completed a required course, a copy of any training certificate that was not previously submitted for training required under s. HFS 163.11.

4. 'Recertification fee.' A written request for a government certification fee exemption under subd. 4. h. or a recertification fee as follows:

a. For recertification as a lead abatement supervisor, a 1−year fee of $125 or a 2−year fee of $225.

b. For recertification as a lead abatement worker, a 2−year fee of $75.

c. For recertification as a lead hazard investigator, a 1−year fee of $150 or a 2−year fee of $275.

d. For recertification as a lead inspector, a 1−year fee of $150 or a 2−year fee of $275.

e. For recertification as a lead project designer, a 1−year fee of $175 or a 2−year fee of $325.

f. For recertification as a lead risk assessor, a 1−year fee of $175 or a 2−year fee of $325.

g. For recertification as a lead sampling technician, a 2−year fee of $50.

h. To request a government certification fee exemption, the applicant shall submit a letter from the employing governmental agency describing the job duties that qualify the employee for a government certification fee exemption.

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

6. 'Other fees.' The department may assess other fees as necessary to cover costs of administering this chapter.

Note: For a copy of the application or certification examination registration form, write or phone the Asbestos and Lead Section, Bureau of Occupational Health, Room 137, 1 W. Wilson Street, P.O. Box 2659, Madison, WI 53701−2659; e−mail "plicasbestoslead@dhfs.state.wi.us"; ph. 608−261−6876; or fax 608−266−9711. Return the completed application and fee to the same office.

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

2. If an individual applies for recertification and meets the conditions for recertification under par. (b), the department may

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grant recertification. When recertification is granted, the department shall issue or arrange for the issuance of a certification card for the appropriate specific discipline under sub. (2).

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

(e) *Length of recertification.* 1. When the department recertifies a lead abatement supervisor, hazard investigator, inspector, project designer or risk assessor, the department shall extend the certification of the individual for 1 or 2 years depending on whether a 1−year or 2−year fee is paid and the date by which refresher training must be completed.

2. When the department recertifies a lead abatement worker or sampling technician, the department shall extend the certification of the individual for 2 years.

History: CR 00−172: cr. Register February 2002 No. 554, eff. 3−1−02.

HFS 163.11 Certification training requirements. To be certified under this chapter as a lead abatement supervisor, abatement worker, hazard investigator, inspector, project designer, risk assessor or sampling technician, an individual shall meet all of the following minimum training requirements:

(1) APPROVED TRAINING. Each training course the individual completes for purposes of certification or recertification shall be any of the following:

(a) Accredited by the department under this chapter.

(b) Accredited by EPA or an EPA−authorized state or tribal lead training and certification program if the department determines the course is comparable to a course or courses under s. HFS 163.20 (8) and the course was completed in another state where the accrediting program has authority.

(c) Given by a training center authorized by EPA and completed in another state prior to March 1, 1999.

(d) Accredited by another state if the training course meets requirements that are comparable to the accreditation requirements under this chapter and was completed in that state prior to March 1, 1999.

(e) A course approved by the department under s. HFS 163.02 (2).

(2) REQUIREMENT FOR INITIAL TRAINING. (a) *Lead hazard reduction training*. For certification to perform lead hazard reduction activities, an individual shall have successfully completed one or more department−approved initial training courses as follows:

1. 'Lead abatement worker.' For certification as a lead abatement worker, an initial 1−day lead−safe work course accredited under this chapter followed by an initial 1−day lead abatement course.

2. 'Lead abatement supervisor.' For certification as a lead abatement supervisor, lead abatement worker training under subd. 1. followed by an initial 2−day lead abatement supervision course.

3. 'Lead project designer.' For certification as a lead project designer, lead abatement supervisor training under subd. 2. followed by an initial 1−day lead project designer course.

(b) *Lead investigation training*. For certification to perform lead investigation activities, an individual shall have successfully completed one or more department−approved initial training courses as follows:

1. 'Lead sampling technician.' For certification as a lead sampling technician, an initial 1−day lead sampling course.

2. 'Lead inspector.' For certification as a lead inspector, an initial 1−day lead sampling course followed by an initial 2−day lead inspection course.

3. 'Lead hazard investigator.' For certification as a lead hazard investigator, an initial 1−day lead sampling course followed by an initial 2−day lead hazard investigation course.

4. 'Lead risk assessor.' For certification as a lead risk assessor, an initial 1−day lead sampling course followed by an initial 2−day lead inspection course and an initial 2−day lead hazard investigation course.

(3) REFRESHER TRAINING. (a) *Requirement for refresher training*. 1. As a condition for recertification, an individual who is certified shall complete refresher training as follows:

a. An individual issued initial certification or recertification as a lead abatement supervisor, hazard investigator, inspector, project designer or risk assessor shall complete a refresher training course under par. (b) every 2 years, as indicated by the training due date on the certification card.

b. An individual issued initial certification or recertification as a lead abatement worker or sampling technician shall complete a refresher training course under par. (b) during that certification period, as indicated by the training due date on the certification card.

2. As a condition for certification, an individual who is not certified shall meet one of the following refresher training requirements:

a. An individual whose certification has been expired for less than 12 months shall complete a refresher training course under par. (b).

b. An individual whose certification has been expired for 12 months shall complete initial training under sub. (2) (a) or (b) if the last training was completed more than 3 years ago, or a refresher training course under par. (b) if the last training was completed within the past 3 years.

Note: Under s. HFS 163.10 (3) (a), an individual whose certification has been expired for 12 months must apply for initial certification, rather than recertification under s. HFS 163.10 (8).

(b) *Required refresher training*. 1. 'Refresher training for lead hazard reduction disciplines.' For lead hazard reduction disciplines, an individual shall successfully complete refresher courses approved by the department for lead hazard reduction disciplines. The minimum number of department−approved hours required for lead hazard reduction disciplines are as follows:

a. For certification as a lead abatement worker, a 4−hour lead abatement worker refresher training course.

b. For certification as a lead abatement supervisor, an 8−hour lead abatement supervisor refresher training course.

c. For certification as a lead project designer, a 4−hour lead project designer refresher training course.

2. 'Refresher training for lead investigation disciplines.' For lead investigation disciplines, an individual shall successfully complete refresher courses approved by the department for lead investigation disciplines. The minimum number of department−approved hours required for lead investigation disciplines are as follows:

a. For certification as a lead sampling technician, a 2−hour lead sampling technician refresher training course.

b. For certification as a lead inspector, an 8−hour lead inspector refresher training course.

c. For certification as a lead hazard investigator, an 8−hour lead hazard investigator refresher training course.

d. For certification as a lead risk assessor, an 8−hour lead risk assessor refresher training course.

(4) PROOF OF TRAINING. The individual shall retain an original training certificate, issued by the training provider, for each required training course completed.

History: CR 00−172: cr. Register February 2002 No. 554, eff. 3−1−02.

HFS 163.12 Certification of a lead company. **(1)** REQUIREMENT. (a) Except as provided under par. (b), a person shall be certified by the department as a lead company under this chapter and shall have appropriately certified staff or shall contract with an appropriately certified individual before it may perform, supervise, advertise, claim to provide or offer to perform or

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supervise a lead hazard reduction activity or a lead investigation activity for which certification is required under s. HFS 163.10 (1).

(b) A person is not required to be certified as a lead company when the person is a property owner who personally performs regulated activities only on the property owner's owner−occupied dwelling and the owner−occupied dwelling is not occupied by an individual who is not the property owner or the property owner's immediate family.

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

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

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

(c) *Follow work practice standards.* Agree that all lead company employees or subcontractors will follow the applicable work practice standards under s. HFS 163.14 or 163.44 when performing activities covered by the standards.

(d) *Demonstrate knowledge of applicable regulations.* An owner, officer or employee of the lead company who is authorized by the lead company to act on the lead company's behalf shall demonstrate knowledge of applicable lead−based paint regulations and protocols by doing one of the following:

1. Being certified as a lead abatement supervisor, hazard investigator, inspector, project designer or risk assessor.

2. When certification is impracticable, correctly completing and submitting to the department a lead company regulatory work sheet.

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

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

a. The lead company's name, mailing address, physical address and telephone number and the physical address of records required under s. HFS 163.13 (3) if different from the physical address.

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

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

d. Names of corporate officers of the lead company if the lead company is incorporated.

e. The name of an individual who meets one of the certification requirements under sub. (2) (d) 1. or the completed regulatory worksheet under sub. (2) (d) 2.

Note: To request a copy of the lead company regulatory work sheet or lead company application form, contact the Asbestos and Lead Section, Bureau of Occupational Health, Room 137, 1 W. Wilson Street, P.O. Box 2659, Madison, WI 53701−2659; e−mail "plicasbestoslead@dhfs.state.wi.us"; ph. 608−261−6876; or fax 608−266−9711.

f. A statement signed by an owner or officer of the lead company attesting that the lead company will employ or contract with only appropriately certified persons when certification is required under this chapter.

g. A statement signed by an owner or officer of the lead company attesting that the lead company, its employees and subcontractors will follow the work practice standards in s. HFS 163.14 or 163.44 when conducting activities covered by the work practice standards.

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

2. 'Fee.' The application shall include all the following fees:

a. A nonrefundable initial certification fee of $75.

b. Any other fee imposed by the department as necessary to cover costs of administering this chapter.

Note: For a copy of the application form, write or phone the Asbestos and Lead Section, Bureau of Occupational Health, Room 137, 1 W. Wilson Street, P.O. Box 2659, Madison, WI 53701−2659; e−mail "plicasbestoslead@dhfs.state.wi.us"; ph. 608−261−6876; or fax 608−266−9711. Return the completed application and fee to the same office.

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

1. Name, mailing address, physical address and telephone number for the agency and physical address of records required under s. HFS 163.13 (3) if different from the agency's physical address.

2. A statement signed by an authorized representative of the agency attesting that the agency will employ or contract with only appropriately certified persons when certification is required under this chapter.

3. A statement signed by an authorized representative of the agency attesting that the agency, its employees and subcontractors will follow the work practice standards in s. HFS 163.14 or 163.44 when conducting activities covered by the work practice standards.

Note: For a copy of the application form, write or phone the Asbestos and Lead Section, Bureau of Occupational Health, Room 137, 1 W. Wilson Street, P.O. Box 2659, Madison, WI 53701−2659; e−mail "plicasbestoslead@dhfs.state.wi.us"; ph. 608−261−6876; or fax 608−266−9711. Return the completed application to the same office.

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

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

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

(5) EXPIRATION OF LEAD COMPANY CERTIFICATION. A lead company's lead certification shall expire as follows:

(a) An initial certification obtained during an odd−numbered year shall expire at midnight on August 1 of the subsequent odd−numbered year.

(b) An initial certification obtained during an even−numbered year shall expire at midnight on August 1 of the subsequent even−numbered year.

(6) RENEWAL OF CERTIFICATION. (a) *Requirement.* To continue to perform, supervise, advertise, claim to provide or offer to perform or supervise a lead abatement activity or lead investigation activity, a lead company shall submit the following to the department before certification expires:

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

2. A nonrefundable fee of $75, except that a state or local government agency is exempt from paying the fee.

Note: Submit the application and fee to the Asbestos and Lead Section, Bureau of Occupational Health, P.O. Box 2659, Madison, WI 53701−2659.

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

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

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

(c) *Length of lead company renewal of certification.* When the department renews the certification of a lead company, the department shall extend a lead company's certification 2 years, except that lead company certifications with an expiration date of November 1, 2001, shall be renewed to expire at midnight on August 1, 2003.

History: CR 00–172: cr. Register February 2002 No. 554, eff. 3–1–02.

HFS 163.13 Responsibilities of certified persons.

(1) MAY NOT REFUSE ENTRY. No person at a site where a lead company conducts business or at the site of a current or previously conducted regulated activity may refuse entry to any representative of the department acting under the authority of s. HFS 163.30 (3).

(2) REQUIREMENT FOR VALID CARD ON SITE. Only a Wisconsin lead certification card is valid in this state for performing a regulated activity. Each individual performing or supervising a regulated activity shall have a valid unexpired certification card at the jobsite whenever performing or supervising that activity. Only the most recent certification card is valid for any given discipline.

(3) REQUIREMENT FOR RECORDKEEPING. The certified lead company shall retain all documentation, reports or plans required under this subchapter for a minimum of 5 years. If the lead company goes out of business, the department shall be contacted and offered the opportunity to become the repository for these records.

(4) REQUIREMENT FOR SUPERVISION OF A WORKER. Under s. HFS 163.14 (1) (c), a lead abatement worker shall be supervised by a certified lead abatement supervisor when performing abatement. According to recordkeeping requirements under sub. (3), the lead company shall maintain documentation of all jobs where a lead abatement worker was directly supervised and shall maintain documentation that a lead abatement worker successfully demonstrated understanding and compliance with pertinent abatement regulations and protocols before being allowed to conduct abatement under general supervision. Documentation of competence shall be on a form obtained from or approved by the department.

Note: For a copy of the worker competency form, write or phone the Asbestos and Lead Section, Bureau of Occupational Health, Room 137, 1 W. Wilson St., P.O. Box 2659, Madison, WI 53701–2659; e–mail "plicasbestoslead@dhfs.state.wi.us"; ph. 608–261–6876; or fax 608–266–9711.

(5) REQUIREMENT FOR WRITTEN CONTRACT. A certified lead company shall have a written contract for all regulated activities performed for remuneration. The contract shall specify the activities to be performed, comply with s. ATCP 110.05 and include the following:

(a) Information regarding the presence or absence of bonding or insurance coverage, including workers compensation insurance. Where a representation is made that bonding or insurance will be in effect while regulated activities are conducted, the lead company shall provide proof before work begins.

(b) For an abatement or non–abatement lead–based paint activity performed on registered lead–safe property, a statement regarding who is responsible for paying additional cleanup and clearance costs if clearance levels are not met.

(c) For a clearance activity, a statement regarding any potential conflict of interest, such as whether the lead company conducting the clearance is directly or beneficially owned, controlled or managed by the lead company conducting the abatement or non–abatement lead–based paint activity.

(d) For a lead investigation activity, all of the following:

1. The extent of the investigation and any limitations.

2. Which of the following actions will be taken if deteriorated paint is detected during a lead hazard screen, lead–safe investigation or risk assessment or if an XRF provides an inconclusive reading:

a. Treat the paint as lead–based paint unless the paint is proven to be lead–free.

b. Take a paint chip sample for submission to a recognized laboratory for testing.

c. Test the paint with an XRF.

(e) For a lead–free inspection or a lead–safe investigation, what action will be taken if the property is found ineligible for the certificate being sought.

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

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

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

2. 'Responsibility for certification card.' a. The individual shall retain the certification card until the card expires, shall have it physically present when performing or supervising a regulated activity and shall make the certification card available for inspection upon request by the department or the public.

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

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

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

2. 'Responsibility for certificate of approval.' a. Each certified lead company performing, supervising or offering to perform or supervise a regulated activity shall retain the certificate of approval for the duration of certification and shall make it available for inspection upon request by the department or the public.

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

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

(7) RESPONSIBILITY FOR VERIFICATION OF CERTIFICATION. The lead company employing or contracting with persons conducting a regulated activity shall verify the certification status of individuals performing or supervising those activities before the start of the activity and may not use individuals who lack the required certification.

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(8) SUMMARY OF LEAD INVESTIGATION ACTIVITIES. (a) *Requirement for summary.* Except when an elevated blood lead investigation is conducted or a certificate of lead−free status or lead−safe status is issued as the result of the lead investigation activity, persons certified to perform lead investigation activities shall submit to the department a summary of regulated lead investigation activities conducted on a form obtained from or approved by the department. If no regulated activities are conducted in a quarter, the report shall be filed to show no activity.

Note: Information about elevated blood lead investigations will be collected from reports submitted to the Wisconsin Childhood Lead Poisoning Prevention Program and information about lead−free inspections and lead−safe investigations will be collected through the registration of lead−free and lead−safe certificates.

(b) *Summary period and submittal date.* Each summary shall cover a three−month period and shall be submitted to the department as follows:

1. Submit January through March by April 30.
2. Submit April through June by July 31.
3. Submit July through September by October 31.
4. Submit October through December by January 31.

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

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

Note: To request a summary form, to request approval of an alternative form or to submit a summary, fax to 608−266−9711, e−mail to "plicasbestoslead@dhfs.state.wi.us"; or mail to the Asbestos and Lead Section, Bureau of Occupational Health, P.O. Box 2659, Madison, WI 53701−2659.

(9) WORK CONDUCT. Upon receiving certification, individuals and lead companies shall conduct activities in a manner that does not increase the hazards from lead−based paint to building occupants and shall comply with the work practice standards under s. HFS 163.14 or 163.44, as applicable.

History: CR 00−172: cr. Register February 2002 No. 554, eff. 3−1−02.

HFS 163.14 Work practice standards. (1) ABATEMENT ACTIVITIES. (a) *Who may conduct.* When certification is required, an individual shall be certified as a lead abatement supervisor and associated with a certified lead company in order to supervise and perform abatement activities involving target housing or child−occupied facilities. A person who is certified as a lead abatement worker and associated with a certified lead company may perform abatement activities only under the supervision of a certified lead abatement supervisor.

(b) *Abatement protocol.* In supervising or performing abatement, certified persons shall use documented methodologies to conduct work in a lead−safe manner that does not create lead−based paint hazards to the occupants, including work practices that limit the creation of dust and prevent the spread of dust, debris and paint chips outside of the work area, and shall comply with all requirements under pars. (c) to (L).

(c) *Requirement for supervision.* 1. When a lead abatement worker performs an abatement activity, a lead abatement supervisor shall provide direct onsite supervision unless general supervision is allowed under subd. 2.

2. When a lead abatement worker performs an abatement activity that involves enclosure or encapsulation and does not involve removal of lead−based paint or painted components, a lead abatement supervisor shall provide direct onsite supervision until the lead abatement supervisor is able to document that the lead abatement worker understands and demonstrates compliance with pertinent regulations and protocols when performing the activity, at which time general supervision of the worker is required. General supervision includes a site visit before work begins to verify appropriate set up and compliance with the occupant protection plan under par. (e), a site visit each day the worker performs the activities to verify ongoing compliance with work practice standards, and a site visit when the working date ends to verify the daily cleanup and disposal of waste and debris.

(d) *Requirement for ensuring compliance.* A certified lead abatement supervisor and the certified lead company associated with that individual shall ensure that all abatement activities are conducted according to the requirements of this section and all applicable federal, state and local government requirements.

Note: Refer to Appendix A for information on obtaining applicable federal, state and local government requirements.

(e) *Requirements to protect occupants.* Documented methodologies and the following work practice requirements shall be used to protect occupants when abatement is conducted:

1. 'Prevent distribution of dust and debris.' Measures shall be taken to prevent the distribution of dust and debris outside the abatement area, including demarcating the abatement area with signs, tape or plastic sheeting or conducting abatement in containment. For exterior abatement, landscape fabric capable of collecting dust−lead and debris may be used for a ground cover in lieu of plastic.

2. 'Protect personal property.' Measures shall be taken to protect all personal property in the work area from contamination by dust and debris.

3. 'Restrict access.' a. Except as provided under subd. 3. b. or c., uncertified persons shall be kept out of the abatement area until the area is cleaned, containment and abatement materials removed, and a visual inspection successfully completed. If access is granted before clearance has been successfully achieved, a notice shall be posted that states: "This worksite has not yet met clearance requirements. Lead−based paint hazards may be present."

b. After an abatement activity is conducted, a certified lead−safe worker may enter the abatement area to conduct a non−abatement lead−based paint activity, such as repainting, provided that the lead−safe worker follows documented methodology and maintains occupant protection.

c. When abatement involves activities subject to work practice restrictions under sub. (4) (a) or (b), uncertified persons and persons who are not certified as lead abatement workers or lead abatement supervisors shall be kept out of the abatement area until clearance is achieved.

4. 'Prepare an occupant protection plan.' Before starting an abatement project, a certified lead abatement supervisor or project designer shall prepare a written occupant protection plan on a form obtained from or approved by the department. The plan shall be specific to the abatement and to each dwelling or child−occupied facility involved. The plan shall describe the measures and management procedures that will be taken during the abatement project to protect the building occupants from exposure to lead−based paint hazards. The occupant protection plan shall be followed by all lead company staff and kept at the job site for viewing by interested persons.

5. 'Distribute occupant protection plan.' a. When abatement involves restricted work practices used in common areas, staff from the certified lead company shall deliver the occupant protection plan to each occupied dwelling unit no later than 2 working days before starting the activity and shall document delivery.

b. When abatement involves restricted work practices used in individual dwelling units, staff from the certified lead company shall deliver the occupant protection plan to each occupied

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dwelling unit involved in the activity no later than 2 working days before starting the activity and shall document delivery.

c. When the abatement is not performed by the property owner or the property owner's agent or employee, a copy of the occupant protection plan shall also be delivered to the property owner or the property owner's agent or employee.

d. When the occupant protection plan is delivered via mail, it shall be mailed at least 7 days before the start of the abatement and shall be documented by a certificate of mailing from the post office.

(f) *Requirement to follow work practice restrictions.* When abatement is conducted that involves a restricted work practice under sub. (4), the certified lead company and lead abatement supervisors involved in performing the activity shall ensure that restricted work practice standards are followed.

(g) *Requirement when soil is removed.* If soil is removed, any replacement soil shall have a level of lead of less than 400 parts per million. The soil that is removed shall not be used as topsoil at another dwelling or child–occupied facility.

(h) *Requirement for notification to the department.* Before conducting abatement, a certified lead abatement supervisor shall provide notice to the department under sub. (2).

(i) *Requirement to clean up the work area.* Documented methodologies shall be followed to clean the work area and any other affected area of the property at the end of each day's work and when all work has been completed.

Note: For one documented methodology that may be followed to clean up the work area, refer to Appendix C for Chapter 14 of HUD's "Guidelines for the Evaluation and Control of Lead–Based Paint Hazards".

(j) *Requirement for a visual inspection.* Following cleanup of the work area, a certified lead abatement supervisor shall conduct a visual inspection to verify that any dust, debris or paint chips created by the activity have been removed and that the visual inspection is passed before access to the area is allowed.

(k) *Requirement for management of wastewater, air emissions and solid waste.* 1. Discharge of wastewater shall be managed in accordance with chs. NR 105, 106 and 200 to 299.

2. Air emissions shall be managed in accordance with chs. NR 404, 415, 429 and 445.

3. After a lead–based paint activity is conducted, all lead–based paint debris and waste shall be managed in accordance with chs. NR 500 to 538 and 600 to 690.

Note: Refer to Appendix D for guidance from the Department of Natural Resources on managing lead–based paint under their regulations.

(L) *Requirement for clearance.* The lead abatement supervisor shall arrange for final clearance under sub. (5) to be conducted as soon as possible following abatement. The abatement is not complete until a certified lead hazard investigator, inspector or risk assessor declares in writing that all clearance levels are met.

(m) *Requirement for written report.* Within 10 working days after receiving the clearance report, but no later than 20 working days following completion of abatement, a certified lead abatement supervisor or project designer shall submit a written report to the person who contracted for the abatement. The report shall include all of the following:

1. Start and end dates of the project if different from the dates on the notice to the department.

2. A copy of the written notice to the department under sub. (2).

3. Name, address, telephone number and certification number of each certified lead company involved in the project and the name and certification number of each lead abatement supervisor assigned to the project to the extent that information is not included on the written notification under sub. (2).

4. The occupant protection plan that was prepared prior to the project.

5. A copy of the clearance report under sub. (5) (c) 9.

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

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

(2) ABATEMENT NOTIFICATION TO THE DEPARTMENT. (a) *Timing of notice.* The lead abatement supervisor shall submit notification for receipt by the department as follows:

1. For an original notice of abatement, written notification not less than 2 working days before the start of the activity.

2. In an emergency where a health risk warrants immediate action, written or verbal notification before the start of the activity.

3. To change the project start date on an existing notice, written or verbal revised notification not less than 2 working days before the activity begins if the new start date is earlier than the original start date or a minimum of one working day before the original start date if the new start date is later than the original start date.

4. To change the project end date on an existing nonemergency notice, written or verbal revised notification as soon as the change is determined, but no later than the original end date.

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

a. Project details, including the start and end dates, work shifts or hours, project activities, quantity of lead–based paint materials in the project, and whether the project was ordered, affected by HUD requirements, or involved registered lead–safe property or property applying for a certificate of lead–free status or lead–safe status.

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

c. Lead company details, including name, certification number, address, contact person and telephone number.

d. Facility or dwelling details, including type, occupancy, location, including street address, contact person and contact person's telephone number and current owner and current owner's telephone number.

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

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

4. 'Rejection of notification.' The department may reject a notification that is illegible or incomplete.

Note: To request a copy of the Department's notification form, to request approval of a form or method of submission or to submit written notification, contact the Asbestos and Lead Section, Bureau of Occupational Health, Room 137, 1 W. Wilson St., P.O. Box 2659, Madison, WI 53701–2659; email "plicasbestoslead@dhfs.state.wi.us"; ph. 608–261–6876; or fax 608–266–9711.

(c) *Verbal notification.* 1. 'Acceptable methods for submitting verbal notification.' For emergency or revised notification, verbal notification may be made by telephone or in person and shall include all of the following information:

a. Start and end dates.

b. Name and certification number of the lead company conducting the activity.

c. Location, including street address, of the dwelling or facility where the activity will be conducted.

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

3. 'Written follow–up to verbal notification.' When verbal notification is given, the lead abatement supervisor shall also submit a written notification under par. (b) within 2 working days after the date of the verbal notification.

Note: To submit verbal notification, phone 608–261–6876 or deliver in person to Room 137, 1 W. Wilson Street in Madison, and send the follow–up written notice to the Asbestos and Lead Section, Bureau of Occupational Health, P.O. Box 2659, Madison, WI 53701–2659.

(3) ABATEMENT WORK PRACTICES THAT ARE PROHIBITED. All of the following work practices are prohibited when performing abatement:

(a) Uncontained abrasive blasting or uncontained sandblasting.

(b) Machine sanding, grinding or planing without a properly operating HEPA–filtered exhaust control.

(c) Manual dry scraping, sanding or planing of more than 2 square feet of paint.

(d) Using chemical paint strippers containing methylene chloride.

(e) Uncontained high–pressure water blasting or uncontained hydroblasting.

(f) Open–flame burning, torching or charring of paint.

(g) Operating a heat gun on paint at or above 1100° F.

(h) Using a vacuum that does not have a properly operating HEPA filter when cleaning up lead–contaminated dust, debris or paint chips.

(i) Dry sweeping when cleaning up lead–contaminated dust, debris or paint chips.

(4) ABATEMENT WORK PRACTICES THAT ARE RESTRICTED. A certified person conducting any of the following abatement activities shall comply with the specific work practice restrictions for the activity:

(a) *Abrasive blasting or sandblasting.* When a certified person conducts abrasive blasting of paint or sandblasting of paint, he or she shall do all of the following:

1. Prohibit access of uncertified persons to the abatement area until clearance is achieved.

2. Use containment to isolate abatement areas from the rest of the property.

(b) *Machine chipping, grinding, planing or sanding.* When a certified person conducts machine chipping, machine grinding, machine planing or machine sanding of paint, he or she shall do all of the following:

1. Prohibit access of uncertified persons to the abatement area until clearance is achieved.

2. Use engineering controls that contain the dust and debris and that include the use of a properly operating HEPA–filtered exhaust control, such as a shrouded power tool attached to a HEPA vacuum.

3. Use containment for interior work to isolate abatement areas from the rest of the property.

(c) *Paint stripping.* When a certified person conducts chemical paint stripping, he or she shall follow the manufacturer's directions and may not use chemical strippers that contain methylene chloride.

Note: Using a chemical paint stripper to remove lead–based paint from a component may force lead into the substrate. Lead–safe work practices should be used when abrading a component from which lead–based paint has been chemically stripped.

(d) *Power washing.* When a certified person conducts power washing of paint, he or she shall use a containment system to prevent the wastes generated from contaminating soils or surface waters or from becoming airborne and dispersing. The certified person shall separate paint chips and other solid residues from the water, and collect and properly manage the paint chips and other solid residues.

Note: Some local governments prohibit power washing. OSHA and DNR also have regulations that apply to power washing.

(e) *Removing a painted component.* When, in removing any painted component, excluding removal of painted trim that is not part of a window system or part of a door system, a certified person disturbs more than 2 square feet of lead–based paint, he or she shall use containment to isolate abatement areas from the rest of the property.

(f) *Using a heat gun.* When a certified person removes paint with a heat gun, he or she shall operate the heat gun at a temperature below 1100° F.

(5) CLEARANCE. (a) *Who may conduct.* 1. A certified lead hazard investigator, inspector or risk assessor may conduct clearance for any lead hazard reduction and non–abatement lead–based paint activity.

2. A sampling technician may conduct clearance for a non–abatement lead–based paint activity when the clearance involves either a dwelling with fewer than 5 units or an individual dwelling unit in a multi–family dwelling with more than four units.

3. Except when clearance is conducted by a sampling technician who is the property owner or the property owner's employee or agent, the certified individual conducting clearance shall be associated with a certified lead company.

(b) *Prohibitions on who may conduct.* 1. The person conducting clearance may not participate in conducting or pre–clearing the activity being cleared.

2. The person conducting clearance may not communicate to others the location where clearance dust wipes will be collected.

3. For registered lead–safe property, a person may not conduct clearance of a non–abatement lead–based paint activity subject to restricted work practices under s. HFS 163.44 (3) (d) or an abatement activity unless the person meets all of the criteria under s. HFS 163.40 (2) (c) 3.

(c) *Clearance protocol.* In performing clearance, the certified lead hazard investigator, inspector, risk assessor or sampling technician shall comply with all of the following in an unbiased, objective and impartial manner:

1. 'Visual inspection of work.' Perform a visual inspection to determine if work specified in any contract, work plans, orders or other specifications has been completed and if any visible amounts of dust, debris or residue are present. If work has not been completed or if visible amounts of dust, debris or residue are present, the person who performed the activity being cleared shall eliminate these conditions prior to the continuation of the clearance procedures.

2. 'Timing of sampling.' Following a successful visual inspection and a minimum of one hour after completion of final cleanup activities, conduct clearance sampling for dust–lead by collecting single–surface dust samples using documented methodologies that incorporate adequate quality control procedures.

3. 'Location of sampling for work conducted in containment.' a. In at least 4 rooms, hallways, stairwells or other living areas within the containment area, collect one dust sample from one interior windowsill or one window trough, if available, and one dust sample from the floors. If there are fewer than 4 rooms, hallways, stairwells or other living areas within the containment area, collect samples from one interior windowsill or one window trough, if available, and one dust sample from the floors of all rooms, hallways, stairwells or other living areas within containment.

b. Collect one dust sample from the floor of a common area within containment for every 2,000 square feet of floor, and one dust sample from the floor of a common area outside containment. The dust sample taken outside containment shall be collected within 10 feet of the containment doorway.

4. 'Location of sampling for work conducted without containment.' a. In at least 4 rooms, hallways, stairwells or other living areas in or near the work area, collect one dust sample from

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one interior windowsill or one window trough, if available, and one dust sample from the floors. If there are fewer than 4 rooms, hallways, stairwells or other living areas within the residential dwelling or child–occupied facility, collect samples from one interior windowsill or one window trough, if available, and one dust sample from the floors of all rooms, hallways, stairwells or other living areas.

b. Collect one dust sample from the floor of a common area for every 2,000 square feet of floor.

5. 'Random sampling in multi–family dwellings.' Following an interior activity in a multi–family dwelling with similarly constructed and maintained dwelling units, conduct random sampling for purposes of clearance provided that:

a. The persons who perform the activities, including cleanup, do not know which dwelling units will be selected for the random sample.

b. A sufficient number of dwelling units are selected for dust sampling to provide a 95% level of confidence that at least 95% of all dwelling units would pass clearance if all dwelling units were sampled. In a housing complex with more than 1,000 dwelling units, no sampled dwelling unit may fail clearance and a sufficient number of dwelling units shall be selected for dust sampling to provide a 95% level of confidence that no more than 5% of all dwelling units or 50 dwelling units, whichever is smaller, would fail clearance if all dwelling units were sampled.

Note: For assistance in selecting the correct sample size, refer to Appendix E of this chapter.

c. The randomly selected dwelling units are sampled and evaluated for clearance according to the procedures found in par. (c).

6. 'Visual inspection of exterior work area.' Following an exterior activity, conduct a visual inspection. If visible dust or debris is present on horizontal surfaces in the outdoor common area closest to the work surface, such as a porch, patio, deck, sidewalk or stoop, the person who performed the activity being cleared shall eliminate these conditions before clearance may continue. In addition, conduct a visual inspection to determine the presence of paint chips on the dripline, next to the foundation, or any other surface below any exterior surface involved in the activity. If paint chips are present, the person who conducted the activity being cleared shall remove the paint chips from the site and properly dispose of them according to applicable federal, state and local government requirements.

7. 'Laboratory analysis.' Have collected samples analyzed by a recognized laboratory to determine the detectable levels of lead that can be quantified numerically.

8. 'Interpretation of laboratory results.' Compare the residual lead level from each dust sample, as determined by laboratory analysis, with the applicable clearance level for lead in dust on floors, interior windowsills and window troughs. If the residual lead level in a dust sample equals or exceeds the applicable clearance level, all of the components represented by the failed sample shall be recleaned by the person who conducted the activity being cleared and retested by the person conducting clearance until clearance levels are met. For dust wipe samples taken during clearance, clearance is achieved when the laboratory result for a sample is less than the following:

a. Forty micrograms per square foot (40 $\mu g/ft^2$) on a floor.

b. Two hundred fifty micrograms per square foot (250 $\mu g/ft^2$) on an interior windowsill.

c. Eight hundred micrograms per square foot (800 $\mu g/ft^2$) on window wells or troughs.

Note: Under U.S. EPA regulations that provide a federal definition of lead–based paint hazards under 40 CFR Part 745, Subpart D, effective March 6, 2001, the clearance level for a dust wipe sample taken of a window trough is reduced from 800 to 400 micrograms per square foot for properties subject to federal regulations, including HUD lead hazard reduction regulations.

9. 'Preparation of report following clearance of activities involving abatement.' Within 10 working days after clearance of activities involving abatement or within 10 working days after receipt of any required laboratory results, whichever is later, prepare a written clearance report for submission to the person who conducted the activities being cleared and to the property owner or the person who contracted for the clearance. The report shall include all of the following information:

a. Date and time of the clearance.

b. Address of the job site, including street address and unit number when applicable.

c. Name, address, telephone number and certification number of each individual and lead company conducting the clearance and signature of each certified lead hazard investigator, inspector, risk assessor or sampling technician.

d. The results of clearance testing, the specific locations on the property where clearance samples were taken and, if applicable, all soil analyses and the name, address and telephone number of each recognized laboratory that conducted the analyses.

e. The results of the visual inspection for the presence of visible dust, debris, residue or paint chips and, when applicable, the presence of deteriorated paint that is not proven to be lead–free.

10. 'Preparation of report following clearance of activities that do not involve abatement.' Within 10 working days after clearance of activities that do not involve abatement or within 10 working days after receipt of any required laboratory results, whichever is later, prepare a written clearance report for submission to the person who conducted the activities being cleared and to the property owner or the person who contracted for the clearance. The report shall include all of the following information:

a. All information under subd. 9.

b. The start and completion dates of the non–abatement lead–based paint activity.

c. The name and address of each lead company, firm or organization conducting the non–abatement lead–based paint activity.

d. The name and certification number of the person in charge of the work.

e. A description of the non–abatement lead–based paint activity.

11. 'Submission of clearance results involving registered lead–safe property.' Within 10 working days after receipt of clearance results involving a registered lead–safe property, the certified person who conducted the clearance shall submit all of the following clearance information to the department on a form obtained from the department:

a. The registered lead–safe property identification number as shown on the lead–safe certificate.

b. The address of the property as shown on the lead–safe certificate.

c. The name and lead certification identification number of the primary person who conducted the clearance.

d. The name and department–issued lead identification number of the recognized laboratory that processed the clearance samples.

e. The clearance results as reported by the recognized laboratory.

Note: To obtain a list of recognized laboratories or a copy of the Department's clearance form or to submit a completed form, contact the Asbestos and Lead Section, Bureau of Occupational Health, Room 137, 1 W. Wilson St., P.O. Box 2659, Madison, WI 53701–2659; e–mail "plicasbestoslead@dhfs.state.wi.us"; ph. 608–261–6876; or fax 608–266–9711.

(6) ELEVATED BLOOD LEAD INVESTIGATION. (a) *Who may conduct.* Only a certified lead hazard investigator or risk assessor may perform an elevated blood lead investigation.

(b) *Elevated blood lead investigation protocol.* An elevated blood lead investigation in response to a child with lead poisoning shall be conducted according to documented methodologies consistent with funding criteria and guidance issued to public health agencies by the department.

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(7) LEAD HAZARD SCREEN. (a) *Who may perform.* Only a certified lead hazard investigator or risk assessor associated with a certified lead company may perform a lead hazard screen involving target housing or a child–occupied facility. Under direct on–site supervision of a certified lead hazard investigator or risk assessor, a certified lead inspector or sampling technician may assist with a lead hazard screen.

(b) *Lead hazard screen protocol.* In performing a lead hazard screen, the certified lead hazard investigator or risk assessor shall comply with all requirements under pars. (c) to (g).

(c) *Background information.* Collect background information on the physical characteristics of the residential dwelling or child–occupied facility and occupant use patterns that may cause lead–based paint exposure to a child under 6 years of age.

(d) *Deteriorated paint.* Conduct a visual inspection of the real property to determine if any deteriorated paint is present. Treat deteriorated paint as lead–based paint unless the paint is proven to be lead–free. If a contract under s. HFS 163.13 (5) (d) specifies that sampling for the presence of lead–based paint should be conducted, do all of the following:

1. Use documented methodologies that incorporate adequate quality control procedures to test each surface with deteriorated paint that the hazard investigator or risk assessor determines is in poor condition and has a distinct paint history.

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

3. Determine that lead–based paint is present if the laboratory results are equal to or greater than 0.06% lead by weight or that lead–based paint is not present if the laboratory results are less than 0.06% lead by weight.

Note: Refer to s. HFS 163.03 (29) for documented methodologies.

(e) *Dust–lead.* 1. Collect 4 dust samples from the floors and 4 dust samples from the windows, in rooms, hallways, stairwells or other living areas where a child under 6 years of age is most likely to come into contact with dust.

2. In multi–family dwellings and child–occupied facilities, collect dust samples from common areas where a child under 6 years of age is most likely to come into contact with dust in addition to samples collected under subd. 1.

3. Collect all dust samples by using documented methodologies that incorporate adequate quality control procedures.

4. Have all collected dust samples analyzed by a recognized laboratory to determine if they contain detectable levels of lead that can be quantified numerically.

(f) *Lead–based paint hazards.* Evaluate the results of the lead hazard screen against the lead–based paint hazard levels under s. HFS 163.15 to determine whether a lead–based paint hazard is present.

(g) *Written report.* Within 10 working days after a lead hazard screen or receipt of any required laboratory results, whichever is later, prepare a written lead hazard screen report for submission to the person who contracted for the lead hazard screen. The report shall include all of the following information:

1. Date of the lead hazard screen.

2. Address of each building screened.

3. Date of construction of buildings.

4. Apartment number of units screened, if applicable.

5. Name, address and telephone number of each current owner of each building.

6. Name, address, telephone number, certification number and signature of each certified individual participating in the lead hazard screen.

7. Name, address, telephone number and certification number of the certified lead company conducting the lead hazard screen.

8. Name, address and telephone number of each recognized laboratory conducting analysis of collected samples.

9. Background information collected under par. (c).

10. Results of the visual inspection.

11. Description of testing method and sampling procedure used for paint analysis.

12. Specific locations of each painted component tested for the presence of lead.

13. All data collected from on–site testing, including quality control data and, if used, the serial number of any XRF.

14. All results of laboratory analysis on collected paint, soil and dust samples.

15. Any other sampling results.

16. Recommendations, if warranted, for a follow–up risk assessment and, as appropriate, any further actions.

(8) LEAD INSPECTION. (a) *Who may conduct.* Only a certified lead inspector or risk assessor associated with a certified lead company may perform an inspection involving target housing or a child–occupied facility. Under direct on–site supervision of a certified lead inspector or risk assessor, a certified lead hazard investigator or sampling technician may assist with an inspection, but may not use an XRF.

(b) *Inspection protocol.* In performing an inspection, the certified lead inspector or risk assessor shall comply with all requirements under pars. (c) to (f).

(c) *Locations to test for lead–based paint.* Select the following locations by using documented methodologies and test for the presence of lead–based paint:

1. In a dwelling or child–occupied facility, test each interior component with a distinct paint history and each exterior component with a distinct paint history.

2. In a multi–family dwelling or child–occupied facility, also test each component with a distinct paint history in every common area.

3. When a person requests a partial inspection for purposes of identifying lead–based paint in an area to be renovated or remodeled, select locations that fall within that area in accordance with subd. 1. or 2. The inspection shall be based on a written contract under s. HFS 163.13 (5) that specifies the limits of the partial inspection. A partial inspection may not be conducted when a certificate of lead–free status is being sought.

Note: Refer to s. HFS 163.03 (29) for documented methodologies.

(d) *Paint analysis.* Conduct paint analysis by using one or both of the following methods:

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

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

(e) *XRF requirements.* When using an XRF, a certified lead inspector or risk assessor shall be trained to operate the specific model of XRF being used and shall do all of the following:

1. Comply with radiation protection requirements under ch. HSS 157.

2. Replace the radiation source of the XRF according to recommendations from the manufacturer.

3. Warm up the XRF according to recommendations from the manufacturer or documented methodologies.

4. Conduct calibration checks according to recommendations from the manufacturer or documented methodologies.

5. Conduct substrate corrections when required.

6. If the XRF provides an inconclusive reading according to the performance characteristics sheet for the make and model of XRF used, assume the painted surface with the inconclusive reading contains lead–based paint unless sampling is required by con-

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tract. If a contract under s. HFS 163.13 (5) (d) specifies that sampling for the presence of lead–based paint should be conducted, conduct further testing or sampling and determine that lead–based paint is present if the laboratory results are equal to or greater than 0.06% lead by weight or that lead–based paint is not present if the laboratory results are less than 0.06% lead by weight.

7. Except as specified under subd. 6., evaluate the results of each XRF reading as follows:

a. If the XRF reading is positive or equal to or in excess of 0.7 milligram per square centimeter, determine that lead–based paint is present.

b. If the XRF reading is negative, determine that lead–based paint is not present.

(f) *Written report.* Within 10 working days after an inspection or receipt of any required laboratory results, whichever is later, prepare a written inspection report for submission to the person who contracted for the inspection. The report shall include all of the following information:

1. Date of the inspection.

2. Address of building inspected.

3. Date of construction of the building.

4. Apartment numbers of units inspected, if applicable.

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

6. Name, address, telephone number, certification number and signature of each certified individual participating in the inspection.

7. Name, address, telephone number and certification number of the certified lead company conducting the inspection.

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

9. Specific locations of each painted component tested for the presence of lead–based paint.

10. The results of the inspection expressed in terms appropriate to the sampling method used.

(9) RISK ASSESSMENT. (a) *Who may conduct.* Only a certified lead hazard investigator or risk assessor associated with a certified lead company may perform a risk assessment involving target housing or a child–occupied facility. Under direct on–site supervision of a certified lead hazard investigator or risk assessor, a certified lead inspector or sampling technician may assist with a risk assessment.

(b) *Risk assessment protocol.* A certified lead hazard investigator or risk assessor shall perform a risk assessment according to all the requirements under pars. (c) to (k).

(c) *Presence of lead–based paint.* Treat all painted surfaces as lead–based paint unless the paint is proven to be lead–free. If a contract under s. HFS 163.13 (5) (d) specifies that sampling for the presence of lead–based paint should be conducted, select and test all of the following locations for the presence of lead–based paint by using documented methodologies:

1. Each surface with deteriorated paint that is determined to have a distinct paint history.

2. Each interior windowsill determined to have a distinct painting history.

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

Note: Refer to s. HFS 163.03 (29) for documented methodologies.

(d) *Background information.* Collect background information on the physical characteristics of the residential dwelling or child–occupied facility and occupant use patterns that may cause lead–based paint exposure to a child under 6 years of age.

(e) *Visual inspection.* Conduct a visual inspection for risk assessment of the residential dwelling or child–occupied facility to locate the existence of deteriorated paint that is not proven to be lead–free, assess the extent and causes of the deterioration and identify other potential lead–based paint hazards.

(f) *Dust sampling.* 1. 'Dwellings.' In dwellings, collect single–surface dust samples from the interior windowsill and floor in each of the following locations:

a. The floor where a child under 6 years of age is likely to come into contact with dust, including play areas within rooms, high–traffic walkways, room midpoints and areas underneath windows, in each room or area where a child under 6 years of age is likely to come into contact with dust.

b. The interior windowsill of the window that is most frequently operated or most frequently contacted by children under 6 years of age in each room or area where a child under 6 years of age is likely to come into contact with dust.

c. Common areas adjacent to the sampled residential dwelling.

d. Other common areas in the building where the hazard investigator or risk assessor determines that a child under 6 years of age is likely to come into contact with dust.

2. 'Child–occupied facilities.' For child–occupied facilities, collect single–surface dust samples from the interior windowsill and floor in each of the following locations:

a. Each room, hallway or stairwell used by a child under 6 years of age.

b. Common areas adjacent to the sampled child–occupied facility.

c. Other common areas in the child–occupied facility where the hazard investigator or risk assessor determines that a child under 6 years of age is likely to come into contact with dust.

(g) *Soil sampling.* Unless assessment of the lead concentration in soil is specifically excluded by a written contract, collect soil samples for analysis of lead concentrations in both of the following locations:

1. Mid–yard areas where bare soil is present.

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

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

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

(j) *Presence of a lead–based paint hazard.* Determine whether a lead–based paint hazard is present under s. HFS 163.15.

(k) *Written report.* Within 10 working days after a risk assessment or receipt of any required laboratory results, whichever is later, prepare a written risk assessment report for submission to the person who contracted for the risk assessment. The report shall include all of the following information:

1. Date of the risk assessment.

2. Address of each building assessed.

3. Date of construction of buildings.

4. Apartment number of units assessed, if applicable.

5. Name, address and telephone number of each current owner of each building.

6. Name, address, telephone number, certification number and signature of each certified individual participating in the risk assessment.

7. Name, address, telephone number and certification number of the certified lead company conducting the risk assessment.

8. Name, address and telephone number of each recognized laboratory conducting analysis of collected samples.

9. Results of the visual inspection.

10. Description of testing method and sampling procedure used for paint analysis.

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11. Specific locations of each painted component tested for the presence of lead.

12. All data collected from on–site testing, including quality control data and, if used, the serial number of any XRF.

13. All results of laboratory analysis on collected paint, soil and dust samples.

14. Any other sampling results.

15. Any background information collected under par. (d).

16. To the extent that they are used as part of the lead–based paint hazard determination, the results of any previous inspections or analyses for the presence of lead–based paint or other assessments of lead–based paint–related hazards.

17. A description of the location, type and severity of identified lead–based paint hazards and any other potential lead hazards.

18. A description of lead hazard reduction options for each identified lead–based paint hazard and a suggested prioritization for addressing each hazard. If the use of an encapsulant or enclosure is recommended, the report shall recommend a maintenance and monitoring schedule for the encapsulant or enclosure.

History: CR 00–172: cr. Register February 2002 No. 554, eff. 3–1–02.

HFS 163.15 Lead–based paint hazard standards for dust and soil samples. (1) DUST–LEAD HAZARD. A dust–lead hazard is present when one of the following applies:

(a) *Lead hazard screen.* For dust wipe samples taken during a lead hazard screen, the arithmetic mean of laboratory results is equal to or greater than the following:

1. Twenty–five micrograms per square foot (25 $\mu g/ft^2$) on a floor.

2. One hundred twenty–five micrograms per square foot (125 $\mu g/ft^2$) on an interior windowsill.

(b) *Risk assessment.* For dust wipe samples taken during a risk assessment, the arithmetic mean of laboratory results is equal to or greater than the following:

1. Forty micrograms per square foot (40 $\mu g/ft^2$) on a floor.

2. Two hundred fifty micrograms per square foot (250 $\mu g/ft^2$) on an interior windowsill.

(2) SOIL–LEAD HAZARD. A soil–lead hazard is present when the arithmetic mean for laboratory results for samples of bare soil is equal to or greater than 2,000 parts per million.

Note: Under U.S. EPA regulations that provide a federal definition of lead–based paint hazards under 40 CFR Part 745, Subpart D, effective March 6, 2001, the following soil–lead hazard levels apply to properties subject to HUD lead hazard reduction regulations: (a) 400 micrograms per gram for bare soil in play areas. (b) an average of 1,200 micrograms per gram for all bare soil in the rest of the yard.

History: CR 00–172: cr. Register February 2002 No. 554, eff. 3–1–02.

Subchapter III — Accreditation of Lead Training Courses and Approval of Training Managers and Instructors

HFS 163.20 Accreditation requirements. (1) REQUIREMENT FOR ACCREDITATION. No person may offer, advertise, claim to provide or conduct a lead training course that is represented as qualifying any person for certification to perform a regulated abatement or lead investigation activity in this state unless that training course has received accreditation from the department, has an approved principal instructor, uses only approved instructors and the training provider is owned by or employs an approved training manager.

(2) ONLY TRAINING COURSES. Department accreditation is provided only for a specific training course designed for individuals seeking certification or recertification in a discipline under s. HFS 163.10 (2) or s. HFS 163.43, not for a training institution or a training program.

(3) ONLY IN–STATE COURSES. The department may grant full training course accreditation only to training courses conducted in Wisconsin. When review of a course is needed to ensure the quality of training received by individuals seeking certification in Wisconsin, the department may accept and review applications for contingent accreditation from training courses conducted in another state.

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

(b) *Initial training course.* Accreditation of an initial training course shall be granted for a specific course under sub. (8) (a) or (b) that meets all requirements of this chapter.

(c) *Refresher training course.* A refresher training course shall be separate and distinct from the initial training course, be for a specific course under sub. (8) (c) and meet all requirements of this chapter. The department may not accredit a refresher course unless the training provider obtains accreditation from the department for all corresponding initial courses.

(5) TRAINING RESOURCES. An accredited training course shall be conducted using facilities, equipment and instructional materials that promote the learning objectives for which the course is offered. Facilities shall have space for classroom, hands–on and field training. Instructional material shall be based upon EPA and department–approved curricula, shall include all materials approved for accreditation, and shall be kept up–to–date with new information provided by the department. Equipment shall reflect department–approved work practices, shall be maintained in proper working condition and shall be licensed and stored in compliance with applicable requirements and regulations. Students shall be given course material based on EPA and department–approved curricula that supports the learning goals and objectives of the course and that the student may use as reference material to enhance compliance with lead–based paint regulations and standards. Students shall also be given a paper copy of this chapter.

(6) APPROVED TRAINING MANAGER. The training provider or an owner of a training provider business shall be an approved training manager under s. HFS 163.24 (2). If the training provider or owner is not eligible for approval as a training manager, the training provider shall employ a training manager who is approved under s. HFS 163.24 (2). The training manager shall be responsible for all administrative duties under s. HFS 163.25. The actions of the training manager shall be deemed actions of the owner.

(7) APPROVED INSTRUCTORS. (a) *Principal instructor.* Each training course offered shall have a principal instructor who is approved under s. HFS 163.24 (3) and designated by the training manager under s. HFS 163.25 (5). The principal instructor has the primary responsibility for the organization and teaching of the course and for direct supervision of all guest instructors for the course. An individual may not act as a principal instructor for 2 or more concurrently conducted training courses.

(b) *Guest instructor.* Under s. HFS 163.25 (4), a training manager may designate a guest instructor to teach under the direct supervision of a principal instructor or to assist a principal instructor with hands–on instructional activities, hands–on skills assessment or work practice components of a course. A guest instructor shall meet the qualifications under s. HFS 163.24 (4).

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

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

2. 'Student–to–instructor ratio.' A student–to–instructor ratio of not greater than 8:1 shall be maintained during hands–on instructional activities and hands–on skills assessment but may

need to be less when necessary to ensure adequate instruction and observation of student performance.

3. 'Guest instructors.' Guest instructors may assist the principal instructor with hands–on instructional activities and skills assessment.

(8) TRAINING COURSE CURRICULA. (a) *Required learning objectives for courses leading to certification in lead hazard reduction disciplines.* An accredited training course that meets a training requirement under s. HFS 163.11 for certification as a lead abatement worker, lead abatement supervisor or lead project designer shall teach work practice standards that are consistent with s. HFS 163.14 for abatement activities and consistent with s. HFS 163.44 for non–abatement lead–based paint activities. A training course shall be based on EPA and department–approved curricula and shall meet or exceed the applicable minimum curriculum requirements, including both the minimum number of course training hours and the minimum number of hands–on training hours, as follows:

1. 'Lead–safe work course.' A lead–safe work course shall provide a minimum of 8 training hours. The course shall include lectures, demonstrations, a minimum of 2 hours of hands–on practice, hands–on skills assessment, a course review and a written course test. The course shall provide instruction and materials that address all of the following student learning goals and objectives:

a. Discuss why lead is a concern in housing.

b. Describe the effects of lead exposure in children and adults.

c. Define lead–based paint.

d. Define a lead–based paint hazard.

e. Discuss the distinction between lead–based paint and a lead–based paint hazard.

f. Discuss how lead–based paint hazards can be created when lead–based paint is disturbed.

g. Describe in general terms how lead is identified in materials.

h. Discuss soil–lead hazards.

i. Conduct a visual observation of paint condition and hazard recognition.

j. Name two approaches for controlling lead–based paint hazards.

k. List at least 7 lead–safe work practices.

L. Discuss occupant protection requirements.

m. Discuss general job site safety issues.

n. Select appropriate personal protection equipment and clothing under 29 CFR 1926.62 for non–abatement lead–based paint work.

o. Discuss 6 restricted or prohibited work practices under s. HFS 163.44 (2) and (3).

p. Determine when certification is required and the level of certification required to conduct a given abatement or non–abatement lead–based paint activity.

q. Choose appropriate materials and equipment to conduct a given non–abatement lead–based paint activity.

r. Discuss general engineering controls used for reducing and containing dust–lead.

s. Plan a non–abatement lead–based paint activity.

t. Prepare an occupant protection plan for a non–abatement lead–based paint activity and determine when the plan must be submitted to the department as notification of intent to conduct an activity.

u. Prepare a work area for a non–abatement lead–based paint activity.

v. Describe methods to stabilize deteriorated paint.

w. Clean up a work area after a non–abatement lead–based paint activity.

x. Discuss how to determine a property is ready for clearance.

y. Describe the clearance requirements for a non–abatement lead–based paint activity on registered lead–safe property and for work under HUD lead–based paint regulations.

z. Describe general lead–based paint waste disposal requirements.

za. Describe how to remove a lead–contaminated carpet.

zb. List the major federal and state statutes, regulations and rules that regulate lead–based paint activities.

zc. Describe the requirements for lead hazard reduction measures under 24 CFR Part 35, HUD requirements for notification, evaluation and reduction of lead–based paint hazards in federally owned residential property and housing receiving federal assistance.

zd. Describe the notification requirements under 40 CFR Part 745 Subpart E, the EPA lead–based paint pre–renovation education rule.

ze. Describe the disclosure requirements under 40 CFR Part 745 Subpart F, the federal requirements for disclosure of known lead–based paint or lead–based paint hazards in housing.

zf. Describe employer responsibilities for worker training and protection under 29 CFR 1926.62, lead in construction regulations issued by the U.S. occupational safety and health administration.

2. 'Lead abatement course.' A lead abatement course shall provide a minimum of 8 training hours only to persons who successfully completed a lead–safe work course. The course shall include lectures, demonstrations, a minimum of 6 hours of hands–on practice and hands–on skills assessment, a course review and a written course test. The course shall provide instruction and materials that address all of the following student learning goals and objectives:

a. Discuss the role and responsibilities of a lead abatement worker performing abatement or other lead hazard reduction.

b. Describe the requirements for training, certification and work practices under ch. HFS 163.

c. Discuss employer responsibilities for worker training and protection under 29 CFR 1926.62, lead in construction regulations issued by the U.S. occupational safety and health administration.

d. Determine characteristics of a job site that can affect an abatement project.

e. Interpret exposure measurements from personal air monitoring samples.

f. Discuss general engineering controls used for reducing and containing dust–lead during abatement activities that generate large quantities of dust.

g. List and describe at least 5 lead–based paint abatement or hazard reduction work methods.

h. List at least 6 restricted or prohibited work practices under s. HFS 163.14 (3) and (4).

i. Remove paint from components using machine sanding and machine grinding with HEPA–vacuum attachments and using wet sanding and wet scraping according to documented methodologies.

j. Discuss the structural conditions required for using encapsulants successfully.

k. Conduct a patch test for determining if an encapsulant will adhere properly.

L. Build a mini–containment for high dust engineering control.

m. Use documented methodologies to perform window treatments that involve removing window sashes, installing window trough covers, and planing window sashes with a power planer attached to a HEPA filter.

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n. Remove components and prepare for proper disposal.

o. Describe the cleanup and waste disposal required after abatement.

p. Discuss the advantages and disadvantages of different lead hazard reduction activities.

q. Describe 3 exterior abatement projects, including soil−lead abatement options.

r. Discuss engineering controls and work practice issues specific to exterior lead−based paint projects.

s. Perform a job site preparation and set−up for an exterior abatement project.

t. Discuss cleanup after soil and exterior abatement or lead hazard reduction.

3. 'Lead abatement supervision course.' A lead abatement supervision course shall provide a minimum of 16 training hours only to persons who have successfully completed lead abatement worker training. The course shall include lectures, demonstrations, hands−on skills assessment, a course review and a written course test. The course shall provide a minimum of 6 hours of hands−on practice and hands−on skills assessment, and instruction and materials that address all of the following student learning goals and objectives:

a. Describe the role and responsibilities of a lead abatement supervisor.

b. Discuss each of the major responsibility areas necessary to successfully manage lead abatement projects.

c. Describe basic supervisory techniques and responsibilities for lead hazard reduction projects.

d. Discuss the role the site supervisor plays in community relations and occupant protection.

e. Discuss the relation of contract specifications to the actual project.

f. Describe the various options for controlling interior, exterior and soil lead hazards.

g. Determine appropriate lead hazard reduction methods for interior, exterior and soil hazards.

h. Describe the requirements for using restricted lead abatement methods.

i. Identify prohibited work practices.

j. Describe the requirements for training, certification and work practices under ch. HFS 163.

k. Determine when notification to the department is required.

L. Complete a work notification form for a lead abatement project.

m. Describe lead waste disposal requirements.

n. Discuss employer responsibilities for worker training and protection under 29 CFR 1926.62, lead in construction regulations issued by the U.S. occupational safety and health administration.

o. Discuss employer responsibilities for worker respiratory protection under 29 CFR 1910.134.

p. Discuss requirements for lead hazard reduction measures under 24 CFR Part 35, HUD requirements for notification, evaluation and reduction of lead−based paint hazards in federally owned residential property and housing receiving federal assistance.

q. Discuss notification requirements under 40 CFR Part 745 Subpart E, the EPA lead−based paint pre−renovation education rule.

r. Discuss liability and insurance issues as they relate to lead hazard reduction work.

s. Interpret risk assessment and inspection reports as they apply to planned lead hazard reduction activities.

t. Describe the standards for registered lead−free property and registered lead−safe property registration.

u. Recognize common substrate problems that cause paint failure.

v. Describe surface preparation techniques for repainting.

w. Select appropriate paint types for various conditions and locations in a housing unit.

x. List requirements for lead safety when performing lead hazard reduction.

y. Determine the appropriate type and amount or number of tools, equipment, supplies, materials and replacement components necessary to perform given lead hazard reduction activities.

z. Determine the set−up work required for various lead hazard reduction projects.

za. Determine the lead hazard reduction methods most appropriate for various lead hazards.

zb. Determine the cleanup requirements for various lead hazard reduction projects.

zc. Complete a work plan for a given lead−based paint hazard reduction activity.

zd. Write contract specifications for the planned lead−based paint hazard reduction activity.

ze. Explain the purpose of the occupant protection plan.

zf. Complete an occupant protection plan for the planned lead−based paint hazard reduction activity.

zg. List and describe the information required in the abatement report.

zh. Describe the basic requirements for performing post−project pre−clearance.

zi. Perform a post−project visual inspection.

zj. Perform a dust wipe sample using proper protocol.

zk. Complete a laboratory sample analysis request form.

zL. Interpret laboratory analysis dust wipe results.

zm. List the records that must be kept by the employer for lead hazard reduction activities.

zn. Describe the requirements for determining if an encapsulant will adhere properly.

4. 'Lead project design course.' A lead project design course shall provide a minimum of 8 training hours only to persons who have successfully completed lead abatement supervisor training. The course shall include lectures, demonstrations, student participation, a course review and a written course test. The course shall provide instruction and materials that address all of the following student learning goals and objectives:

a. Describe the major responsibilities of the project designer.

b. Explain the uses and values of inspection and risk assessment report to the project designer.

c. Identify indications of incomplete or inaccurate inspection and risk assessment reports.

d. Identify the elements of a lead−based paint abatement design or project plan and describe a typical way of creating it.

e. Explain the importance of writing specifications for a lead hazard reduction project.

f. Describe the bidding process and its relationship to a project plan.

g. Describe 4 different lead−based paint abatement strategies.

h. Describe and discuss the advantages and disadvantages of different lead−based paint abatement strategies.

i. Explain when it is appropriate to use temporary lead hazard reduction methods and when it is appropriate to use abatement.

j. Describe the procedures used for final cleanup after lead−based paint abatement activities.

k. Describe the procedures for interior dust−lead reduction and explain how those procedures differ from final cleanup procedures.

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L. Describe the relationship between modernization and lead hazard reduction programs in federal housing.

m. Describe how lead hazard reduction programs are integrated into other remodeling activities in the federal housing program.

n. Explain how an occupant protection plan is implemented.

o. Identify problems associated with occupant relocation programs.

p. Outline the requirements of an effective containment system for interior lead–based paint abatement projects.

q. Outline the requirements of an effective containment system for exterior lead–based paint abatement projects.

r. Outline the requirements of an effective containment system for soil abatement projects.

s. Describe clearance testing procedures for lead–based paint abatement projects in multi–family housing.

t. Describe the appropriate response to clearance failures on large lead–based paint projects.

u. Explain the role of specifications in a contract.

v. Describe the content of specifications.

w. Write clear and concise specifications.

(b) *Required learning objectives for courses leading to certification in lead investigation disciplines.* An accredited training course that meets a training requirement under s. HFS 163.11 for certification as a lead sampling technician, lead inspector, lead hazard investigator or lead risk assessor shall teach work practice standards that are consistent with s. HFS 163.14 for lead investigation activities. A training course shall be based on EPA and department–approved curricula and shall meet or exceed the applicable minimum curriculum requirements, including both the minimum number of course training hours and the minimum number of hands–on training hours, as follows:

1. 'Lead sampling course.' A lead sampling course shall provide a minimum of 8 training hours. The course shall include lectures, demonstrations, a minimum of 3 hours of hands–on practice and hands–on skills assessment, a course review and a written course test. The course shall provide instruction and materials that address all of the following student learning goals and objectives:

a. Describe the health effects of lead exposure and the particular danger lead poses to children under age 6.

b. Discuss why lead is a concern in housing.

c. Discuss housing component conditions that can cause lead poisoning.

d. Describe the differences in roles and responsibilities of a lead sampling technician, risk assessor, hazard investigator and inspector.

e. Explain the purposes of lead sampling and appropriate situations for performing lead sampling.

f. Identify the following lead–based paint hazards: visible dust, paint chips, painted debris and deteriorated paint that is not proven to be lead–free.

g. Describe the basic elements required for post–project clearance.

h. Conduct a visual inspection.

i. Record the results of a visual inspection on a visual inspection form.

j. List 3 surfaces appropriate for dust wipe sampling.

k. Collect a dust wipe sample using correct methods.

L. Identify the appropriate locations for taking dust wipe samples to clear a given project.

m. Describe the methods used to ensure that sampling media are not contaminated.

n. Use the HUD field guide to plan for and perform clearance for a given situation.

o. Collect a paint chip sample.

p. Collect a soil sample.

q. Select an accredited laboratory and complete a laboratory sample analysis request form.

r. Describe methods for maintaining proper chain–of–custody for samples.

s. Interpret laboratory analysis results using clearance standards under s. HFS 163.15.

t. List the required contents of a clearance report.

u. Write a clearance report.

v. Explain the clearance results using clearance standards under s. HFS 163.15.

2. 'Lead hazard investigation course.' A lead hazard investigation course shall provide a minimum of 16 training hours only to persons who have successfully completed a lead sampling course. The course shall include lectures, demonstrations, a minimum of 4 hours of hands–on practice and hands–on skills assessment, a course review and a written course test. The course shall provide instruction and materials that address all of the following student learning goals and objectives:

a. Describe the roles and responsibilities of a lead hazard investigator or risk assessor for clearance, lead hazard screen, lead–safe investigation and risk assessment activities.

b. Discuss the role of the lead hazard investigator in comparison to the roles of other related lead professionals.

c. Describe the responsibilities of a lead hazard investigator or risk assessor under the lead–safe registry program.

d. Describe the liability and insurance issues a lead professional must manage.

e. List the types of background information needed to perform a lead hazard investigation or risk assessment.

f. Describe the information needed during the initial client contact.

g. Describe how to collect appropriate information on building occupants and any resident children with elevated blood lead levels.

h. List at least 7 possible sources of environmental lead contamination.

i. Describe 5 typical locations for lead and lead–based paint in buildings.

j. Describe conditions when lead–based paint is considered a hazard in a risk assessment or lead hazard screen versus a lead–safe investigation.

k. Discuss the purpose of the visual inspection for hazard detection.

L. Describe protocols and documented methodologies for performing a visual inspection.

m. Perform a visual inspection to identify potential sources of lead–based hazards.

n. Determine when a lead hazard screen is an appropriate option.

o. Discuss and compare protocols and documented methodologies for lead hazard screens, risk assessments, elevated blood lead investigations and lead–safe investigations.

p. Conduct a lead hazard screen following protocols and documented methodologies.

q. Sample for sources of lead exposure other than lead–based paint using protocols and documented methodologies.

r. Apply current local, state and federal regulations and guidance to interpret lead–based paint and other lead sampling results.

s. Develop lead hazard control options, including temporary measures, operations and maintenance and abatement activities.

t. Determine schedules for re–evaluation of temporary lead hazard reduction measures.

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u. Discuss the use of cost/benefit analysis in determining the appropriate role of temporary measures and operations and maintenance activities in lead hazard reduction.

v. Prepare a final risk assessment report.

w. Prepare a lead−safe investigation report.

x. Describe the procedures for issuing lead−safe certificates.

y. Discuss recordkeeping responsibilities for types of records kept and length of retention.

z. Recognize common substrate problems that cause paint failure.

za. Discuss federal, state and local statutes, ordinances, rules and regulations that pertain to lead−based paint hazard investigations.

3. 'Lead inspection course.' A lead inspection course shall provide a minimum of 16 training hours only to persons who have successfully completed the lead sampling course. The course shall include lectures, demonstrations, a minimum of 6 hours of hands−on practice and hands−on skills assessment, a course review and a written course test. The course shall provide instruction and materials that address all of the following student learning goals and objectives:

a. Describe the role and responsibilities of a lead inspector or risk assessor for clearance, lead inspection and lead−free inspection activities.

b. Discuss the role of the lead inspector in relation to the roles of other lead professionals.

c. Describe the liability and insurance issues a lead professional must manage.

d. List the types of background information needed to perform a lead inspection or lead−free inspection.

e. Describe the responsibilities of a lead inspector or risk assessor under the lead−free registry program.

f. Discuss federal, state and local statutes, ordinances, rules and regulations that pertain to lead−based paint inspections.

g. Describe the requirements for training, certification and work practices under ch. HFS 163.

h. Discuss requirements for lead identification and clearance under 24 CFR Part 35, requirements of HUD for notification, evaluation and reduction of lead−based paint hazards in federally owned residential property and housing receiving federal assistance.

i. Describe major lead−based paint regulations and guidelines of the department and other state, federal and local agencies, including all of the following: department of natural resources; department of agriculture, trade and consumer protection; U.S. occupational safety and health administration; U.S. consumer product safety commission; EPA, HUD and City of Milwaukee.

j. Compare the methods for conducting lead inspections, partial inspections and lead−free inspections.

k. Select rooms and components for sampling or testing using protocols and documented methodologies.

L. Describe how to obtain appropriate background information on property being inspected.

m. Select sample locations using protocols and documented methodologies.

n. Use an XRF following using protocols and documented methodologies.

o. Discuss legal and liability issues of using an XRF.

p. Discuss issues of using chemical tests.

q. Conduct an inspection using protocols and documented methodologies.

r. Conduct a lead−free inspection using protocols and documented methodologies.

s. Prepare an inspection report and a lead−free inspection report.

t. Describe the recordkeeping responsibilities for the types of records kept and length of retention.

u. Describe the procedures for issuing lead−free certificates.

(c) *Required topics for lead refresher courses.* Each lead refresher training course shall meet the required minimum training hours, shall include lectures, participatory activities and a written course test and shall include hands−on instructional activities and hands−on skills assessment as appropriate. Each lead refresher training course shall be based on EPA and department−approved curricula and shall provide instruction and materials that address student learning goals and objectives submitted by the training manager and cover all required topics as follows:

1. 'Lead abatement supervisor refresher course.' A total of 8 training hours to include a review of the curriculum covered in courses required for lead abatement supervisor certification, as appropriate, an overview of current safety practices relating to regulated activities, current federal, state and local statutes, ordinances, rules and regulations relating to regulated activities in general as well as specific information pertaining to lead hazard reduction, and current technologies relating to lead−based paint activities in general and lead−based paint hazard reduction in particular.

2. 'Lead abatement worker refresher course.' A total of 8 training hours to include a review of the curriculum covered in courses required for lead abatement worker certification, as appropriate, an overview of current safety practices relating to regulated activities, current federal, state and local statutes, ordinances, rules and regulations relating to lead−based paint hazard reduction and current technologies relating to regulated activities in general and lead−based paint hazard reduction and lead−safe work practices in particular.

3. 'Lead hazard investigator refresher course.' A total of 8 training hours to include a review of the curriculum covered in courses required for lead hazard investigator certification, as appropriate, an overview of current safety practices relating to regulated activities, current federal, state and local statutes, ordinances, rules and regulations relating to lead−based paint and hazard identification and current technologies relating to regulated activities in general and lead−based paint hazard assessment in particular.

4. 'Lead inspector refresher course.' A total of 8 training hours to include a review of the curriculum covered in courses required for lead inspector certification, as appropriate, an overview of current safety practices relating to regulated activities, current federal, state and local statutes, ordinances, rules and regulations relating to lead−based paint identification and current technologies relating to regulated activities in general and lead−based paint identification in particular.

5. 'Lead project designer refresher course.' A total of 4 training hours to include a review of the curriculum covered in courses required for lead project designer certification, as appropriate, an overview of current safety practices relating to regulated activities, current federal, state and local statutes, ordinances, rules and regulations relating to lead−based paint and current technologies relating to regulated activities in general and lead hazard reduction in particular.

6. 'Lead risk assessor refresher course.' A total of 8 training hours to include review of the curriculum covered in courses required for lead risk assessor certification, as appropriate, an overview of current safety practices relating to regulated activities, current federal, state and local statutes, ordinances, rules and regulations relating to regulated activities in general as well as specific information pertaining to risk assessments, and current technologies relating to regulated activities generally and specifically.

7. 'Lead sampling technician refresher course.' A total of 2 training hours to include a review of the curriculum covered in the course required for lead sampling technician certification, as

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appropriate, an overview of current safety practices relating to regulated activities, current federal, state and local statutes, ordinances, rules and regulations relating to lead−based paint and current technologies relating to lead−based paint hazard identification in general and clearance in particular.

Note: There are no refresher training requirements for a certified lead−safe worker under s. HFS 163.43.

(d) *Length of training.* All required training for any conducted course shall be completed within a continuous 30−day period.

(e) *Learning goals and objectives.* An accredited training course shall have written learning goals and objectives.

Note: To obtain model learning goals and objectives for preparing students to take a lead certification examination, write or phone the Asbestos and Lead Section, Bureau of Occupational Health, Room 137, 1 W. Wilson St., P.O. Box 2659, Madison, WI 53701−2659; e−mail "plicasbestoslead@dhfs.state.wi.us"; ph. 608−261−6876; or fax 608−266−9711.

(f) *Teaching methods.* Instructors shall teach an accredited training course using a variety of teaching methods designed to meet the course learning goals and objectives, including methods that require active participation by the students.

Note: Examples of participatory teaching methods include: hands−on exercise, questionnaires, problem solving, quizzes, worksheet exercises, focus questions, case studies, brainstorming, on−site visits, learning games, group discussions, role play, writing assignments and personal action plans.

(g) *Quality control plan.* The training manager shall develop and implement a quality control plan under s. HFS 163.25 (9) for an accredited training course.

(h) *Course test.* 1. A written, closed−book course test, monitored by the principal instructor or training manager, shall be administered for each initial training course and refresher training course.

2. Course tests shall be submitted to the department for review as part of the application for accreditation and shall be resubmitted whenever their content changes. Only course tests that have been approved by the department may be administered.

3. A course test shall be developed in accordance with the course test blueprint, shall reflect the learning goals and objectives of the training course and shall consist of a minimum of 25 multiple choice questions for every 8 training hours, except that a course test shall include questions for learning goals of any prerequisite course that does not require a course test.

4. The minimum passing score on a course test shall be correct answers to 70% of the total number of questions, rounded up to the nearest whole number.

5. A student who fails the course test must retake the entire course test, but may not take the course test more than once in a given day or more than twice in a 2−week period. If a student fails to pass the course test within 30 days, the student shall retake the course or complete a corresponding refresher course before retaking the course test for the failed course.

6. The training manager shall maintain the validity, security and integrity of the course test to ensure that it accurately evaluates each student's knowledge and skills. The training manager shall ensure that only the full course test is administered and not a portion of the course test.

(i) *Hands−on skills assessment.* The principal instructor shall conduct and document a hands−on skills assessment of each student for each student learning objective or goal where hands−on instructional activities are performed. A guest instructor who is designated by the training manager for hands−on instruction, may assist the principal instructor in performing the corresponding hands−on skills assessment. A student−to−instructor ratio of not greater than 8:1 shall be maintained during hands−on skills assessment but may need to be less when necessary to ensure adequate observation of student performance.

(9) TRAINING CERTIFICATE. (a) *Requirement to verify identification.* The training manager is responsible for verifying the identity of a student by viewing 2 forms of identification, of which one shall include a clearly identifiable picture of the student. The training manager may delegate verification of identity to an employee of the training program.

(b) *Requirement to issue training certificate.* After verification of a student's identity under par. (a), the training manager shall issue a training certificate to a student when the student completes all course requirements.

(c) *Content of training certificate.* A training certificate shall include all of the following information:

1. A unique certificate number.

2. The date the certificate is issued.

3. The name of the course, as specified under sub. (8) (a) to (c), and which shall clearly indicate if the course is an initial course or a refresher course.

4. The student's full name and address.

5. A clearly identifiable picture of the student's face.

6. The date or dates of the course, including starting and ending dates for consecutive day courses and each date of training for courses conducted on days that are not consecutive, and the total number of training hours provided.

7. A statement that the student passed the course test, when a course test is required.

8. The date of the course test, when a course test is required.

9. The name, address and telephone number of the provider of the training course, as the information appears on the application for accreditation or is later changed by notice to the department under s. HFS 163.25 (7) (a) or (b).

10. The name and original signature of the course training manager written in blue ink.

11. The following statement: "This training course complies with the requirements of and is accredited by the State of Wisconsin, Department of Health and Family Services under ch. HFS 163, Wis. Adm. Code."

Note: For liability and security reasons, the Department does not require an individual's social security number to be included on the training certificate.

(10) COMPLIANCE. The training provider, the training manager and all instructors shall remain in compliance with applicable federal, state and local regulations related to regulated activities and the conduct of training.

History: CR 00−172: cr. Register February 2002 No. 554, eff. 3−1−02.

HFS 163.21 Application for accreditation. To request accreditation of a lead training course, the training manager, on behalf of the training provider, shall submit all of the following to the department:

(1) COMPLETED APPLICATION FORM. A fully and accurately completed application on a form obtained from the department. The application shall include the federal employer identification number or social security number for the training provider, social security numbers for all owners of the course and a statement signed by the training manager which certifies that the training course meets the requirements of this subchapter.

Note: To request a copy of the application form and instructions for submitting an application, write or phone the Bureau of Occupational Health, Room 137, 1 W. Wilson St., P.O. Box 2659, Madison, WI 53701−2659; e−mail "plicasbestos-lead@dhfs.state.wi.us"; ph. 608−261−6876; or fax 608−266−9711. Return the completed application and fee to the same office.

(2) TRAINING COURSE DESCRIPTION. A written description of the training course, including all of the following:

(a) *Topics.* Major topics covered.

(b) *Course length.* Length of training in days and training hours per day, excluding lunches and breaks.

(c) *Hands−on training.* Hands−on training segments, when hands−on training is used, including the number of training hours for each segment, a description of the hands−on skills assessment conducted by the principal instructor and a copy of the skills assessment check−off form.

Removed by Register March 2002 No. 555. For current adm. code see: http://docs.legis.wisconsin.gov/code/admin_code.

(d) *Student−to−instructor ratio.* Student−to−instructor ratio that will be maintained during any hands−on training and hands−on skills assessment.

(3) TRAINING RESOURCES DESCRIPTION. A written description of training resources, including all of the following:

(a) *Facilities.* Location of facilities used for training, including classroom and any field sites.

(b) *Training and equipment for hands−on activities.* Training equipment and equipment for hands−on activities, including type of equipment, its location and method of storage.

(c) *Audiovisual and materials for hands−on activities.* Training audiovisual materials such as videos, slides, overheads, photographs and displays, and materials for hands−on activities, such as personal protective clothing, respirators and cartridges, duct tape, polyethylene sheeting, high efficiency particulate air vacuums, glove bags and hand tools, including the location where they are stored.

(4) RECORDKEEPING DESCRIPTION. A written description of how the recordkeeping requirements under s. HFS 163.25 (10) will be met, including all of the following:

(a) *Records retained.* Types of records kept and for what length of time.

(b) *Records location.* The complete street address of the location where the records will be kept.

(c) *Business hours.* Normal business days and hours at the location under par. (b).

(5) COURSE REGISTRATION PLAN. A written course registration plan consisting of a plan for advising potential students of education and experience qualifications under s. HFS 163.10 (3) (b) and a written plan for admitting only students who have completed any prerequisite lead training courses under s. HFS 163.11 (2).

(6) COURSE MATERIALS. All course materials, including copies of all of the following:

(a) *Agenda.* An agenda with scheduled times for each day of training, major topics with times allocated, hands−on training segments with times allocated and all break and lunch periods.

(b) *Student materials.* The student course manual, course materials and handouts used in the course.

(c) *Instructor materials.* The instructor course manual, which shall include all of the following:

1. Student learning goals and objectives.
2. Training outlines for each topic.
3. Time frames for each topic.
4. Teaching methods for each topic.
5. Audio−visual materials used for each topic, including copies of handouts and overheads, and titles and descriptions of video, film or slide programs.
6. Interactive training exercises, including instructions and descriptions or samples of materials.
7. Hands−on training exercises, if used, including instructions and descriptions or samples of materials.

(d) *Analysis worksheet.* The department's analysis worksheet, on which the applicant enters the location of specific information in the student course manual and materials.

(e) *Course test and key.* The course test and answer key for each course test.

(f) *Course test blueprint.* The course test blueprint that shows how the course test was developed to reflect the course content and student learning goals and objectives.

(g) *Score report and test policy.* A form for notifying a student of the student's course test score and any policy for retaking the course test.

(h) *Evaluation form.* A course and instructor evaluation form.

(i) *Training certificate.* A sample training certificate under s. HFS 163.20 (9) that is issued by the training manager to students who successfully complete all course requirements. To assist the department in identifying original training certificates, the sample training certificate shall be printed on the same paper and in the same color as the actual certificate.

(j) *Advertising.* Samples of any proposed advertising materials for promoting the course.

(k) *Other approval letter.* A copy of the EPA, tribal or other state approval letter if EPA, an EPA−authorized tribal program or another state previously approved the course.

(7) NAMES OF COURSE PERSONNEL. (a) Except as provided in par. (b), the names of the approved training manager and the designated principal instructor in charge of the course as well as the names of any additional principal instructors and guest instructors.

(b) The names of the instructors do not need to be submitted with the application, but the names of approved principal instructors and guest instructors shall be submitted before the course is held. If an application for approval of an instructor is made at the time of application for training course accreditation, the materials submitted to the department for training course accreditation shall include completed instructor approval application forms and all other materials required under s. HFS 163.24 for approval of instructors.

Note: For a copy of the instructor approval application form, write or phone the Bureau of Occupational Health, Room 137, 1 W. Wilson St., P.O. Box 2659, Madison, WI 53701−2659; e−mail "plicasbestoslead@dhfs.state.wi.us"; ph. 608−261−6876; or fax 608−266−9711. Return the completed form to the same office.

(8) INDEX OF SUBMITTED MATERIALS. A written index of all information and materials submitted with the application for accreditation to facilitate review for compliance.

(9) ACCREDITATION FEES. The appropriate application fee under par. (a) and accreditation fee under par. (b) as follows:

(a) *Application fee.* A nonrefundable application fee of $200 for an initial course and $125 for a refresher course shall accompany each application for contingent course accreditation.

(b) *Accreditation fee.* A 2−year accreditation fee of $25 per course hour or a 4−year accreditation fee of $50 per course hour shall accompany each application for course accreditation. The department shall refund the accreditation fee if accreditation is denied, the training provider does not owe the department other fees and the denial is not appealed or the denial is appealed and upheld.

(c) *Other fees.* The department may impose other fees as necessary to cover costs of administering this chapter.

(10) QUALITY CONTROL PLAN. A copy of the written quality control plan developed under s. HFS 163.25 (9).

History: CR 00−172: cr. Register February 2002 No. 554, eff. 3−1−02.

HFS 163.22 Accreditation procedures. (1) DETERMINATION OF ELIGIBILITY FOR CONTINGENT ACCREDITATION. The department shall review all information and materials submitted under s. HFS 163.21 for compliance with this subchapter. Within 60 days after the department receives all required application information and materials, the department shall either grant contingent accreditation or deny the application. If contingent accreditation is granted, the department shall send the training manager a contingent accreditation certificate under sub. (5). If the application for accreditation is denied, the department shall notify the training manager in writing. The notification shall include the reason for the denial and shall inform the training manager of the right to appeal that determination under s. HFS 163.33.

(2) CONDUCTING A COURSE WITH CONTINGENT ACCREDITATION. The training course may be conducted once the training manager has received the contingent accreditation certificate for the course and confirmation that the principal instructor is approved under s. HFS 163.24 (3), and has notified the department under s. HFS 163.25 (3) that the course is to begin.

(3) LENGTH OF CONTINGENT ACCREDITATION. Contingent accreditation is a temporary approval to conduct training. When

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the department grants contingent accreditation, the expiration date on the contingent accreditation certificate under sub. (5) shall be 2 years after the date the certificate is issued. Contingent accreditation may be renewed for a maximum of an additional 2 years at the discretion of the department.

(4) DETERMINATION OF ELIGIBILITY FOR FULL ACCREDITATION. The department shall conduct an accreditation audit under sub. (6) of a training course with contingent accreditation to determine eligibility for full accreditation. After notifying the training manager of the audit results, and based on those results, the department shall take one of the following actions:

(a) *Grant full accreditation.* The department may grant full accreditation. If full accreditation is granted, the department shall send the training manager an accreditation certificate under sub. (5). Full accreditation may be granted for up to 2 years or 4 years from the date of issuance, depending on the amount of time left on the course's contingent accreditation and the amount of the fee paid under s. HFS 163.21 (9) (b). A training course may renew accreditation under the provisions of s. HFS 163.23.

(b) *Renew contingent accreditation.* The department may renew contingent accreditation for an additional 2 years, may require changes to the course in order to obtain full accreditation and may conduct additional on−site audits. If the department continues contingent accreditation, the department shall notify the training manager in writing. The notice shall include the reason for continuing contingent accreditation, recommendations for achieving full accreditation and the right to appeal the action under s. HFS 163.33.

(c) *Suspend or revoke contingent accreditation.* The department may suspend or revoke contingent accreditation at any time or take another enforcement action under s. HFS 163.32. If the department suspends or revokes contingent accreditation, the department shall notify the training manager in writing. The notice shall include the reason for the suspension or revocation and shall inform the training manager of the right to appeal that action under s. HFS 163.33.

(5) CERTIFICATE OF ACCREDITATION. The department shall send a certificate of accreditation to the training manager when a training course has been granted contingent or full accreditation. The training manager shall maintain the certificate of accreditation at the address listed on the application or later changed with notice to the department under s. HFS 163.25 (7) (a) and shall make the certificate available for review upon request by the department or the public. Only the most recent certificate of accreditation for a training course is valid. The training manager shall not allow another person to copy the certificate of accreditation for fraudulent or misleading purposes or to use the certificate.

(6) ACCREDITATION AUDITS. (a) *On−site audits.* Department staff may conduct on−site accreditation audits of a training course to review for compliance with this chapter. A training manager, instructor or other staff for an accredited training course may not deny department staff entry to conduct an audit. An audit may include a review of all the following:

1. Records.
2. Facilities.
3. Instructional curriculum.
4. Course test administration and security procedures.
5. Classroom instruction.
6. Audio−visual materials.
7. Course content and learning objectives, including whether classroom instruction is based on the learning goals and objectives submitted to the department under s. HFS 163.21 (6) (c), as demonstrated by using learning objectives to introduce topics, focusing topics on the learning objectives, reviewing learning objectives in topic reviews and testing for student comprehension of the learning objectives through class discussions, class activities, hands−on training and the course test.

(b) *Records audits.* The department may conduct audits of training course records, including records required under s. HFS 163.25 (10), and may require a training provider to submit records to the department for purposes of determining compliance.

(c) *Notification of audit results.* Within 60 days after completing an accreditation audit, the department shall notify the training manager in writing of the audit results.

History: CR 00−172: cr. Register February 2002 No. 554, eff. 3−1−02.

HFS 163.23 Renewal of course accreditation. **(1)** REQUIREMENT FOR RENEWAL OF ACCREDITATION. A training course may not be conducted after its accreditation expires until the training manager applies for and receives renewal of accreditation for the training course. When accreditation of a training course has been expired for less than one year, the department may reinstate accreditation if the training manager applies to the department for renewal of accreditation under this section. When accreditation of a training course has been expired for one year or longer, the training manager shall submit a new application under s. HFS 163.21 for contingent accreditation.

(2) CONDITIONS FOR RENEWAL OF ACCREDITATION. The department may renew accreditation of a training course that complies with the provisions of this chapter.

(3) APPLICATION FOR RENEWAL OF ACCREDITATION. To apply for renewal of accreditation, the training manager for a training course shall submit an application that includes all of the following:

(a) *Application form.* A fully and accurately completed application form. The application shall include a statement signed by the training manager certifying that the training course complies at all times with the requirements of this chapter.

(b) *Description of changes.* A description of any changes to the training course since the last application was approved that were not previously reported to the department, including changes to resources or course materials.

(c) *Other documents.* When directed by the department, other documents that verify compliance of the training course with this chapter.

(d) *Accreditation fee.* Each application for renewal of course accreditation shall be accompanied by a 2−year accreditation fee of $25 per course hour or a 4−year accreditation fee of $50 per course hour. The department shall refund the accreditation fee if renewal of accreditation is denied, the training provider does not owe the department other fees and the denial is not appealed or the denial is appealed and upheld.

Note: To obtain a copy of the application for renewal of accreditation, write or phone the Asbestos and Lead Section, Bureau of Occupational Health, Room 137, 1 W. Wilson St., P.O. Box 2659, Madison, WI 53701−2659; e−mail "plicasbestos-lead@dhfs.state.wi.us"; ph. 608−261−6876; or fax 608−266−9711. Return the completed application to the same office.

(4) AUDIT. To determine compliance with the requirements of this chapter and eligibility for renewal of accreditation, the department may conduct audits under s. HFS 163.22 (6) of the training course.

(5) RENEWAL OF ACCREDITATION. After reviewing a training course for compliance with the conditions for renewal of accreditation, the department shall take one of the following actions:

(a) *Grant renewal of accreditation.* If accreditation is renewed, the department shall send the training manager a certificate of accreditation under s. HFS 163.22 (5) to extend accreditation for 2 years or 4 years, depending on the fee amount under sub. (3) (d) paid.

(b) *Deny renewal of accreditation.* If the department denies renewal of accreditation, the department shall notify the training manager in writing. The notice shall include the reason for the

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denial and shall inform the training manager of the right to appeal that action under s. HFS 163.33.

History: CR 00−172: cr. Register February 2002 No. 554, eff. 3−1−02.

HFS 163.24 Training manager and instructor approval. (1) REQUIREMENT FOR APPROVAL. No individual may function as a training manager or principal instructor of an accredited training course without being approved by the department under this section.

(2) TRAINING MANAGER. (a) *Qualifications.* A training manager shall have demonstrated experience, education or training in the construction industry, which may include lead or asbestos abatement, painting, carpentry, property maintenance, renovation, remodeling, occupational safety and health or industrial hygiene and shall have one of the following:

1. At least 2 years of experience, education or training in teaching workers or other adults.

2. A bachelor's or graduate degree in building construction technology, engineering, industrial hygiene, safety, public health, education, business administration, program management or a related field.

3. Two years of experience in managing a training program specializing in environmental hazards.

(b) *Application requirements.* An applicant for approval as a training manager shall submit to the department all of the following:

1. A fully and accurately completed application on a form obtained from the department. The application shall include the applicant's social security number.

2. Documentation to establish that the applicant meets the qualifications in par. (a). Documentation may include official academic transcripts or a diploma as evidence of meeting education requirements, and letters of reference or documentation of previous work as evidence of meeting experience requirements.

Note: For a copy of the Department's application form for approval of a training manager, write or phone the Bureau of Occupational Health, Room 137, 1 W. Wilson St., P.O. Box 2659, Madison, WI 53701−2659; e−mail "plicasbestoslead@dhfs.state.wi.us"; ph. 608−261−6876; or fax 608−266−9711. Return the completed application to the same office.

(c) *Approval procedures.* 1. Within 10 working days after the submission of all required application information, including documentation of training, education and experience, the department shall either grant or deny approval for an applicant to be a training manager.

2. If approval is granted, the department shall send the applicant written notification of approval.

3. If approval is denied, the department shall give the applicant reasons in writing why the application was denied and shall notify the applicant of the right to appeal the determination under s. HFS 163.33.

(d) *Length of approval.* Training manager approval is valid until the training manager surrenders the certificate of approval to the department or until the department suspends or revokes approval.

(3) PRINCIPAL INSTRUCTOR. (a) *Qualifications.* 1. 'Training.' A principal instructor shall have successfully completed all of the following training:

a. A teaching methods course which covers, at a minimum, principles of adult learning, training course design, non−lecture instructional methods, use of audio−visual and other instructional resources, teaching methods, learning objectives, guided discovery and learning styles and maintaining classroom control for a learning environment. The course shall consist of at least 16 training hours of instruction and shall include a practice teaching component involving critique and evaluation of the applicant's teaching skills. Any degree with an education emphasis that includes educational coursework covering the topics required in this subdivision paragraph satisfies this requirement.

Note: To obtain assistance in developing learning goals and objectives for a teaching methods course, write or phone the Bureau of Occupational Health, Room 137, 1 W. Wilson St., P.O. Box 2659, Madison, WI 53701−2659; e−mail "plicasbestoslead@dhfs.state.wi.us"; ph. 608−261−6876; or fax 608−266−9711.

b. For teaching lead investigation courses, training in radiation safety and use of each XRF the instructor will use in the course, as documented by a certificate of training from the manufacturer of the XRF.

2. 'Certification.' A principal instructor shall be currently certified based on payment of a 2−year certification fee. Certification shall be held as follows:

a. As a lead risk assessor, for lead investigation instructor approval to teach initial sampling, inspection and hazard investigation courses and refresher lead hazard investigator, inspector, risk assessor and sampling technician courses.

b. As a lead abatement supervisor, for lead hazard reduction instructor approval to teach initial lead−safe work, lead abatement work and lead abatement supervision courses and refresher lead abatement worker and lead abatement supervisor courses.

c. As a lead project designer, for project design instructor approval to teach lead project designer and project design courses.

3. 'Experience.' During the 5 years preceding application to the department for principal instructor approval, an applicant shall have one year of direct responsibility for one of the following areas:

a. For approval to teach courses for lead hazard reduction disciplines or project designers, direct responsibility for activities involving lead hazard reduction, lead health effects, lead regulations, industrial hygiene activities involving lead, construction of homes or other buildings, painting, weatherization, rehabilitation or home improvement, lead worker protection or abatement relating to other hazardous materials.

b. For approval to teach courses for lead identification discipline, direct responsibility for activities involving lead health effects, public or occupational health care, lead regulations, enforcement of environmental regulations, environmental investigations, building inspections, industrial hygiene activities involving lead, weatherization, rehabilitation or home improvement and lead management activities relating to other hazardous materials.

c. For approval to teach any type of course, direct responsibility for instructing adults in lead−related topics as part of a course or curriculum recognized by a federal or state governmental agency in the 5 years preceding the date the initial application for approval is received by the department. The department shall evaluate qualifications in relation to the topic or topics that the applicant will teach.

(b) *Application requirements.* An applicant for approval as a principal instructor shall submit to the department all of the following:

1. 'Completed application form.' A fully and accurately completed application on a form obtained from the department. The application shall include the applicant's social security number.

2. 'Resume.' A current resume, including dates and description of related experience and education.

3. 'References.' A minimum of 3 professional references or letters of recommendation, but no more than one from the applicant's current employer.

4. 'XRF training certificate.' A copy of the XRF manufacturer training certificate for a person applying for lead investigation instructor approval.

5. 'Teaching methods certificate.' A teaching methods course certificate or transcript and a course description or agenda which documents that the course meets the requirements under par. (a) 1. a. or documentation of equivalent education.

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6. 'Copy of certification card.' A copy of the appropriate state lead certification card, labeled "copy", or an application for certification in the appropriate discipline under par. (a) 2.

7. 'Fee.' A nonrefundable principal instructor application and approval fee as follows:

a. $100 for a lead investigation instructor application.

b. $100 a lead hazard reduction instructor application.

c. $50 for a lead project design instructor application.

d. The department may impose other fees as necessary to cover costs of administering this chapter.

Note: For a copy of the Department's application form for approval of a principal instructor, write or phone the Bureau of Occupational Health, Room 137, 1 W. Wilson St., P.O. Box 2659, Madison, WI 53701−2659; e−mail "plicasbestoslead@dhfs.state.wi.us"; ph. 608−261−6876; or fax 608−266−9711. Return the completed application to the same office.

(c) *Approval procedures.* 1. Within 10 working days after the submission of all required application information, including acceptable documentation of training, education and experience, the department shall either grant or deny approval for an applicant to be a principal instructor.

2. If approval is granted, the department shall send the applicant written notification of approval.

3. If approval is denied, the department shall give the applicant reasons in writing why the application was denied and shall notify the applicant of the right to appeal the determination under s. HFS 163.33.

(d) *Length of approval.* The department may grant principal instructor approval that shall be valid until the expiration of the instructor's qualifying lead certification.

(e) *Renewal of approval.* 1. 'Application.' Before approval and the qualifying certification expire, the principal instructor shall apply for renewal of approval by submitting to the department both of the following:

a. A completed application for renewal of approval. The application shall include the applicant's social security number.

b. An approval renewal fee of $50 for lead investigation instructor or lead hazard reduction instructor approval or $25 for lead project design instructor approval. The department shall refund the approval renewal fee if approval is denied and is not appealed or is appealed and the denial is upheld.

2. 'Qualifications.' For renewal of approval as a principal instructor, the individual shall apply for a 2−year recertification in the required discipline under par. (a) 2., shall receive a 2−year recertification, and shall be in compliance with this chapter.

3. 'Decision.' a. Within 10 working days after the submission of all required application information, the department shall either grant or deny approval.

b. If renewal of approval is granted, the department shall send the applicant written notification of approval.

c. If renewal of approval is denied, the department shall give the applicant reasons in writing why the application was denied and shall notify the applicant of the right to appeal the determination under s. HFS 163.33.

4. 'Duration.' Renewal of principal instructor approval shall be valid until the expiration of the instructor's qualifying lead certification.

(4) GUEST INSTRUCTOR. (a) *Qualifications.* A guest instructor shall have experience in each topic the guest instructor proposes to teach and in each hands−on activity for which the guest instructor will assist the principal instructor. Guest instructor qualifications shall be documented on a form obtained from the department and kept on file by the training manager. The form shall document appropriate training and experience in each topic area the instructor intends to teach and in each hands−on activity for which the guest instructor will provide assistance. The training manager is responsible for verifying qualifications and credentials and for designating guest instructors as needed.

(b) *Submission of qualifications.* A training manager shall submit to the department a copy of the qualifications of each guest instructor the training manager designates before the guest instructor participates in a course.

Note: To obtain a copy of the form, write or phone the Asbestos and Lead Section, Bureau of Occupational Health, Room 137, 1 W. Wilson St., P.O. Box 2659, Madison, WI 53701−2659; e−mail "plicasbestoslead@dhfs.state.wi.us"; ph. 608−261−6876; or fax 608−266−9711.

(c) *Department action.* If the department notifies a training manager that a guest instructor does not meet the qualifications under par. (a), the training manager shall withdraw designation of the guest instructor until the qualifications are met.

(5) EQUIVALENT TRAINING AND EXPERIENCE. The department may approve training, education and experience qualifications other than those in this section if the department, following consideration and evaluation of the qualifications on a case−by−case basis, finds that the qualifications are substantially equivalent to and as protective of human health and the environment as the requirements of this section.

History: CR 00−172: cr. Register February 2002 No. 554, eff. 3−1−02.

HFS 163.25 Administrative responsibilities of training managers. (1) ADVERTISING. The training manager for an accredited training course shall ensure that any advertisement for the course includes the same name and address of the course provider as it appears on the application for accreditation or as later changed by notice to the department under sub. (7).

(2) CESSATION OF TRAINING. The training manager shall notify the department when the training provider for an accredited training course closes or when the course will no longer be offered and shall provide the department an opportunity to take possession of any relevant training records. Notification shall be made a minimum of 10 working days before the cessation of training.

(3) COURSE SCHEDULE NOTIFICATION. (a) *Requirement for notification.* A training manager shall notify the department in writing on the department's internet form or on a form obtained from the department whenever an accredited training course has been scheduled.

Note: To complete the course schedule notification form on the internet, go to "www.dhfs.state.wi.us". To obtain a course schedule notification form, write or phone the Bureau of Occupational Health, Room 137, 1 W. Wilson St., P.O. Box 2659, Madison, WI 53701−2659; e−mail "plicasbestoslead@dhfs.state.wi.us"; ph. 608−261−6876; or fax 608−266−9711.

(b) *Notification content.* The notice shall include all of the following:

1. The name of the training provider.

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

3. The date and location of the course.

4. The name of the designated principal instructor for a lead hazard reduction or lead investigation course.

(c) *Timing of notification.* 1. The notice shall be submitted to the department a minimum of 10 working days prior to the course starting date.

2. In an emergency, the training manager shall notify the department of a scheduled training course by telephone or fax a minimum of one working day prior to the start of the course.

(d) *Revised notification.* The training manager shall complete a revised internet form a minimum of 10 working days prior to the course start date or shall notify the department by telephone or fax a minimum of one working day prior to the scheduled start date of a course when the course is canceled or when the date or location of the course has changed. The department may restrict the use of advance notification submitted in the form of lists of intended courses and may require individual course−by−course notification when a training manager fails to notify the department of revisions in a timely manner.

Note: Go to "www.dhfs.state.wi.us" to complete a revised internet form. To notify the Department about a course scheduled on an emergency basis or to revise a notification, phone 608−261−6876 or fax 608−266−9711.

Removed by Register March 2002 No. 555. For current adm. code see: http://docs.legis.wisconsin.gov/code/admin_code.

(4) DESIGNATION OF GUEST INSTRUCTORS. When a guest instructor assists with a training course, the training manager shall designate the guest instructor under s. HFS 163.24 (4).

(5) DESIGNATION OF PRINCIPAL INSTRUCTORS. The training manager shall designate a principal instructor for each accredited course. The principal instructor shall be approved under s. HFS 163.24 (3).

(6) NONDISCRIMINATION IN TRAINING. Access to an accredited training course may not be denied solely due to age, sex, race, color, creed, national origin, ancestry, sexual orientation or disability.

(7) NOTIFICATION OF CHANGES. The training manager shall notify the department in writing a minimum of 5 working days before making the following changes:

(a) *Change of address.* A change of address of the training provider or the location of records required under sub. (10).

(b) *Change of name.* A change in the name of the training provider.

(c) *Change of ownership.* The accreditation of a training course under this subchapter may be transferred to a new owner provided the course remains the same course accredited under this chapter and the transfer is requested by both the training provider transferring the course and the new owner of the course. Upon receipt of a request to transfer the accreditation of a course, the department will change the course's accreditation to contingent accreditation under s. HFS 163.22 with no change in expiration date or with an expiration date 2 years after the date ownership of the course changed, whichever is earlier.

(d) *Change in a course.* A change in the training course description under s. HFS 163.21 (2), the training resources under s. HFS 163.21 (3), the course registration plan under s. HFS 163.21 (5) or course materials under s. HFS 163.21 (6), a minimum of 10 working days prior to the start of the course. In addition to the notification of a change in course materials under s. HFS 163.21 (6), the training manager shall submit a draft of the revised document. After reviewing the draft revision, the department may allow a trial period of 3 class sessions of a training course before requiring submittal of a final revision.

(e) *Change of training manager.* . A change in training manager, a minimum of 5 working days before the change takes effect for an approved training manager and a minimum of 15 working days for a new training manager for whom approval is being sought under s. HFS 163.24 (2). When a training course does not have an approved training manager, the course may not be offered.

Note: To notify the Department of changes, contact the Bureau of Occupational Health, Room 137, 1 W. Wilson St., P.O. Box 2659, Madison, WI 53701−2659; e−mail "plicasbestoslead@dhfs.state.wi.us"; ph. 608−261−6876; or fax changes to 608−266−9711.

(f) *Change of instructor.* A change in instructor, a minimum of 5 working days before the start of the course for an approved principal and a minimum of 20 working days before the start of the course for a new principal instructor for whom approval is being sought under s. HFS 163.24 (3) and a minimum of 10 working days before the start of the course for a new guest instructor designated under s. HFS 163.25 (4). When a designated instructor becomes unavailable due to an emergency, such as illness, death or other family crisis, the training manager shall notify the department of a change in instructor by telephone or fax before the start of the course.

(8) PERMISSION TO AUDIT. The training manager shall permit department representatives to attend, evaluate and monitor any accredited training course and have access to records associated with any accredited training course at any reasonable time without charge or hindrance to the department for the purpose of an accreditation audit or any other evaluation of compliance with this chapter and any other applicable statute or regulation.

(9) QUALITY CONTROL. The training manager shall be responsible for developing and implementing a quality control plan with measures that include all of the following:

(a) *Compliance.* Ensuring that the training course and course personnel comply with all provisions of this chapter.

(b) *Instructor review.* Annually reviewing instructor competency and taking measures to improve competency when necessary.

(c) *Material review.* Annually reviewing and revising training materials and course tests to reflect innovations and changes in the field.

(d) *Training and meetings.* Attending training and meetings to which the training manager has been invited by the department as a means of improving the quality of training offered.

(e) *Validity of course test.* Maintaining the validity and integrity of the course test under sub. s. HFS 163.20 (8) (h).

(f) *Validity of skills assessment.* Maintaining the validity and integrity of the hands−on skills assessment under s. HFS 163.20 (8) (i) to ensure that it accurately evaluates the trainees' performance of skills taught during hands−on training.

(10) RECORDS. (a) *Requirement to retain records.* The training manager shall ensure that the provider offering an accredited training course retains the records in par. (b) at its principal place of business in Wisconsin. If no office is maintained in Wisconsin, records shall be retained at the office location closest to Wisconsin. Records shall be retained for a minimum of 3 years 6 months and shall be given to the department upon request.

(b) *Records to be retained.* The following records shall be retained:

1. A copy of each instructor and student manual, course test, course test blueprint, all printed materials used in the course, other training material and any document reflecting changes made to any material.

2. The scored course test for all students who passed or failed.

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

4. Documentation of training manager, principal instructor and guest instructor qualifications, including copies of any principal instructor approvals under s. HFS 163.24 (3) and guest instructor designations under sub. (4).

5. Class rosters and student attendance records.

6. The quality control plan when required under s. HFS 163.25 (9), including documentation of activities performed in compliance with the quality control plan.

7. Information regarding how any hands−on assessment is conducted, including, but not limited to, all of the following:

a. Who conducts the assessment.

b. How the skills are graded.

c. What facilities are used.

d. The pass and fail rate.

8. Results of the students' hands−on skills assessments.

9. Any other material submitted to the department as part of the application for accreditation or later at the request of the department to provide a basis for granting accreditation.

(11) SUBMISSION OF STUDENT DATA. (a) Within 2 working days after an accredited lead training course is completed, the training manager shall submit student data to the department in an electronic format provided by or approved by the department or in another format approved by the department.

(b) The student data submitted shall include all of the following information for each student:

1. Name of the course and if it was an initial or refresher course.

2. The course dates.

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3. For each training certificate issued, the date the training certificate was issued.

4. The student's full legal name and address. If a training certificate was issued, the name and address submitted shall be the same as it is appears on the training certificate.

5. For each training certificate issued, the unique training certificate number as it appears on the training certificate.

6. The student's course test score, when a test is required.

7. A clearly identifiable picture of the student's face clearly labeled with the student's full legal name.

8. The student's social security number, if known.

9. The student's date of birth.

History: CR 00−172: cr. Register February 2002 No. 554, eff. 3−1−02.

Subchapter IV — Enforcement

HFS 163.30 General provisions. (1) DEPARTMENTAL ACTION. The department may initiate an action in the name of this state against any person to require compliance with this chapter or for failure to comply.

(2) OTHER AGENCY ACTION. Any other state agency in the course of the performance of its duties may determine that an individual, lead company or training provider has violated or is violating one or more requirements of this chapter. If that agency determines that there is a potential violation of this chapter, the agency may notify the department of that potential violation. The department may delegate all or part of its enforcement authority to any other state or federal agency through a memorandum of understanding.

(3) AUTHORITY TO INVESTIGATE. (a) Whenever the department is advised or has reason to believe that any person is violating or has violated any provision of this chapter, the department may make an investigation to determine the facts. For purposes of this investigation, the department shall have authority to inspect the site where the violation is alleged to be occurring or to have occurred.

(b) An authorized representative of the department may enter a site where a regulated activity is being or has been conducted or a site that the authorized representative of the department has reason to believe may be involved with a regulated activity. An authorized representative of the department may also enter the site where a person regulated under this chapter conducts business. The representative may conduct tests, take samples, review work practices, review and copy records and perform other activities necessary to determine compliance with this chapter. No person who is required to establish or maintain records under this chapter may refuse to provide or copy records, or refuse to permit entry or access to an authorized representative of the department if that representative presents a valid identification issued to the representative by the department and if that representative is complying with par. (a). No person may obstruct, hamper or interfere with the actions of that representative under this paragraph.

(c) An authorized representative of the department may conduct an audit under s. HFS 163.22 (6) to ascertain whether an accredited training course continues to meet requirements for accreditation.

(d) An authorized representative of the department entering the site of an investigation under this subsection shall present identification and any authorization issued by the department and shall comply with applicable health and safety procedures established by law.

(4) REFERRAL TO DISTRICT ATTORNEY. The department may report any violation of this chapter or orders issued under this chapter to the district attorney of the county in which the dwelling is located. Pursuant to s. 254.30, Stats., the district attorney shall enforce this chapter or orders issued under this chapter upon receiving a report from the department or from the department's designee under s. 254.152, Stats.

History: CR 00−172: cr. Register February 2002 No. 554, eff. 3−1−02.

HFS 163.31 Reasons for enforcement actions. (1) EXECUTION OF A CONSENT AGREEMENT. In addition to an administrative or judicial finding of violation, execution of a consent agreement in settlement of an enforcement action constitutes, for purposes of this section, conclusive evidence of a failure to comply with relevant statutes or rules.

(2) REASONS FOR ACCREDITATION ENFORCEMENT ACTIONS. The department may take an action under s. HFS 163.32 against a person offering or conducting a training course that is required to be accredited under this chapter if the person has violated any provision of this chapter. Reasons for accreditation enforcement actions may include any of the following violations:

(a) The person owes the department payment of fees.

(b) The person deceptively issued or used training certificates.

(c) The person misrepresented a training course or the contents of a training course to the department, EPA, another EPA−authorized state, an EPA−authorized tribe or the student population.

(d) The person made false or misleading statements to the department in its application for accreditation or reaccreditation, and the department relied upon those statements in approving the application.

(e) The person falsified accreditation records, instructor qualifications or other accreditation−related information or documentation.

(f) The person offered or conducted a course that failed to meet a requirement of this chapter.

(g) The person failed to comply with the accreditation standards and requirements under this chapter.

(h) The person failed or refused to establish, maintain, provide, copy or permit access by an authorized representative of the department to records or reports.

(i) The person failed to submit required information or notifications to the department in a timely manner.

(j) The person failed to comply with any other federal, state or local lead−based paint statute, ordinance, rule or regulation.

(k) The person failed or refused to permit a department representative entry to a training course without charge or hindrance to attend, evaluate or monitor the course.

(3) REASONS FOR APPROVAL ENFORCEMENT ACTIONS. The department may take an action under s. HFS 163.32 against a person required to be approved as a training manager, principal instructor or guest instructor under this chapter if the person has violated any provision of this chapter. The reason for an approval enforcement action may include any of the following violations:

(a) The training manager, principal instructor or guest instructor has violated a provision of this chapter or any related state, federal or local statute, ordinance, rule or regulation.

(b) The training manager, principal instructor or guest instructor has misrepresented his or her credentials or documentation of qualifications submitted to the department as the basis for approval.

(4) REASONS FOR CERTIFICATION ENFORCEMENT ACTIONS. The department may take an action under s. HFS 163.32 against a person required to be certified under this chapter, whether an individual or a lead company, if the person has violated any provision of this chapter. Reasons for certification enforcement actions may include any of the following violations:

(a) The person owes the department payment of fees.

(b) The person used a training certificate that was issued by a training manager without attending an appropriate course or an entire course or without passing an approved course test.

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(c) The person obtained training documentation through fraudulent means.

(d) The person 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 person obtained certification through misrepresentation of certification requirements or related documents dealing with education, training, professional registration or experience.

(g) The person permitted the duplication, without labeling the duplicate a "copy," when labeling is required or permitted the use of one person's training certificate, certification card or other certification document by another.

(h) The person withheld or confiscated an employee's valid training certificate or valid certification card.

(i) The person performed work requiring certification at a job site without having proof onsite of certification.

(j) The person performed, advertised, claimed to provide or offered to perform or supervise work for which certification is required but for which appropriate certification had not been received.

(k) The person performed work using individuals who were not certified when certification was required.

(L) The person failed or refused to establish, maintain, provide, copy or permit access to records or reports by an authorized representative of the department.

(m) The person failed or refused to permit entry or inspection by an authorized representative of the department.

(n) The person failed or refused to comply with or to ensure that employed or contracted staff comply with the work practice standards and protocols under this chapter.

(o) The person displayed conduct relating to a regulated activity that in the department's judgment constitutes unreasonable risk to the health of any person.

(p) The person displayed a pattern of conduct that in the department's judgment constitutes unreasonable risk to the health and safety of persons or the environment.

(q) The person failed the mandatory certification examination 3 times in any 6−month period.

(r) The person is not eligible for certification.

(s) The person failed to comply with any federal, state or local government lead−based paint statute, ordinance, rule or regulation.

(5) REASONS FOR DENIAL. In addition to reasons for enforcement actions under subs. (1) to (4), the department may deny an application for certification, recertification, accreditation, renewal of accreditation or approval under this chapter to any of the following persons:

(a) A person who has had a certification, recertification, accreditation, renewal of accreditation or approval under this chapter revoked within the previous 5 years.

(b) A person whom the department determines is not fit and qualified. In determining whether a person is fit and qualified, the department shall consider the person's qualifications and any history of civil or criminal violation of statutes, regulations or ordinances of the United States, this state, any other state or any local government substantially related to regulated activities or other environmental remediation.

(6) REASONS FOR SUMMARY SUSPENSION. A finding of a requirement for summary suspension under s. HFS 163.32 (5) may be based on, but is not limited to, any the following:

(a) A person has committed a substantial violation of this chapter or an order under this section, as determined by the department. A substantial violation may include one of the following:

1. Performance of work for which certification is required but for which appropriate certification was not received.

2. Performance of work using individuals who were not certified when certification was required.

3. Failure or refusal to comply with the work practice standards under s. HFS 163.14, or to ensure that employed or contracted staff comply with those work practice standards.

(b) A person has committed an action or has created a condition relating to a regulated activity that directly threatens the health, safety or welfare of any person.

History: CR 00−172: cr. Register February 2002 No. 554, eff. 3−1−02.

HFS 163.32 Enforcement actions. In addition to issuing letters of inquiry and noncompliance statements, which are not appealable, the department may take one or more of the following appealable actions for any reason stated under s. HFS 163.31 against a certified individual or lead company, an approved training manager or instructor, a person offering an accredited training course or a person required to comply with a provision of this chapter:

(1) ORDER. If the department provides written notice of the grounds for an order and an explanation of the process for appealing an order imposed under this subsection, the department may order any of the following when a person violates a provision under this chapter or continues to violate or resumes violation of a provision for which notice was previously issued:

(a) That the person stop performing, supervising, advertising, claiming to provide or offering activities for which certification is required under this chapter when the person is not certified under this chapter.

(b) That the person advertising or conducting a training course that is represented as qualifying persons for certification under this chapter stop advertising or conducting the course when the course or training provider is not accredited or approved under this chapter.

(c) That the person not function as a principal instructor or training manager of a lead training course when the person is not approved under this chapter.

(d) That the person stop violating any other provision of this chapter.

(e) That the person submit a plan of correction for violation of any provision under this chapter.

(f) That the person implement and comply with a plan of correction provided by the department or previously submitted by the person and approved by the department.

(g) That the person stop performing or supervising activities for which certification is required under this chapter until all violations are corrected. The order may require all activities that are regulated under this chapter to cease until the violation is corrected.

(h) That the person stop advertising or conducting a training course accredited or approved under this chapter until all violations are corrected.

(2) DENIAL. The department may deny an application for certification, recertification, accreditation, renewal of accreditation or approval for a reason under s. HFS 163.31 (5) if the department provides an applicant with a written notice of its decision to deny the application, including the reason for the denial and an explanation of the process under s. HFS 163.33 for appealing the denial.

(3) CIVIL FORFEITURE. The department may impose a daily forfeiture of not less than $100 nor more than $1,000 for each violation against any person who violates a provision under this chapter, fails to respond to a letter of inquiry by the time specified in the order, continues to violate or resumes violation of a provision for which notice was previously issued or fails to comply with an order issued under sub. (1) by the time specified in the order if the department provides written notice of the grounds for a forfeiture

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and an explanation of the process under s. HFS 163.33 for appealing a forfeiture. 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) A person against whom the department has assessed a forfeiture shall pay that forfeiture to the department within 10 working days after receipt of notice of the assessment or, if that person contests that assessment under s. HFS 163.33, within 10 working days after receipt of the final decision after exhaustion of administrative review or, if that person petitions for judicial review under ch. 227, Stats., within 10 working days after receipt of the final decision after exhaustion of judicial review. The department shall remit all forfeitures paid under this subsection to the state treasurer for deposit in the school fund.

Note: 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 as provided in par. (b).

(4) SUSPENSION. The department may suspend a certification, an accreditation or an approval issued under this chapter if the department provides written notice of suspension, the grounds for suspension and an explanation of the process under s. HFS 163.33 for appealing a suspension 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 notice period. Any suspension of a certification, accreditation or approval shall remain in effect until the department determines the interests of the residents of the state are served.

(5) SUMMARY SUSPENSION. (a) Under the authority of s. 227.51 (3), Stats., the department may summarily suspend a certification when the department finds that this action is required to protect the health, safety or welfare of any person. A finding of a requirement for summary suspension may be based on but is not limited to one or more reasons under s. HFS 163.31 (6).

(b) An order by a representative of the department to summarily suspend certification of a person and therefore stop a regulated activity may be a verbal or written order. Within 7 working days after the order takes effect, the department shall either permit the continuation of the regulated activity or initiate proceedings to revoke the certification. Unless waived by the certified person, an informal hearing on the sole issue of whether certification shall remain suspended during revocation proceedings shall be conducted by a department designee within 15 working days after the date of suspension if the department has initiated revocation proceedings.

(6) REVOCATION. The department may revoke a certification, an accreditation or an approval issued under this chapter if the department provides written notice of revocation, the grounds for revocation and an explanation of the process under s. HFS 163.33 for appealing a revocation not less than 30 days before the date of the revocation, and the violation on which the revocation is based remains substantially uncorrected at the end of the 30−day notice period.

Note: Pursuant to s. 254.30 (2) (b), Stats., any person who knowingly violates any provision of this chapter or an order issued under sub. (3) shall be fined not less than $100 or more than $5,000 per day for each violation. The court may also place the person on probation under s. 973.09, Stats., for a period not to exceed 2 years.

History: CR 00−172: cr. Register February 2002 No. 554, eff. 3−1−02.

HFS 163.33 Appeal. (1) RIGHT TO APPEAL. An action taken by the department under s. HFS 163.32 (1) to (6) is subject to administrative review under ch. 227, Stats.

(2) APPEALS PROCESS. To request a hearing under ch. 227, the aggrieved person shall file, within 10 working days after the date of the department's action, a written request for a hearing under s. 227.44, Stats. A hearing request is considered filed when the division of hearings and appeals receives the request. A request by facsimile is complete upon transmission. If the request is filed by facsimile transmission and such transmission is completed between 5 PM and midnight, one day shall be added to the prescribed period.

Note: A hearing request should be addressed to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707. Hearing requests may be delivered in person to that office at 5005 University Avenue, Room 201, Madison, WI. Hearing requests may be faxed to 608−264−9885.

(3) ADMINISTRATIVE HEARING. The division of hearings and appeals shall hold an administrative hearing under s. 227.42, Stats., within 30 calendar days after receipt of the request for the administrative hearing, unless the aggrieved person consents to an extension of that time period. The division of hearings and appeals shall issue a decision no later than 45 calendar days after holding the hearing, unless both parties agree to a later date.

History: CR 00−172: cr. Register February 2002 No. 554, eff. 3−1−02.

Subchapter V — Registry of Property with Certificates of Lead−Free Status or Lead−Safe Status

HFS 163.40 General provisions. (1) APPLICABILITY. This subchapter applies to property for which a certificate of lead−free or lead−safe status is required based on notice that a child under 6 years of age has an elevated blood lead level. This subchapter also applies to registered lead−free property and registered lead−safe property, the property owners and the employees and agents of property owners of registered lead−free property or registered lead−safe property, and persons performing lead−based paint activities on registered lead−safe property.

(2) REQUIREMENTS AND RESTRICTIONS. (a) *Child with elevated blood lead level.* Under s. 254.171, Stats., a property owner shall do all of the following if the property owner receives a written notice from the department or a local health department that a child under 6 years of age who resides in the property owner's owner−occupied dwelling or dwelling unit, or who resides in the property owner's dwelling or dwelling unit under the terms of a rental agreement, has an elevated blood lead level:

1. Under s. 254.166, Stats., allow the department or a person acting under the authority of the department, including a local health department, to conduct a lead investigation and then comply with any order issued.

2. Under s. 254.171, Stats., obtain a certificate of lead−free status or a certificate of lead−safe status of not less than 12 months in duration. The certificate shall be obtained within 12 months after the date the property owner receives written notice from the department or a local health department.

3. If the property owner makes a good faith effort to obtain the certificate within 12 months but is unable to obtain a certificate due to circumstances beyond the property owner's control, the property owner may ask the department for an extension as follows:

a. The property owner or the property owner's agent or employee shall submit a written request for an extension for receipt by the department before the end of the 11th month.

b. The request shall include the physical address of the dwelling and shall clearly explain why an extension is necessary.

c. A processing fee of $25 shall be submitted to the department with each request for an extension.

d. Within 10 working days after receiving a request for an extension and the processing fee, the department shall grant or deny the request based on all facts available to the department.

e. If the extension does not present a serious and immediate threat to a child under 6 years, the department may grant an extension for circumstances such as poor weather conditions for conducting exterior lead hazard reduction, the unavailability of certified persons to conduct the lead hazard reduction, and the unavailability of certified persons to conduct the lead investigation and issue a certificate.

f. Any extension denied by the department may be appealed under s. HFS 163.33.

Removed by Register March 2002 No. 555. For current adm. code see: http://docs.legis.wisconsin.gov/code/admin_code.

(b) *Registered lead–free property or registered lead–safe property.* Only a dwelling, dwelling unit or premises with a valid certificate of lead–free status in effect may be claimed to be registered lead–free property and only a dwelling, dwelling unit or premises with a valid certificate of lead–safe status in effect may be claimed to be registered lead–safe property.

(c) *Sampling or testing.* 1. 'Sampling or testing not required before lead hazard reduction.' Under s. 254.18, Stats., sampling or testing of a dwelling, dwelling unit or premise for the presence of lead–based paint or a hazard is not required before lead hazard reduction activities are conducted if the presence of lead–based paint or a lead hazard is assumed and the lead hazard reduction activities are performed in a lead–safe manner.

2. 'Treating paint as lead–based paint for registered lead–free or lead–safe properties.' For purposes of obtaining a certificate of lead–free status or a certificate of lead–safe status and for performing abatement or non–abatement lead–based paint activities on registered lead–safe property, paint shall be treated as lead–based paint unless the paint is proven to be lead–free. Provisions under this subchapter that apply to paint or lead–based paint apply to all paint unless the paint is proven to be lead–free.

3. 'Who may sample or test paint for a lead–free inspection or lead–safe investigation.' To be included in a lead–free inspection or lead–safe investigation, sampling or testing of paint shall be conducted by an appropriately certified person who is:

a. Not the property owner or an immediate family member, agent or employee of the property owner.

b. Not a lead company or associated with a certified lead company that is directly or beneficially owned, controlled or managed by the property owner, or by an immediate family member, agent or employee of the property owner.

c. Not a person hired by or under contract with the property owner to manage or maintain the property owner's real property as directed by the property owner.

d. Not a person who has been authorized by the property owner to manage or maintain the property owner's real property on the property owner's behalf.

e. Not a person who has a financial interest in the laboratory results of the sampling or testing or in the determination of whether the property meets the registered lead–free property standard or the registered lead–safe property standard.

4. 'Who may sample or test paint before conducting a lead–based paint activity on registered lead–safe property.' To conduct sampling or testing of paint before performing an abatement or non–abatement lead–based paint activity on registered lead–safe property, an individual shall be:

a. Certified in an appropriate lead investigation discipline unless the sampling or testing of paint is only performed on the individual's owner–occupied dwelling and the dwelling is only occupied by the property owner or members of the property owner's immediate family.

b. Associated with a lead company that is certified under s. HFS 163.12 unless the certified individual conducting sampling or testing of paint is the property owner or the property owner's employee or agent.

5. 'Conducting sampling or testing.' If sampling or testing of paint is conducted on registered lead–free property or registered lead–safe property, the certified individual shall use documented methodologies that incorporate adequate quality control procedures to do one of the following:

a. Using the procedures under s. HFS 163.14 (5), test the paint with an XRF and, if the XRF reading is equal to or greater than 0.7 milligrams lead per square centimeter, determine that lead–based paint is present. If the reading is less than 0.7 milligrams lead per square centimeter, determine that the paint is lead–free. When a reading is in the inconclusive range for the XRF used, treat the paint as lead–based paint unless a paint chip sample taken under subd. 5. b. results in a determination that the paint is lead–free.

b. Collect a paint chip sample; have the paint chip sample analyzed by a recognized laboratory to determine detectable levels of lead that can be quantified numerically; and determine that lead–based paint is present if the laboratory result for the paint chip sample is equal to or greater than 0.06% lead by weight. If the laboratory result for the paint chip sample is less than 0.06% lead by weight, determine that the paint is lead–free.

(3) TRANSFER OF CERTIFICATE OWNERSHIP. (a) *Requirement to transfer.* When a person obtains both equitable title and legal possession of a registered lead–free property or registered lead–safe property, any certificate issued to the previous property owner is no longer in effect unless transferred under par. (b).

(b) *Written notice to transfer.* 1. To request a transfer of ownership and an amended certificate, one of the new property owners shall submit a signed and dated written notice of the change in ownership of the property to the department within 60 days after the date on which the new property owner obtains both equitable title and legal possession of a registered lead–free property or registered lead–safe property. In the written notice, the property owner who provides the notice shall provide the names and mailing addresses of the property owners or the name and mailing address of the authorized representative of the property owners.

2. The property owner shall submit the appropriate fee for an amended certificate under s. HFS 163.41 (2) (f) or 163.42 (2).

(c) *Amended certificate.* After receiving a written notice and fee under par. (b), the department shall issue an amended certificate that reflects the change in the ownership of the property.

(d) *Maintaining a certificate of lead–safe status.* The new owners shall comply with the conditions for maintaining the certificate under s. HFS 163.42 until the certificate expires or is terminated or revoked.

Note: Along with the amended certificate, the department will send the new owners information about the conditions for maintaining the certificate.

(4) TEMPORARY IMMUNITY. As one of the conditions for receiving temporary immunity under s. 254.173 (3), Stats., the property owner shall ensure that the following activities intended to temporarily reduce a lead–based paint hazard are conducted in any dwelling or dwelling unit that is vacant during the first 60 days after the property owner acquires the dwelling or dwelling unit:

(a) Potential dust–lead shall be removed using documented methodologies.

(b) If deteriorated paint is present, the deteriorated paint shall be stabilized using documented methodologies unless the paint is sampled or tested under sub. (2) (c) and determined to be lead–free.

Note: For documented methodologies for removing dust–lead and repairing deteriorated paint, refer to Appendix B for Chapter 11 of HUD's "Guidelines for the Evaluation and Control for Lead–Based Paint Hazards in Housing". Refer to s. 254.173 (3), Stats., for all of the conditions that must be met in order for temporary immunity to apply.

(5) VOLUNTARY TERMINATION OF A CERTIFICATE. To voluntarily terminate a certificate of lead–free status or to terminate a certificate of lead–safe and the requirement to comply with conditions for maintaining a certificate of lead–safe status, the property owner shall return the original certificate and any existing copies to the department with a signed and dated notice to terminate the certificate. The certificate is no longer in effect on the date the department receives the notice.

History: CR 00–172: cr. Register February 2002 No. 554, eff. 3–1–02.

HFS 163.41 Certificate of lead–free status. (1) REGISTERED LEAD–FREE PROPERTY STANDARDS. All registered lead–free property shall meet all of the following standards:

(a) *Painted components.* Painted components shall be free of lead–based paint, as determined by a lead–free inspection under sub. (2).

Removed by Register March 2002 No. 555. For current adm. code see: http://docs.legis.wisconsin.gov/code/admin_code.

(b) *Dust from removal of paint or components.* Property shall be free of a dust−lead hazard created by removal of lead−based paint or lead−based paint components, as determined by a lead−free inspection under sub. (2).

(2) ISSUANCE OF LEAD–FREE CERTIFICATE.. All of the following apply to issuing a certificate of lead−free status:

(a) *Lead−free inspection protocol.* 1. 'Who may conduct.' A lead−free inspection shall be conducted by a certified lead inspector or lead risk assessor associated with a certified lead company. Under direct on−site supervision of a certified lead inspector or risk assessor, a certified lead hazard investigator or sampling technician may assist with a lead−free inspection but may not use an XRF. Certified individuals involved with conducting a lead−free inspection shall conduct it in an unbiased, objective and impartial manner. All persons involved with conducting the lead−free inspection shall meet the requirements under s. HFS 163.40 (2) (c) 3.

2. 'Locations inspected.' The registered lead−free property covered by a certificate is limited to those locations subject to the lead−free inspection under one of the following subd. pars., except that all dwelling units are included when a random selection process under subd. 2. c. is successfully used:

a. When a certificate of lead−free status is being sought for a single dwelling unit, the locations inspected shall include the dwelling unit for which the certificate is being sought and all interior and exterior common areas for the real property associated with the dwelling.

b. When a certificate of lead−free status is being sought for an entire multi−family dwelling, the locations inspected shall include all dwelling units unless subd. 2. c. applies, and shall include all interior and exterior common areas for the real property associated with the dwelling.

c. When a certificate of lead−free status is being sought for a multi−family dwelling with more than 20 dwelling units that are similar in construction, age and have a common painting history, the locations inspected shall include either all dwelling units or a subset of the dwelling units selected using the random selection process, and shall include all interior and exterior common areas for the real property associated with the dwelling. When the random selection process is used for dwellings built before 1960, a sufficient number of dwelling units shall be selected to provide a 95% level of confidence that at least 95% of all dwelling units would meet the standard for registered lead−free property if all dwelling units were investigated. When the random selection process is used for dwellings built in 1960 or later, a sufficient number of dwelling units shall be selected to provide a 95% level of confidence that at least 90% of all dwelling units would meet the standard for registered lead−free property if all dwelling units were investigated. If any dwelling unit included in the lead−free inspection does not meet the standard, a certificate of lead−free status may not be issued. If conditions in the failed dwelling unit are corrected, conduct a new lead−free inspection that includes a new selection of dwelling units chosen using the random selection process.

Note: For assistance in selecting the correct number of dwelling units to include in the lead−free inspection, refer to Appendix E of this chapter for properties built before 1960 and to Appendix F for properties built in 1960 or later. At the first instance that a property fails a lead−free inspection, follow the actions agreed upon in the contract under s. HFS 163.13 (5) (e). Actions that might be required in the contract include the following: stop the lead−free inspection, continue with the lead−free inspection or a lead inspection to discover other sources of lead−based paint, or convert the lead−free inspection to a lead−safe risk assessment.

d. When a certificate of lead−free status is being sought for a premises that is not a dwelling, such as a child−occupied facility, the locations inspected shall include all interior and exterior common areas for the real property associated with the premises where an occupant might be exposed to a lead−based paint hazard.

Note: Subd. 2. a. to c. apply only to dwellings and subd. 2. d. applies only to other premises that are not dwellings, such as child−occupied facilities.

e. The lead−free inspection may incorporate a determination from a prior lead investigation activity that a painted component is lead−free when the prior lead investigation activity meets the requirements under s. HFS 163.40 (2) (c) 3.

3. 'Lead inspection.' A lead−free inspection shall include a lead inspection under s. HFS 163.14 (8).

4. 'Clearance.' A lead−free inspection shall include clearance under s. HFS 163.14 (5) of the work area where more than 2 square feet of paint was removed or more than 2 square feet of paint was disturbed in removing a painted component, if known, or of the dwelling units and common areas inspected under subd. 2., unless one of the following is obtained:

a. When the paint has not been proven to be lead−free, a clearance report issued by an appropriately certified person after the most recent removal of more than 2 square feet of paint or removal of a painted component when the removal disturbed more than 2 square feet of paint. A certified individual involved with conducting clearance that is included in a lead−free inspection may not be a property owner or an immediate family member, agent or employee of a property owner or associated with a certified lead company that is directly or beneficially owned, controlled or managed by a property owner, or by an immediate family member, agent or employee of a property owner.

b. The following statement signed by the property owner or the property owner's agent or employee and dated at the time of signature: "I have no notice or knowledge of any person, during the previous 12 months, removing a total of more than 2 square feet of paint or disturbing more than 2 square feet of paint when removing a painted component from the real property included in this lead−free inspection."

(b) *Submission of registration form.* Following instructions provided by the department, a lead company shall complete and submit the lead−free inspection registration form to the department within 10 working days after completing the lead−free inspection, including receipt of any laboratory results. The registration form shall be submitted using an electronic format provided by the department or an alternative method approved by the department.

(c) *Verification of qualification and registration.* The lead company shall follow the instructions provided by the department to issue the certificate of lead−free status to the property owner within 10 working days after receiving verification of qualification and registration from the department.

(d) *Effective date.* 1. If a certified lead company conducts a lead−free inspection and submits the registration form to the department under par. (b) within 10 working days after completion of the lead−free inspection, and, if the department determines the dwelling unit, dwelling or premises meets the standards for registered lead−free property, the certificate shall be valid on the date the on−site sampling was completed.

2. If a lead company fails to submit the registration form within 10 working days under par. (b), the certificate shall be valid on the date the dwelling unit, dwelling or premises met the standards, as determined by the department based on evidence submitted by the property owner or lead company.

3. If a certified lead company conducted a lead inspection prior to the availability of certificates of lead−free status, the certificate shall be valid on the date the lead−free inspection form under par. (b) is received by the department when one of the following meets the requirements of the lead−free inspection protocol under par. (a):

a. The prior lead inspection.

b. The prior lead inspection combined with a subsequent update to the lead inspection.

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(e) *Expiration date.* A certificate of lead−free status is valid until revoked, which shall be stated on each certificate of lead−free status issued.

(f) *Fees.* 1. In addition to fees charged by the lead company for the lead−free investigation and any laboratory analysis, the property owner shall pay a lead−free certificate fee of $50 to the lead company issuing a lead−free certificate and the lead company shall forward payment to the department before the 10th day of the month following issuance.

2. In addition to the fee under subd. 1., a lead company that submits a lead−free report using an approved alternative under sub. (2) (b) shall pay a handling fee of $25.

3. If a property owner requests the department to issue a duplicate or an amended certificate of lead−free status, the property owner shall submit a fee of $50, payable to the department of health and family services.

Note: The department will provide training to lead company staff on the process for registering and issuing a lead−free or lead−safe certificate. For information about this training, contact the Asbestos and Lead Section, Bureau of Occupational Health, Room 137, 1 West Wilson Street, P.O. Box 2659, Madison, WI 53701−2659; e−mail "plicasbestoslead@dhfs.state.wi.us"; ph. 608−261−6876; fax 608−266−9711.

(3) REVOCATION. If the department provides written notice of revocation, the grounds for revocation and an explanation of the process under s. HFS 163.33 for appealing a revocation not less than 30 days before the date of the revocation, and the violation on which the revocation is based remains substantially uncorrected at the end of the 30−day notice period, the department may revoke a certificate of lead−free status for any of the following reasons:

(a) The dwelling, dwelling unit, child−occupied facility or other premises is not free of lead−based paint, as determined by sampling conducted using documented methodologies.

(b) The certificate was issued in error.

(c) The lead−free inspection does not support that the property meets the registered lead−free property standards under sub. (1) because the lead−free inspection protocol under sub. (2) was not followed in determining that the dwelling, dwelling unit, child−occupied facility or other premises met the standards for registered lead−free property and a subsequent lead−free inspection does not verify that the dwelling, dwelling unit, child−occupied facility or other premises met the lead−free standards.

Note: When a property owner is notified of a problem with a lead−free inspection, the property owner may hire a certified lead company to conduct a new lead−free inspection to verify that the property was, in fact, eligible for the lead−free certificate. If the property owner submits the inspection report for the new lead−free inspection to the department, the department will review the report and stop the revocation action if the new lead−free inspection verifies the property meets the standards.

(d) The property owner or his or her employee or agent obtained the certificate by fraud.

History: CR 00−172: cr. Register February 2002 No. 554, eff. 3−1−02.

HFS 163.42 Certificate of lead−safe status. (1) REGISTERED LEAD−SAFE PROPERTY STANDARDS. Under the standards in this subsection, paint is not lead−free unless the paint is sampled or tested under s. HFS 163.40 (2) (c) and determined not to contain lead−based paint. For registered lead−safe property, all locations under sub. (2) (a) 2. that are subject to a lead−safe investigation shall meet all of the following standards, as determined by a lead−safe investigation under sub. (2):

(a) *Interior painted components.* Interior painted components shall be free of deteriorated paint unless the paint is proven to be lead−free.

(b) *Exterior painted components below 5 feet.* Exterior painted components at a height from ground or floor level to 5 feet above ground or floor level shall be free of deteriorated paint unless the paint is proven to be lead−free.

(c) *Exterior painted components above 5 feet.* If deteriorated paint is present on exterior painted components, it may only be present at a height more than 5 feet above ground or floor level and shall total no more than 5 square feet of deteriorated paint for all surfaces combined unless the paint is proven to be lead−free.

(d) *Paint chips.* Floors, stairways, windowsills, window wells or troughs and soil shall be free of visible paint chips unless the paint is proven to be lead−free.

(e) *Substrate.* For the substrate of a painted surface, there shall be no visible defect, damage, decay or deterioration in the substrate that might cause deteriorated paint unless the paint is proven to be lead−free. Painted, unkeyed plaster may not be present unless the paint is proven to be lead−free.

(f) *Dust−lead hazards.* There shall be no dust−lead hazards on registered lead−safe property. A dust−lead hazard is present when at least one of the following applies:

1. Using composite dust sampling, the following results are obtained:

a. The laboratory results for composite dust samples collected from floors are equal to or greater than 25 micrograms per square foot (25 $\mu g/ft^2$).

b. The laboratory results for composite dust samples collected from interior windowsills are equal to or greater than 125 micrograms per square foot (125 $\mu g/ft^2$).

c. The laboratory results for composite dust samples collected from window troughs or wells are equal to or greater than 400 micrograms per square foot (400 $\mu g/ft^2$).

Note: Composite dust sampling under this protocol is comparable to dust sampling conducted under a lead hazard screen.

2. Using single−surface dust sampling, the following results are obtained:

a. The arithmetic mean for dust samples collected from all floors is equal to or greater than 40 micrograms per square foot (40 $\mu g/ft^2$).

b. The arithmetic mean for dust samples collected from all interior windowsills is equal to or greater than 250 micrograms per square foot (250 $\mu g/ft^2$).

c. The laboratory result for a dust sample collected from a window trough or well is equal to or greater than 800 micrograms per square foot (800 $\mu g/ft^2$).

Note: Single−surface dust sampling under this protocol is comparable to dust sampling conducted under a lead risk assessment.

(g) *Moisture or water damage.* Unless the paint is proven to be lead−free, there shall be no evidence of ongoing water damage to painted surfaces, including ongoing water damage caused by any of the following:

1. Unrepaired water leaks in gutters, downspouts, roofs, foundations or other components.

2. Unrepaired leaks in plumbing, air conditioning or heating systems.

3. Absent or malfunctioning gutters or downspouts.

(h) *Painted floors and stairs.* Painted interior and exterior floors and the traffic area of stair treads shall be free of deteriorated paint and evidence of abrasion unless all existing paint on the floor or stair tread is proven to be lead−free.

(i) *Window systems, including storm and screen windows.* For painted window systems, all of the following apply unless the paint is proven to be lead−free:

1. Weep holes shall be present and open in any window system designed to have weep holes.

2. Window wells or troughs shall be smooth and cleanable.

3. Glazing shall not have gaps.

(j) *Soil option.* Soil testing to determine if soil−lead hazards are present is not required for registered lead−safe property. If, however, a property owner chooses to include soil−lead hazards under the certificate of lead−safe status, then an assessment of soil−lead hazards shall be conducted under s. HFS 163.14 (9) (g) with one of the following findings:

1. No bare soil was present.

2. Bare soil was sampled, analyzed by a recognized laboratory and determined not to be a soil−lead hazard under s. HFS 163.15 (2).

Removed by Register March 2002 No. 555. For current adm. code see: http://docs.legis.wisconsin.gov/code/admin_code.

(2) ISSUANCE OF CERTIFICATE OF LEAD–SAFE STATUS. (a) *Lead–safe investigation protocol.* 1. 'Who may conduct.' A lead–safe investigation shall be conducted by a certified lead hazard investigator or lead risk assessor associated with a certified lead company. Under direct on–site supervision of a certified lead hazard investigator or risk assessor, a certified lead inspector or sampling technician may assist with a lead–safe investigation. Certified individuals involved with conducting a lead–safe investigation shall conduct it in an unbiased, objective and impartial manner. All persons involved with conducting the lead–safe investigation shall meet the requirements under s. HFS 163.40 (2) (c) 3.

2. 'Locations investigated.' The registered lead–safe property covered by a certificate is limited to those locations subject to the lead–safe investigation under one or more of the following subd. pars., except that all dwelling units are included when a random selection process under subd. 2. c. is successfully used:

Note: Subd. 2. a. to c. apply to dwellings and subd. 2. d. applies to other premises that are not dwellings, such as child–occupied facilities.

a. When a certificate of lead–safe status is being sought for a single dwelling unit, the locations investigated shall include the dwelling unit for which the certificate is being sought and all interior and exterior common areas for the real property associated with the dwelling where an occupant of the dwelling unit might be exposed to a lead–based paint hazard.

b. When a certificate of lead–safe status is being sought for an entire multi–family dwelling, the locations investigated shall include all dwelling units unless subd. 2. c. applies, and shall include all interior and exterior common areas for the real property associated with the dwelling where an occupant might be exposed to a lead–based paint hazard.

c. When a certificate of lead–safe status is being sought for a multi–family dwelling with more than 20 dwelling units that are similar in construction, age and have a common paint, maintenance and management history, the locations investigated shall include either all dwelling units or a subset of the dwelling units that are selected using the random selection process, and shall include all interior and exterior common areas for the real property associated with the dwelling where an occupant might be exposed to a lead–based paint hazard. When the random selection process is used, a sufficient number of dwelling units shall be selected to provide a 95% level of confidence that at least 95% of all dwelling units would meet the standard for registered lead–safe property if all dwelling units were investigated. If any dwelling unit included in the lead–safe investigation does not meet the standard, a certificate of lead–safe status may not be issued. If conditions in the failed dwelling unit are corrected, conduct a new lead–safe investigation that includes a new selection of dwelling units using the random selection process.

Note: For assistance in selecting the correct number of dwelling units to include in the lead–safe investigation, refer to Appendix E of this chapter. At the first instance that a property fails a lead–safe investigation, follow the actions agreed upon in the contract under s. HFS 163.13 (5) (e). Actions that might be required in the contract include stopping the lead–safe investigation or converting to a risk assessment.

d. When a certificate of lead–safe status is being sought for a premises that is not a dwelling, such as a child–occupied facility, the locations investigated shall include all interior and exterior common areas for the real property associated with the premises where an occupant might be exposed to a lead–based paint hazard.

e. The lead–safe investigation may incorporate a determination from a prior lead investigation activity that a painted component is lead–free when the prior lead investigation activity meets the requirements under s. HFS 163.40 (2) (c) 3.

3. 'Sampling or testing for lead–based paint.' Certified persons conducting a lead–safe investigation shall treat paint as lead–based paint unless the paint is sampled or tested under s. HFS 163.40 (2) (c) and determined not to contain lead–based paint.

4. 'Visual inspection.' Conduct a visual inspection of the real property to determine compliance with sub. (1) (a) to (e) and (g) to (i).

5. 'Collection of dust samples.' For a lead–safe investigation of a dwelling, use documented methodologies to collect composite dust samples under subd. 6. or single–surface dust samples under subd. 7., and to collect single surface dust samples of common areas under subd. 8. For a lead–safe investigation of any other premises, use documented methodologies to collect single–surface dust samples under subd. 9.

Note: Composite dust sampling under this protocol is comparable to dust sampling conducted under a lead hazard screen and single–surface dust sampling is comparable to dust sampling conducted under a lead risk assessment. Documented methodologies for dust wipe samples under this protocol include the EPA protocols under 40 CFR 745.227, EPA guidance documents relating to the EPA protocols and Chapter 5 of HUD's "Guidelines for the Evaluation and Control of Lead–Based Paint Hazards in Housing."

6. 'Collect composite dust samples of a dwelling unit.' Collect composite dust samples from a dwelling unit as follows:

a. Collect one or more composite dust sample consisting of 4 separate dust samples from the floors of the main entryway and rooms or areas where a child under age 6 years would most likely come into contact with dust.

b. Collect one or more composite dust sample consisting of 4 separate dust samples from the window troughs or 4 separate dust samples from interior sills of windows that are most frequently operated or where a child under age 6 years would most likely come into contact with dust.

c. For a dwelling unit in a multi–family dwelling, collect dust samples under subd. 8. from common areas where a child under age 6 years would most likely come into contact with dust in addition to the samples collected under subd. 6. a. and b.

7. 'Single surface dust samples of a dwelling unit.' Collect single–surface dust samples from a dwelling unit as follows:

a. Collect a minimum of 4 dust samples from floors in rooms and areas that might be frequented by children under age 6, with samples collected from areas of the floor where a child under age 6 would most likely come into contact with dust, such as a play area within a room, a high–traffic walkway and underneath windows.

b. Collect one dust sample from a window trough of a window that is commonly operated or where a child under age 6 years would most likely come into contact with dust.

c. Excluding the window from which the sample under subd. 7. b. was taken, collect a minimum of 3 dust samples from interior windowsills in rooms or areas where a child under age 6 years would likely come into contact with dust. Select windows that are frequently operated or where a child under age 6 years would most likely come into contact with dust.

d. For a dwelling unit in a multi–family dwelling, collect dust samples under subd. 8., from common areas where a child under 6 years would most likely come into contact with dust in addition to the samples collected under subd. 7. a. to c.

8. 'Single surface dust samples of dwelling common areas.' Collect single surface dust samples of dwelling common areas as follows:

a. Collect window and floor dust samples from common areas adjacent to the dwelling.

b. Collect window and floor samples from other common areas where a child under age 6 would likely come into contact with dust.

9. 'Single–surface dust samples of other premises.' For a child–occupied facility or premises other than a dwelling, collect single–surface dust samples as follows:

a. Window and floor samples in each room, hallway or stairwell used by a child under age 6 years.

b. Collect window and floor dust samples from common areas adjacent to the child–occupied facility or other premises.

c. Collect window and floor samples from other common areas where a child under 6 years of age would likely come into contact with dust.

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10. 'Collection of soil samples.' If the property owner requests assessment of the lead concentration in soil, no soil analysis is required if no bare soil is present. If bare soil is present, collect soil samples for analysis of lead concentrations from the following locations:

a. Mid–yard areas where bare soil is present or the area of bare soil closest to mid–yard.

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

11. 'Analysis by a recognized laboratory.' Have any collected paint chip, dust or soil samples analyzed by a recognized laboratory to determine any detectable levels of lead that can be quantified numerically.

(b) *Submission of registration form.* Following instructions provided by the department, a lead company shall complete and submit the lead–safe investigation registration form to the department within 10 working days of completing the lead–safe investigation or receiving any laboratory results, whichever is later. The registration form shall be submitted using an electronic format provided by the department or an alternative method approved by the department.

(c) *Verification of qualification and registration.* The lead company shall follow the instructions provided by the department to issue the certificate of lead–safe status to the property owner within 10 days after receiving verification of qualification and registration from the department.

(d) *Effective date.* 1. If a certified lead company conducts a lead–safe investigation and submits the registration form to the department under par. (b) within 10 working days after completion of the lead–safe investigation, including receipt of any laboratory results, and if the department determines the dwelling unit, dwelling or premises meets the standards for registered lead–safe property, the certificate shall be valid on the date the on–site sampling was completed.

2. If a lead company fails to submit the registration form within 10 working days under (b), the certificate shall be valid on the date the dwelling unit, dwelling or premises met the standards, as determined by the department based on evidence submitted by the property owner or lead company.

(e) *Expiration date.* 1. 'General criteria for determining the expiration date.' For property meeting the registered lead–safe property standards under sub. (1), a certificate of lead–safe status shall be given an expiration date based on the component that is most likely to cause or become a lead–based paint hazard before any other component. A component that is proven to be lead–free shall be excluded from consideration. A component that has been enclosed or encapsulated according to documented methodologies shall be excluded from consideration under subds. 1 to 5. To determine the expiration date, select the shortest duration under subds. 2. to 7. based only on the components subject to the lead–safe investigation under sub. (2) (a) 2.

2. 'Nine months.' The presence of paint on an impact or friction surface of a window well or trough, window channel, or window sash shall result in a certificate of lead–safe status being issued for no more than 9 months when paint is not proven to be lead–free and the painted surface is not enclosed by a durable material that protects the paint from impact and abrasion.

Note: The 9–month certificate is intended to allow recognition of temporary measures, such as removing dust–lead and debris created by impact and friction, while more permanent lead hazard reduction continues. Under sub. (4), no more than 2 applications for a 9–month certificate may be submitted unless the property owner provides the department with a reason why an additional 9–month certificate is necessary.

3. 'One year.' The presence of any of the following conditions shall result in a certificate of lead–safe status being issued for no more than one year unless the paint is proven to be lead–free:

a. In a dwelling unit or common area, paint is present on a floor and the painted surface is not covered by an intact lead–free topcoat or by a durable material or carpeting that protects the paint from abrasion.

b. In a dwelling unit or common area, paint is present under an intact lead–free topcoat of the traffic area of a stair tread and the painted surface is not covered by a durable material or carpeting that protects the paint from abrasion.

c. Paint is present on a drawer of a built–in cabinet, malfunctioning door, or on any other interior friction surface not otherwise described and the painted friction surface is not covered by a durable material that protects the paint from abrasion.

d. Deteriorated paint is present on the exterior, but only at a height above 5 feet from ground or floor level, and the total amount of deteriorated paint is less than 5 square feet.

4. 'Three years.' The presence of any of the following conditions shall result in a certificate of lead–safe status being issued for no more than 3 years unless the paint is proven to be lead–free:

a. Paint is present on an exterior sill, interior sill or stool, casing, head, jamb, glazing, caulk, putty or any other component of a window that is not an impact or friction surface under subd. 1.

b. Paint is present and exposed on any exterior horizontal surface or any of the following exterior components: floor, porch, stair system.

c. Other than paint on a window well or trough under subd. 1., paint is present and exposed to damage by the impact of another component striking the painted component, such as a door striking a baseboard or chair rail.

d. Paint is present on an interior or exterior door.

e. A component shows evidence of mold, mildew, moisture or water damage where paint is present, but no evidence of an active leak.

f. In a dwelling unit or common area, paint is present under an intact lead–free topcoat of a floor and the painted surface is not covered by a durable material or carpeting that protects the paint from abrasion.

g. In an enclosed area that is locked and secured against access by occupants other than the property owner or the property owner's family, agent or employee, paint is present on a floor or the traffic area of a stair tread and the painted surface is not covered by a lead–free topcoat or by a durable material or carpeting that protects the paint from abrasion.

5. 'Five years.' Unless the paint is proven to be lead–free, the presence of paint on an exterior component not described under subds. 1. to 3., 5. or 6., such as siding, porch ceiling, gutter, downspout, soffit or facia, shall result in a certificate of lead–safe status being issued for no more than 5 years.

6. 'Ten years.' Unless the paint is proven to be lead–free, the presence of paint on an interior component that is not described under subds. 1. to 3., 5. or 6., such as a wall, ceiling or painted floor covered by wall–to–wall carpeting, shall result in a certificate of lead–safe status being issued for no more than 10 years.

7. 'Twenty years.' A certificate of lead–safe status shall be issued for no more than 20 years when all paint that has not been proven to be lead–free has been fully enclosed with durable material that does not allow dust or debris from the paint to escape into the environment.

(f) *Fees.* 1. In addition to fees charged by the lead company for the lead–safe investigation and laboratory analysis, the property owner shall pay a lead–safe certificate fee of $25 to the lead company issuing a lead–safe certificate and the lead company shall forward payment to the department before the 10th day of the month following issuance.

2. In addition to the fee under subd. 1., a lead company that submits a lead–safe report using an approved alternative under par. (b) shall pay a $25 handling fee.

3. If a property owner requests the department to issue a duplicate or an amended certificate of lead–safe status, the property owner shall submit a fee of $25, payable to the department of health and family services.

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(3) CONDITIONS FOR MAINTAINING A CERTIFICATE OF LEAD–SAFE STATUS. (a) *Requirement to comply.* The property owner shall comply with all of the conditions for maintaining a certificate of lead–safe status under pars. (b) to (h).

Note: A quantity of dust–lead small enough to cover a finger tip is sufficient to cause a child to have a lead exposure. Even a blood level of 10 micrograms per deciliter of blood might decrease a child's reading ability by 10%. Dust–lead is created when lead–based paint deteriorates due to the effects of water or moisture or due to age, which might be evidenced by flaking, chipping, peeling, chalking, alligatoring or other cracking. Dust–lead is also created when lead–based paint is subject to friction, impact, or other disturbance, such as by activities involving sanding, scraping, sawing, planing, cutting, burning, and heating to high temperatures.

(b) *Distribute materials to occupants.* 1. 'Applicability.' This requirement applies to a property owner when a registered lead–safe property includes a dwelling unit or premises that is occupied by someone other than the property owner or the property owner's immediate family.

2. 'Requirement for distribution of materials.' a. For tenancy of a dwelling unit under a rental agreement, the property owner shall ensure that a lead–safe information pamphlet under subd. 3. and a form under subd. 4. is delivered by personal, postal or delivery service to an adult occupant or other responsible occupant entering into a tenancy under a rental agreement.

b. For tenancy of a dwelling unit in the absence of a rental agreement, the property owner shall ensure that a lead–safe information pamphlet under subd. 3. and a form under subd. 4. is delivered by personal, postal or delivery service to an occupant age 16 years or older when the occupant holds possession of the dwelling unit for a period of 30 consecutive days or more with the knowledge and consent of the owner and materials have not been distributed to other occupants of the dwelling unit within the previous 12 months.

c. For a child–occupied facility, the property owner shall ensure that a registered lead–safe property poster obtained from the department is posted where it is visible to persons responsible for children occupying the child–occupied facility.

d. For a premises that is not a dwelling unit or a child–occupied facility, the property owner shall ensure that a registered lead–safe property poster obtained from the department is posted where it is visible to persons occupying the premises.

3. 'Lead–safe information pamphlet.' The lead–safe information pamphlet shall be obtained from or approved by the department.

4. 'Form for reporting deteriorated paint and other potential lead–based paint hazards.' The form for reporting deteriorated paint, failure of an enclosure, encapsulation or covering, and any other potential lead–based paint hazards shall be obtained from the department or may be another form that shall include a request for all of the following information:

a. The name and contact information for the person submitting the form.

b. The location and a brief description of the deteriorated paint, failure of an enclosure, encapsulation or covering, or other potential lead–based paint hazard.

c. The date the form is delivered to the property owner or the property owner's agent or employee.

d. Optional disclosure of the presence of a child under age 6.

5. 'Timing for distribution of required materials after issuance of a certificate.' The property owner shall ensure that distribution of materials under subds. 3. and 4. is completed within 60 days after issuance of a certificate of lead–safe status.

Note: The lead–safe information pamphlet, registered lead–safe property poster and the form for reporting deteriorated paint and potential lead–based paint hazards may be obtained from the Asbestos and Lead Section, Bureau of Occupational Health, Room 137, 1 West Wilson Street, P.O. Box 2659, Madison, WI 53701–2659; e–mail "plicasbestoslead@dhfs.state.wi.us"; ph. 608–261–6876; fax 608–266–9711; or may be available on the department's website at www.dhfs.state.wi.us.

6. 'Timing for distribution at start of tenancy.' The property owner shall ensure that distribution of materials under subds. 3. and 4. is completed as follows:

a. For tenancy of a dwelling unit under a rental agreement, prior to the start of tenancy, entering into a rental agreement or accepting earnest money or a security deposit, whichever is later.

b. For tenancy of a dwelling unit in the absence of a rental agreement, prior to the start of tenancy by an occupant age 16 years or older who holds possession for a period of 30 consecutive days or more with the knowledge and consent of the owner and materials have not been distributed to other occupants of the dwelling unit within the previous 12 months.

Note: For rental housing, the required materials may be distributed together with disclosure materials required under HUD regulations under 24 CFR Part 35, Subpart H and EPA regulations under 40 CFR Part 745 Subpart F.

7. 'Timing for distribution on an ongoing basis.' When a certificate of lead–safe status is issued for 3 years or more, the property owner shall ensure that materials under subds. 3. and 4. be distributed no later than every 13 months as long as the tenancy continues unless the property owner chooses to post a lead–safe information pamphlet in each dwelling unit covered by the certificate of lead–safe status.

(c) *Conduct visual inspection.* When a certificate of lead–safe status is issued for 3 years or more, the property owner shall ensure that the registered lead–safe property has a visual inspection conducted as follows:

1. The visual inspection shall be completed no later than every 13 months.

2. During the visual inspection, the registered lead–safe property shall be examined visually for the presence of deteriorated paint that is not proven to be lead–free, failure of an enclosure, encapsulant or covering, and the presence of other potential lead–based paint hazards using documented methodologies. Components that previously were determined to be free of lead–based paint in accordance with procedures under s. HFS 163.40 (2) (c) may be excluded from the visual inspection.

Note: Refer to Appendix G for one documented methodology for conducting a visual inspection.

3. The results of the visual inspection shall be recorded on a visual inspection form obtained from or approved by the department. The form shall include all of the following:

a. The date of the visual inspection.

b. The name and contact telephone number of the person who conducted the visual inspection.

c. The result of the visual inspection.

4. The visual inspection form shall be maintained under par. (h) and, when requested, shall be submitted to the department within 10 working days.

5. Any deteriorated paint that is not proven to be lead–free and any failing enclosure, encapsulation or covering shall be repaired and any lead–based paint hazard removed according to the timeframe under par. (d).

Note: "Lead Paint Safety, A Field Guide for Painting, Home Maintenance, and Renovation Work" strongly recommends dust wipe samples be taken every two years to check for dust–lead hazards when a young child or pregnant woman lives in a dwelling.

(d) *Remove lead–based paint hazards.* 1. Subject to the provisions under subds. 2. to 6., the property owner or the property owner's agent or employee shall ensure that any failing enclosure, encapsulation or covering, deteriorated paint that is not proven to be lead–free, and any other potential lead–based paint hazard is repaired or removed within 20 working days of gaining knowledge of the potential lead–based paint hazard from any source, including a visual inspection under par. (e), a report by an adult or responsible occupant or the parent or guardian of an occupant who is under age 6 years, or a notice from a federal, state or local governmental agency.

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2. If the property owner or the property owner's employee or agent knows or has reason to know that a child under the age of 6 occupies a unit where an interior lead–based paint hazard is located, the property owner or the property owner's employee or agent shall ensure that measures are taken within 5 working days to protect the child from lead exposure. These measures may be temporary, such as temporarily covering deteriorated paint with duct tape or preventing access to the area, provided the repair or removal is completed within 20 working days.

3. If an exterior lead–based paint hazard is identified between October 1 and May 1, it shall be removed by June 1.

4. The failing enclosure, encapsulation or covering, deteriorated paint that is not proven to be lead–free, or any other potential lead–based paint hazard shall be repaired or removed at an earlier date if the department or another governmental agency orders earlier action.

5. Repair or removal of a failing enclosure, encapsulation or covering, deteriorated paint that is not proven to be lead–free, or any other potential lead–based paint hazard is not required when both of the following conditions apply:

a. An individual certified in a lead investigation discipline uses documented methodologies to determine that a dust–lead hazard is not present and the paint is lead–free.

b. All reports and data related to the determination are maintained under par. (h).

6. When exceptional circumstances prevent the timely repair or removal of a failing enclosure, encapsulation or covering, deteriorated paint that is not proven to be lead–free, or any other potential lead–based paint hazard, the property owner or the property owner's employee or agent may ask the department to grant an extension as follows:

a. The property owner or the property owner's agent or employee shall submit a written request for an extension for receipt by the department before the applicable timeframe under subds. 1. to 3.

b. The request shall identify the registered lead–safe property by certificate registration number and shall clearly explain why an extension is necessary.

c. A processing fee of $25 shall be submitted to the department with each request for an extension.

d. Within 10 working days after receiving a request for an extension and the processing fee, the department shall grant or deny the request based on all facts available to the department.

e. An extension may be granted by the department if the extension does not present a serious and immediate threat to a child under age 6 years. Each extension shall be unique to the particular situation for which the extension is granted and may not exceed 40 working days per extension.

f. Any extension denied by the department may be appealed under s. HFS 163.33.

Note: Submit any extension request to the Asbestos and Lead Section, Bureau of Occupational Health, Room 137, 1 West Wilson Street, P.O. Box 2659, Madison, WI 53701–2659; e–mail "pli-casbestoslead@dhfs.state.wi.us"; ph. 608–261–6876; fax 608–266–9711.

(e) *Ensure appropriate certification.* 1. When a property owner requests or allows an abatement or lead investigation activity to be conducted, the property owner shall ensure that persons conducting the abatement or lead investigation activity are appropriately certified when certification is required under ss. HFS 163.10 and 163.12.

2. When a property owner requests or allows a non–abatement lead–based paint activity to be conducted, the property owner shall inform persons conducting the activity that the activity involves registered lead–safe property and shall ensure that persons conducting the non–abatement lead–based paint activity are appropriately certified when certification is required under s. HFS 163.43.

3. When a lead investigation, abatement or non–abatement lead–based paint activity is conducted by a property owner or the property owner's agent or employee, the property owner shall ensure compliance with certification requirements under this chapter.

4. Under this paragraph, a property owner is deemed to not allow the occupant to conduct the activity under any of the following circumstances:

a. When the property owner can demonstrate that the occupant received a written rental agreement that prohibits the occupant from disturbing paint and performing lead–based paint activities on the property without certification.

b. When the property owner can demonstrate that the occupant received the property owner's written rules prohibiting the occupant from disturbing paint and performing lead–based paint activities on the property without certification.

c. The property owner's written rules for the property were posted where the occupant should reasonably have been expected to see the prohibition and the rules prohibit the occupant from disturbing paint and performing lead–based paint activities on the property without certification.

(f) *Follow work practice standards.* 1. When a property owner requests or allows a non–abatement lead–based paint activity to be conducted, the property owner shall inform persons conducting the activity that they are required to comply with lead–safe work practices under s. HFS 163.44 because the property is covered by a certificate of lead–safe status.

2. When a non–abatement lead–based paint activity is conducted by a property owner or the property owner's agent or employee, the property owner shall ensure compliance with lead–safe work practices under s. HFS 163.44.

3. Under this paragraph, a property owner is deemed to not allow the occupant to conduct the activity under any of the following circumstances:

a. When the property owner can demonstrate that the occupant received a written rental agreement that prohibits the occupant from disturbing paint and performing lead–based paint activities on the property without certification.

b. When the property owner can demonstrate that the occupant received the property owner's written rules prohibiting the occupant from disturbing paint and performing lead–based paint activities on the property without certification.

c. The property owner's written rules for the property were posted where the occupant should reasonably have been expected to see the prohibition and the rules prohibit the occupant from disturbing paint and performing lead–based paint activities on the property without certification.

(g) *Conduct clearance.* 1. When a property owner requests or allows a non–abatement lead–based paint activity to be conducted, the property owner shall ensure that clearance is conducted as required under s. HFS 163.44 (3) (b).

2. Under this paragraph, a property owner is deemed to not allow the occupant to conduct the activity under any of the following circumstances:

a. When the property owner can demonstrate that the occupant received a written rental agreement that prohibits the occupant from disturbing paint and performing lead–based paint activities on the property without certification.

b. When the property owner can demonstrate that the occupant received the property owner's written rules prohibiting the occupant from disturbing paint and performing lead–based paint activities on the property without certification.

c. The property owner's written rules for the property were posted where the occupant should reasonably have been expected to see the prohibition and the rules prohibit the occupant from dis-

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turbing paint and performing lead–based paint activities on the property without certification.

(h) *Maintain documentation.* A property owner shall ensure that the following documentation is maintained for a minimum of one year after expiration of the certificate of lead–safe status that was in effect when the documented activity was conducted:

1. Reports, data and notices issued or obtained under requirements of this chapter and related to a registered lead–safe property, including lead–safe investigation reports, abatement notices, abatement reports, and clearance reports.

2. Visual inspection reports and occupant reports of potential lead–based paint hazards, with a notation as to the date received, when applicable, and the date the potential lead–based paint hazard was removed under par. (c) and by whom.

Note: Under federal disclosure requirements under 24 CFR Part 35 and 40 CFR Part 745, the seller or lessor of residential property must disclose the existence of any available records or reports pertaining to lead–based paint and lead–based paint hazards and provide the purchaser or lessee with any of these records or reports that are available to the seller or lessor.

(4) APPLICATIONS FOR CERTIFICATES OF LESS THAN 12 MONTHS. Unless exempted by statute, a person may only apply for certificates of lead–safe status of less than 12 months for the identical premises as follows:

(a) A person may apply for no more than 2 successive certificates of lead–safe status that have a duration of less than 12 months and, if again applying for a certificate of lead–safe status, shall apply for a certificate that has a duration of 12 months or more.

(b) A person under par. (a) shall, if applying for a certificate of lead–safe status that is in addition to the certificates specified in par. (a) and that has a duration of less than 12 months, provide the department with the reason why a certificate of less than 12 months' duration is needed.

(c) A person under pars. (a) and (b) shall, if applying for a certificate of lead–safe status that is in addition to the certificates specified in pars. (a) and (b) and that has a duration of less than 12 months, provide the department with clear and convincing evidence of why a certificate of less than 12 months' duration is needed.

(5) REVOCATION. If the department provides written notice of revocation, the grounds for revocation and an explanation of the process under s. HFS 163.33 for appealing a revocation not less than 30 days before the date of the revocation, and the violation on which the revocation is based remains substantially uncorrected at the end of the 30–day notice period, the department may revoke a certificate of lead–safe status for any of the following reasons:

(a) The property owner or property owner's employee or agent obtained the certificate by fraud.

(b) The dwelling, dwelling unit, child–occupied facility or other premises is not free of lead–based paint hazards, as determined by sampling conducted using documented methodologies.

(c) The certificate was issued in error.

(d) The property owner or property owner's employee or agent violated a condition under sub. (3) for maintaining the certificate of lead–safe status.

(e) The property owner or property owner's employee or agent created a lead–based paint hazard.

(f) The property owner or property owner's employee or agent violated another state, local or federal statute, ordinance, rule or regulation relating to lead–based paint at the registered lead–safe property.

(g) The lead–safe investigation does not support that the property meets the registered lead–safe property standards under sub. (1) because the lead–safe investigation protocol under sub. (2) was not followed in determining that the property met the registered lead–safe property standards and a subsequent lead–safe investigation did not verify that the property met the lead–safe standards.

Note: When a property owner is notified of a problem with a lead–safe investigation, the property owner may hire a certified lead company to conduct a new lead–safe investigation to verify that the property was, in fact, eligible for the lead–safe certificate. If the property owner submits the investigation report for the new lead–safe investigation to the department, the department will review the report and stop the revocation action if the new lead–safe investigation verifies the property meets the standards.

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HFS 163.43 Certification to perform non–abatement lead–based paint activities on registered lead–safe property. (1) REQUIREMENTS FOR CERTIFICATION. Except as provided under sub. (2), only a person holding certification as a lead–safe worker, lead abatement worker or lead abatement supervisor may perform a non–abatement lead–based paint activity on registered lead–safe property.

Note: For persons performing lead–based paint activities that are intended to permanently reduce a lead–based paint hazard, abatement certification requirements and work practice standards under subch. II apply. Certification is not required when the paint has been tested under s. HFS 163.40 (2) (c) and found to be lead–free.

(2) EXCEPTIONS TO CERTIFICATION REQUIREMENTS. (a) Certification is not required when all activities are within the scope of a license, certification or registration issued to the individual by the department of commerce under s. 101.178, 101.87, Stats., or ch. 145, Stats.

(b) Certification is not required when a non–abatement lead–based paint activity is performed by a person who is not the property owner or the property owner's agent or employee and the only activities performed involve installation, maintenance or repair of wiring, cables or components of the dwelling's security, electrical, heating, plumbing or cooling systems.

(c) Certification is not required when non–abatement lead–based paint activities are performed that meet all of the following criteria:

1. The total amount of paint to be disturbed during any one project, such as all activities conducted in response to a visual inspection or notification of a potential lead–based paint hazard, is equal to or less than 2 square feet when all paint to be disturbed in all dwelling units and common areas involved in the project are added together, including all paint disturbed when the project is conducted as a series of small jobs.

2. The activities are performed by a person who is not the property owner or the property owner's agent or employee.

3. The activities are conducted in compliance with applicable lead–safe work practice standards under s. HFS 163.44.

4. The activities do not involve any of the following activities, including the setup, cleanup, and preparation of waste for disposal associated with these activities:

a. Abrasive blasting, including sandblasting.

b. Machine sanding, grinding or planing.

c. Pressure water blasting or hydroblasting.

(d) Certification is not required when non–abatement lead–based paint activities are performed by the property owner on registered lead–safe property if all of the following apply:

1. The certificate of lead–safe status includes a statement that the certificate of lead–safe status was obtained solely to comply with s. HFS 163.40 (2).

2. The property is a dwelling occupied solely by the property owner and the property owner's immediate family.

3. The property owner was given instruction in lead–safe work practices by a public health agency, government housing agency or an approved training provider.

Note: Lead–safe work practices always apply. Completion of at least the 8–hour lead–safe work course is highly recommended to help comply with the applicable work practices standards under s. HFS 163.44.

(e) Certification is not required when an occupant repairs nail holes at the end of tenancy and all of the following apply:

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1. The total amount of paint to be disturbed during the repair of nail holes in the occupant's unit is equal to or less than 2 square feet.

2. The occupant receives no compensation for performing the repair.

(3) CONDITIONS FOR CERTIFICATION OF A LEAD–SAFE WORKER. To be certified, an applicant for certification as a lead–safe worker shall meet all of the following criteria:

(a) Be a minimum of 18 years old.

Note: Under s. DWD 270.06 (10), minors are prohibited from all occupations involving hazardous exposure to lead.

(b) Successfully complete one of the following required training courses:

1. A course accredited under this chapter that consists of a minimum of 8 hours of instruction on lead–safe work practices, including a lead–safe work course or lead abatement worker course.

2. A lead–safe work, maintenance or renovation course or a lead abatement course that meets all of the following conditions:

a. Consists of a minimum of 8 hours of lead–safe instruction.

b. Is approved by the department on the basis that the course was accredited or approved by EPA, by a state or tribal program under EPA authorization or, when allowed under federal regulations, by HUD.

c. Provides reasonable assurance that upon completion of the course students will be able to perform non–abatement lead–based paint activities in a lead–safe manner.

d. If completed in this state, the course was completed prior to January 1, 2002.

(c) Submit an application for certification under sub. (4).

(4) APPLICATION FOR CERTIFICATION OF A LEAD–SAFE WORKER. Except as provided under par. (e), an individual applying for lead–safe worker certification shall submit all of the following to the department:

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

(b) A clearly identifiable photograph of the applicant's face in a standard passport size measuring 2 inches by 2 inches, taken within the previous 24 months.

(c) A training certificate issued by the training provider that documents completion of training required under sub. (3) (b).

(d) A $50 certification fee.

(e) An applicant is not required to submit items under pars. (b) and (c) when these items are submitted directly to the department by the provider of the training completed by the applicant.

Note: A lead certification application form may be obtained from and submitted to the Asbestos and Lead Section, Bureau of Occupational Health, Room 137, 1 West Wilson Street, P.O. Box 2659, Madison, WI 53701–2659; e–mail "plicasbestos-lead@dhfs.state.wi.us"; ph. 608–261–6876; fax 608–266–9711; or by contacting the Asbestos and Lead Section for information about other locations where applications may be submitted.

(5) ACTION BY THE DEPARTMENT. (a) *Timing.* Within 10 working days after receipt of a fully and accurately completed certification application, the department shall grant or deny certification.

(b) *Grant certification.* If an individual applies for certification and meets all of the applicable conditions for certification under sub. (3), the department may grant certification. When certification is granted, the department shall issue or arrange for the issuance of a lead–safe worker certification card.

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

(6) LENGTH OF CERTIFICATION. Certification as a lead–safe worker is valid until revoked or suspended under subch. IV.

(7) OPTIONAL CERTIFICATION OF A LEAD–SAFE COMPANY. (a) *Optional certification for listing in directory.* A person may apply for certification as a lead–safe company that performs lead–safe work in order to be listed in a lead–safe company directory maintained by the department and made available to the public.

Note: For persons performing lead abatement or lead investigation activities, refer to s. HFS 163.12 for lead company certification requirements.

(b) *Conditions for optional certification.* To be certified as a lead–safe company, an applicant shall do all of the following:

1. 'Apply.' Submit a completed lead company application under s. HFS 163.12 (3).

2. 'Use certified individuals.' Agree to employ or contract with only appropriately trained and certified individuals to perform or supervise non–abatement lead–based paint activities when certification is required by any of the following:

a. This chapter.

b. Terms of a contract.

c. An order issued by a government agency.

d. Another local, state or federal statute, ordinance, rule or regulation.

3. 'Follow work practice standards.' Agree that all lead–safe company employees or subcontractors will be required to follow the applicable work practice standards under s. HFS 163.44 when certification is required under subd. 2.

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HFS 163.44 Work practice standards for non–abatement lead–based paint activities. (1) GENERAL REQUIREMENTS. (a) *Applicability of work practice standards.* All persons conducting non–abatement lead–based paint activities on registered lead–safe property shall comply with work practice standards under subs. (1) and (2), without regard to the certification status of the person performing the activity or the amount of lead–based paint involved in the activity. Additional work practice standards under sub. (3) apply when certification is required under s. HFS 163.43.

Note: Refer to s. HFS 163.14 for work practice standards that apply to abatement.

(b) *Requirement for compliance.* All non–abatement lead–based paint activities shall be conducted in a manner that complies with applicable federal, state and local government requirements.

Note: Refer to Appendix A for information on obtaining applicable federal, state and local government requirements. EPA regulations under 40 CFR Part 745 Subpart E require a contractor to provide pre–renovation education material to occupants prior to most lead–based paint activities, other than abatement, that disturb more than 2 square feet.

(c) *Requirement for occupant protection.* Documented methodologies and the following work practice requirements shall be used to protect occupants when a non–abatement lead–based paint activity is performed:

1. 'Preventing distribution of dust and debris.' Measures shall be taken to prevent the distribution of dust and debris outside the work area and, if the activity disturbs more than 2 square feet of paint, the work area shall be demarcated with signs, tape or plastic sheeting or work shall be conducted in the containment.

Note: Under sub. (3) (d), containment is required to perform some non–abatement lead–based paint activities that involve restricted work practices.

2. 'Restricted access.' When certification is required, uncertified persons shall be kept out of the work area where paint is disturbed. When certification is not required, only certified persons and the person performing the non–abatement lead–based paint activity shall be in the work area. For non–abatement lead–based paint activities that do not require clearance, the work area shall be cleaned and shall pass a visual inspection under par. (e) before uncertified individuals are allowed inside the work area.

Note: Note: Refer to sub. (3) (c) for access restrictions that apply when clearance is required.

3. 'Protective measures.' Measures shall be taken to protect personal property from contamination by dust and debris.

Note: For documented methodologies that may be followed to protect occupants, refer to Appendix H for Chapter 8 of HUD's "Guidelines for the Evaluation and Control of Lead–Based Paint Hazards."

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(d) *Requirement for lead–safe work practices.* Documented methodologies shall be used to conduct work in a lead–safe manner that does not create lead–based paint hazards to the occupants and shall include work practices that limit the creation of dust and prevent the spread of dust, debris and paint chips outside of the work area.

Note: To prevent distribution of dust, non–abatement lead–based paint activities should be performed using work practices that include the appropriate use of wet methods and HEPA–filtered exhaust control. For documented methodologies that may be followed to work lead–safe, refer to Appendix I for Chapters 4 and 17 of HUD's "Guidelines for the Evaluation and Control of Lead–Based Paint Hazards."

(e) *Requirement to clean up the work area.* Documented methodologies shall be followed to clean the work area and any other affected area of the property at the end of each day's work and after all work has been completed.

Note: For documented methodologies that may be followed to clean up the work area, refer to Appendix C for Chapter 14 of HUD's "Guidelines for the Evaluation and Control of Lead–Based Paint Hazards".

(f) *Requirement for a visual inspection.* Following cleanup of the work area, the property owner shall ensure that a visual inspection is conducted to verify that any dust, debris or paint chips created by the activity have been removed and that the visual inspection is passed before general access to the area is allowed.

Note: Refer to sub. (3) for clearance requirements that apply when more than 2 square feet of paint are disturbed during a non–abatement lead–based paint activity.

(g) *Requirement for management of wastewater, air emissions and solid waste.* 1. Discharge of wastewater shall be managed in accordance with chs. NR 105, 106 and 200 to 299.

2. Air emissions shall be managed in accordance with chs. NR 404, 415, 429 and 445.

3. After a lead–based paint activity is conducted, all lead–based paint debris and waste shall be managed in accordance with chs. NR 500 to 538 and 600 to 690.

Note: Refer to Appendix D for guidance from the Department of Natural Resources on managing lead–based paint under their regulations.

(2) PROHIBITED WORK PRACTICES. All of the following work practices are prohibited when performing non–abatement lead–based paint activities on registered lead–safe property:

(a) Uncontained abrasive blasting or uncontained sandblasting.

(b) Machine sanding, grinding or planing without a properly operating HEPA–filtered exhaust control.

(c) Manual dry scraping, sanding or planing of more than 2 square feet of paint.

(d) Using chemical paint strippers containing methylene chloride.

(e) Uncontained high–pressure water blasting or uncontained hydroblasting.

(f) Open–flame burning, torching or charring of paint.

(g) Using a heat gun on paint when the heat gun operates at or above 1100° F.

(h) Using a vacuum that does not have a properly operating HEPA filter when cleaning up dust, debris or paint chips associated with a non–abatement lead–based paint activity.

(i) Dry sweeping dust, debris or paint chips associated with a non–abatement lead–based paint activity.

(3) ADDITIONAL WORK PRACTICE STANDARDS WHEN CERTIFICATION IS REQUIRED. (a) *Applicability.* When certification is required under s. HFS 163.43, certified persons conducting non–abatement lead–based paint activities shall comply with work practice standards under this subsection and subs. (1) and (2).

(b) *Requirement for clearance.* 1. 'When clearance is required.' After a non–abatement lead–based paint activity, clearance shall be conducted to verify the registered lead–safe property has been returned to a lead–safe status when either of the following applies:

a. More than 2 square feet of paint is disturbed.

b. The use of one of the following restricted work practices under par. (d) is involved: abrasive blasting, sandblasting; machine chipping, machine grinding, machine planing, machine sanding, paint stripping, pressure washing, removing components or using a heat gun.

(c) *Requirement to restrict access.* 1. Uncertified persons shall be kept out of the work area where paint is disturbed.

2. Following a non–abatement lead–based paint activity that requires clearance and does not involve a restricted work practice under par. (d) 1. or 2., the work area shall be cleaned and shall pass a visual inspection before uncertified individuals are allowed inside the work area and, if clearance has not been successfully achieved, a notice shall be posted that states: "This worksite has not yet met clearance requirements. Lead–based paint hazards may be present."

3. Following a non–abatement lead–based paint activity that involves a restricted work practice under par. (d) 1. or 2., clearance shall be achieved before uncertified individuals are allowed inside the work area.

(d) *Restricted work practices.* 1. 'Abrasive blasting or sandblasting.' When abrasive blasting or sandblasting of paint is conducted, all of the following apply:

a. The person conducting the activity shall be certified in a lead abatement discipline, or shall be certified as a lead–safe worker, shall have completed lead abatement worker training to learn how to properly perform this activity in a lead–safe manner, and shall have filed with the department proof of training in the form of a course completion certificate.

b. Access of uncertified persons to the work area shall be prohibited until clearance is achieved.

c. Containment shall be used to isolate areas where paint is being disturbed from the rest of the property.

2. 'Machine chipping, grinding, planing or sanding.' When machine chipping, machine grinding, machine planing or machine sanding of paint is conducted, all of the following apply:

a. The person conducting the activity shall be certified in a lead abatement discipline, or shall be certified as a lead–safe worker, shall have completed lead abatement worker training to learn how to properly perform this activity in a lead–safe manner, and shall have filed with the department proof of training in the form of a course completion certificate.

b. Access of uncertified persons to the work area shall be prohibited until clearance is achieved.

c. Engineering controls shall be used that contain the dust and debris and that include the use of a properly operating HEPA–filtered exhaust control, such as a shrouded power tool attached to a HEPA vacuum.

d. Containment shall be used for interior work to isolate areas where paint is being disturbed from the rest of the property.

3. 'Paint stripping.' When chemical paint stripping is conducted, the manufacturer's directions shall be followed and the chemical strippers may not contain methylene chloride.

Note: Using a chemical paint stripper to remove lead–based paint from a component may force lead into the substrate. Lead–safe work practices should be used when abrading a component from which lead–based paint has been chemically stripped.

4. 'Power washing.' When power washing of paint is conducted, all of the following apply:

a. The person conducting the power washing shall know how to perform this activity in a lead–safe manner.

b. A containment system shall be used to prevent the wastes generated from contaminating soils or surface waters or from becoming airborne and dispersing. The paint chips and other solid residues shall be separated from the water, collected and properly managed.

Note: Some local governments prohibit power washing. OSHA and DNR also have regulations that apply to power washing.

5. 'Removing components.' When more than 2 square feet of paint is disturbed during the removal of any interior painted component, excluding removal of painted trim that is not part of a window system or part of a door system, containment shall be

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used to isolate areas where paint is being disturbed from the rest of the property.

6. 'Using a heat gun.' When removal of paint with a heat gun is conducted, the heat gun shall be operated at a temperature below 1100° F.

Note: A higher skill level is required to perform restricted work practices in a lead−safe manner. Although abatement certification is not required for non−abatement lead−based paint activities, the Department recommends that restricted work practices be performed by skilled professionals who have completed abatement training. In "Lead Paint Safety, A Field Guide for Painting, Home Maintenance, and Renovation Work", HUD recommends that persons conducting the following activities complete lead abatement training: contained sanding or grinding with a HEPA vacuum attachment; contained pressure washing; contained abrasive blasting; demolition activities including tearing off siding or demolishing plaster walls or ceilings; opening up wall cavities including removing paneling, baseboards, door casings, window casings, frames or jambs; removing drop ceilings; removing wall−to−wall carpet; scraping paint.

(e) *Occupant protection plans for restricted work practices.* 1. 'Requirement for written occupant protection plan.' Before starting a non−abatement lead−based paint activity that is subject to restricted work practices, a certified person shall prepare a written occupant protection plan on a form obtained from the department. The occupant protection plan shall describe the measures and management procedures that will be taken during the activity to protect occupants from exposure to lead−based paint hazards. The occupant protection plan shall be followed and kept at the job site for viewing by interested persons.

2. 'Requirement to submit occupant protection plan.' To notify the department of the intent to conduct a non−abatement lead−based paint activity that is subject to restricted work practices, the certified person shall submit a copy of the occupant protection plan to the department for receipt no earlier than 60 calendar days and no later than 2 working days before the start of the activity.

3. 'Requirement to distribute occupant protection plan.' a. When an activity involves restricted work practices used in common areas of registered lead−safe property, the certified person shall deliver the occupant protection plan to each occupied dwelling unit no earlier than 60 calendar days and no later than 2 working days before starting the activity and shall document delivery. The person delivering the plans shall document delivery by signing and dating a personal statement describing how the plan was delivered.

b. When an activity involves restricted work practices used in individual units of registered lead−safe property, the certified person shall deliver the occupant protection plan to each occupied dwelling unit involved in the activity no earlier than 60 calendar days and no later than 2 working days before starting the activity and shall document delivery by obtaining the recipient's signature. When an occupant is unavailable or unwilling to sign a confirmation of receipt of the plan, the person delivering the plan may self−certify delivery.

c. When the activity is not performed by the property owner or the property owner's agent or employee, the certified person shall deliver a copy of the occupant protection plan to the property owner or the property owner's agent or employee and shall document delivery by obtaining the recipient's signature.

d. When the occupant protection plan is delivered via mail, the certified person shall mail the plan at least 7 days before the start of the activity and shall document delivery by a certificate of mailing from the post office.

Note: The pre−renovation disclosure materials required by EPA regulations under 40 CFR 745.80 may be distributed together with the occupant protection plan. To request a copy of the Department's occupant protection plan form or to submit a completed form, contact the Asbestos and Lead Section, Bureau of Occupational Health, Room 137, 1 W. Wilson St., P.O. Box 2659, Madison, WI 53701−2659; e−mail "plicasbestoslead@dhfs.state.wi.us"; ph. 608−261−6876; or fax 608−266−9711.

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