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HFS 163 - LEAD PAINT
98-155



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August 27, 1998

The Honorable Robert Welch, Co-Chairperson
Joint Committee for Review of Administrative Rules
Room 201, One East Main
Madison, Wisconsin

The Honorable Glenn Grothman, Co-Chairperson
Joint Committee for Review of Administrative Rules
Room 125 West, State Capitol
Madison, Wisconsin

Dear Senator Welch and Representative Grothman:

This is notification that the Department at the end of this week will publish an emergency order to revise its rules for certifying persons to perform lead-based paint activities, including abatement, lead hazard reduction and inspection, and accrediting training courses for those persons. The revision of the rules is being promulgated by emergency order to protect public health and safety. A copy of the emergency order is attached to this letter.

Most of the rule changes are being made to bring the Department's rules into compliance with U.S. Environmental Protection Agency (EPA) regulations at 40 CFR 745, Subpts. L and Q. The Department has until the end of this month to bring its rules into conformity with those EPA regulations in order to obtain EPA authorization to continue operating a state program that substitutes for an EPA-operated program and so that Wisconsin does not lose or become at risk of losing substantial EPA and other federal grant funding related to lead hazard reduction.

If you have any questions about the emergency rules, you may contact Gail Boushon of the Department's Division of Health at 267-2289.

Sincerely,

Paul E. Menge
Administrative Rules Manager

Attachment

8-19-98

**ORDER OF THE
DEPARTMENT OF HEALTH AND FAMILY SERVICES
REPEALING, RENUMBERING, AMENDING, REPEALING AND RECREATING,
AND CREATING RULES**

FINDING OF EMERGENCY

The Department of Health and Family Services finds that an emergency exists and that the rules included in this order are necessary for the immediate preservation of the public peace, health, safety or welfare. The facts constituting the emergency are as follows:

Exposure to lead in paint, dust or soil is known to have both short term and long term deleterious effects on the health of children, causing learning disabilities, decreased growth, hyperactivity, impaired hearing, brain damage and even death. Occupational exposure in adults may result in damage to the kidneys, the central nervous system in general, the brain in particular and to the reproductive system. Children born of a parent who has been exposed to excessive levels of lead are more likely to die during the first year of childhood. About one child in six has a level of lead in the blood that exceeds the threshold for risk.

A residential dwelling or other building built before 1978 may contain lead-based paint. When lead-based paint on surfaces like walls, ceilings, windows, woodwork and floors is broken, sanded or scraped down to dust and chips, the living environment can become a source of poisoning for occupants. When it becomes necessary or desirable to identify lead hazards or reduce them, it is imperative that persons who provide these services be properly trained to safely and accurately perform lead-based paint activities.

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

The Department's rules for certification to perform lead-based paint activities and for accreditation of training courses are in ch. HFS 163, Wis. Adm. Code. Chapter HFS 163 was promulgated by emergency order in July 1993 to establish certification requirements, including training, for lead abatement workers and lead supervisors, accreditation requirements for the corresponding training courses and criteria for approval of instructors.

The Department amended ch. HFS 163 effective February 18, 1997, by an emergency order. The emergency order added the certification disciplines of lead inspector, lead project designer and lead risk assessor for persons engaged in lead management activities and added accreditation requirements for the corresponding

training courses. In addition, the order added certification fees for the new disciplines and course accreditation application fees.

Several years ago, Congress authorized the U.S. Environmental Protection Agency (EPA) to promulgate regulations that establish minimum certification and work practice standards for lead-based paint professionals, minimum accreditation standards for the courses that prepare persons for certification and minimum standards for approving state and tribal lead certification and accreditation programs. EPA published these regulations in the August 29, 1996, Federal Register, as 40 CFR 745, Subpts. L and Q.

If a state or Indian tribe fails to request and receive EPA approval for its program by August 30, 1998, EPA is charged with operating a lead training and certification program for that state or tribe. This means that individuals currently certified by, and training courses currently accredited by, the Department of Health and Family Services would also have to apply to EPA and comply with all EPA regulations.

Failure to obtain EPA authorization may negatively affect U.S. Department of Housing and Urban Development (HUD) or EPA grants to local public health agencies for lead hazard reduction and lead poisoning prevention activities and funding for home loans, weatherization loans and other housing assistance. Lack of federal funding may limit the ability of citizens to purchase homes, weatherize homes, or reduce lead-based paint hazards in homes.

In addition, the State lead training and certification program operates primarily on funding from EPA grants. EPA lead grant funding for FFY 99 is dependent on having an approvable program. Without adequate funding, the lead training and certification program be unable to maintain the current high level of responsiveness to complaints about lead hazards and requests for assistance.

Inspections or risk assessments conducted under the real estate disclosure regulations must be conducted by qualified lead professionals. Failure to achieve EPA authorization of the State's lead training and certification program may result in a lack of qualified lead professionals.

Under EPA authorization, states are able to diverge from EPA regulations as long as the alternative is as protective of human health and the environment as the EPA regulations. This flexibility would allow the State lead training and certification program to be more responsive to State needs, which may be different from the needs of the eastern states, the needs of which were reflected in the federal regulations.

Before the Department can receive EPA approval of its lead training and certification program, changes to the current State lead certification and accreditation program must be made. These necessary changes are the basis for this emergency order and include the following major revisions to the current rules:

Certification

- Adds certification requirements for lead companies in addition to individuals.
- Changes the current optional certification examination to a mandatory certification examination for supervisors, inspectors and risk assessors.

- Adds a limited term certification called “interim certification” for individuals waiting to take the certification exam.
- Provides for a maximum 3-year certification period from the completion date of the most recent training course instead of a one-year or 2-year period from the date certification is issued.
- Revises how worker-safety training is received by requiring that worker-safety training be completed as a prerequisite to lead training rather than be required as part of a lead training course.
- Reduces the required frequency of refresher training from every 2 years to every 3 years.
- Adds work practice standards for lead-based paint activities.

Accreditation

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

Enforcement and oversight

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

In addition to the changes specifically required by EPA before the State may apply to EPA for approval of its program, the revised rules establish a new discipline called worker-homeowner to meet the needs of homeowners who EPA requires be certified in order to conduct abatement in their own homes when a child has an elevated blood lead level. This special certification category allows the Department to establish minimum training and work practice requirements that will encourage more homeowners with lead poisoned children to permanently abate the lead hazards in their homes than is likely to occur when certified companies must be hired.

Public comment was sought in the development of the rule revisions. On September 5, 1997, the Department published notice in the Wisconsin State Journal of its intent to seek EPA authorization. The notice outlined the major changes needed to bring the state program into compliance with EPA approval criteria. In addition the public was invited to submit comments or request a hearing. No comments were received in response to this notice.

The work practice standards under s. HFS 163.14 were reviewed and approved by a technical advisory committee appointed by the Department in accordance with ss. 254.167, 254.172 and 254.174, Stats.

ORDER

Pursuant to the authority vested in the Department of Health and Family Services by ss. 227.24(1), 250.04(7), 254.167, 254.172, 254.176(1) and (3) and 254.178(2), Stats., the Department hereby repeals, renumbers, amends, repeals and recreates and creates rules interpreting ss. 254.167, 254.172, 254.176 and 254.178, Stats.

SECTION 1. HFS 163 (title) and 163.01 and 163.02 are repealed and recreated to read:

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

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

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

2. The applicability date of this subchapter, subch. II and subch. IV for any individual performing, supervising or offering to perform or supervise a lead-based paint activity shall be August 30, 1998. Beginning August 30, 1998, a company performing, supervising or offering to perform or supervise a lead-based paint activity may apply for certification and shall comply with this subchapter, subch. II and subch. IV upon receipt of certification. Otherwise, the applicability date of this subchapter, subch. II and subch. IV for all companies performing, supervising or offering to perform or supervise a lead-based paint activity shall be August 30, 1999.

(b) 1. This subchapter, subch. III, subch. IV and Appendix A apply to any person or organization that offers, conducts or teaches a lead (Pb) inspector, project designer, risk assessor, supervisor, worker or worker-homeowner training course leading to certification by the department.

2. The applicability date of this subchapter, subch. III, subch. IV and Appendix A for any person or organization that offers, conducts or teaches lead (Pb) inspector, project designer, risk assessor, supervisor, worker or worker-homeowner training courses shall be August 30, 1998.

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

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

SECTION 2. HFS 163.03 (1) is repealed and recreated to read:

HFS 163.03 (1) "Abatement" means any measure, set of measures or project designed or intended to permanently eliminate lead-based paint hazards, and is further defined as follows:

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

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

7. Preparation for disposal of waste from an abatement.

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

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

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

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

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

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

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

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

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

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

SECTION 3. HFS 163.03 (3m) is created to read:

HFS 163.03 (3m) "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.

SECTION 4. HFS 163.03 (4) is amended to read:

HFS 163.03 (4) "Certification" means an approval status granted by the department to an individual or company meeting the conditions for certification under subchs. I and II.

SECTION 5. HFS 163.03 (8g), (8m), (8r), (8t), (9m), (10m), (11m) (13g), (13m), (14m), (18m), (19g), (19m), (22m), (25g), (25m) and (26) note are created to read:

HFS 163.03 (8g) "Clearance level" means the value that indicates the maximum amount of lead permitted in dust on a surface following completion of an abatement activity.

(8m) "Common area" means a portion of a building or the building's real property that is generally accessible to all occupants.

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

(8r) "Component" or "building component" means a specific design or structural element or fixture of a building, residential dwelling or child-occupied facility that is distinguished from another by form, function or location.

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

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

(8t) "Containment" means a process to protect workers and the environment by controlling exposures to the lead-contaminated dust and debris created during an abatement.

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

(9m) "Course agenda" means an outline of the key topics to be covered during a training course, including the time allotted to teach each topic.

(10m) "Course test blue print" means written documentation identifying the proportion of course test questions devoted to each major topic in the course curriculum.

(11m) "Deteriorated paint" means paint that is cracking, flaking, chipping, peeling or otherwise separating from the substrate of a building component.

(13g) "Distinct paint history" means the 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.

(13m) "Documented methodologies" means generally used and accepted methods or protocols.

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

(14m) "Encapsulant" means a substance that forms a barrier between lead-based paint and the environment using a liquid-applied coating, with or without reinforcement materials or an adhesively bonded covering material.

(18m) "General supervision" means assistance and oversight provided by a person who is either onsite or in contact with and readily available to the person being supervised.

(19g) "Hands-on skills assessment" means an evaluation which tests a trainee's ability to satisfactorily perform work practices and hands-on activities, as well as any other skill taught in a training course.

(19m) "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.

(22m) "Interim certification" means a temporary status the department may grant to an individual who has applied for lead (Pb) supervisor, inspector or risk assessor certification and is qualified to take a certification examination but is not yet eligible for initial certification.

(25g) "Lead-based paint hazard" means any condition that causes exposure to lead from lead-contaminated dust, lead-contaminated soil or lead-based paint that is

deteriorated or present in accessible surfaces, friction surfaces or impact surfaces that would result in adverse human health effects.

(25m) "Lead company" means a company, partnership, corporation, sole proprietorship, association or other entity that performs, supervises or offers to perform or supervise a lead-based paint activity.

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

SECTION 6. HFS 163.03 (29) is amended to read:

HFS 163.03 (29) "Lead hazard reduction activity" means any action designed to permanently or temporarily reduce or eliminate human exposure to ~~lead~~ lead-based paint hazards through methods that include abatement or interim control activities.

SECTION 7. HFS 163.03 (33m), (38g), (38m), (39m), (40g), (40m) and (42m) are created to read:

HFS 163.03 (33m) "Lead poisoning" means a level of lead in the blood of 10 or more micrograms per 100 milliliters of blood.

(38g) "Living area" means any area of a residential dwelling or child-occupied facility used by one or more resident.

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

(38m) "Multi-family dwelling" means a structure that contains more than one separate residential dwelling unit which is used or occupied or intended to be used or occupied, in whole or in part, as the home or residence of one or more persons.

(39m) "Paint in poor condition" means more than 10 square feet of deteriorated paint on exterior components with large surface areas, more than 2 square feet of deteriorated paint on interior components with large surface areas or that more than 10 percent of the total surface area is deteriorated on interior or exterior components with small surface areas.

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

(40g) "Permanently covered soil" means soil which has been separated from human contact by the placement of a barrier consisting of solid, relatively impermeable materials, such as pavement or concrete. Grass, mulch and other landscaping materials are not considered permanent covering.

(40m) "Person" means any natural or judicial person including any individual, corporation, partnership or association, any body politic or corporate, any Indian tribe or any state or political subdivision of a state, any interstate body or any department, agency or other instrumentality of the federal government.

(42m) "Recognized laboratory" means an environmental laboratory recognized by the department as being capable of performing an analysis for lead compounds in paint, soil and dust based on its accreditation by the national lead laboratory accreditation program (NLLAP).

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

SECTION 8. HFS 163.04 is repealed.

SECTION 9. HFS 163.10 is repealed and recreated to read:

HFS 163.10 CERTIFICATION OF AN INDIVIDUAL. (1) REQUIREMENT. Only an individual certified by the department under this chapter may do any of the following:

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

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

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

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

Note: Certification requirements under this chapter do not preclude a person from requiring certification under this chapter in a contract for services. For the requirement that a company be certified to perform, supervise or offer to perform or supervise a lead-based paint activity, see s. HFS 163.105.

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

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

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

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

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

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

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

(3) **CONDITIONS FOR INITIAL CERTIFICATION.** (a) Summary. An individual applying for initial certification in any discipline identified under sub. (2) shall be 18 years of age or older, shall meet applicable education and experience qualifications under par. (b), shall successfully complete certification training requirements under s. HFS 163.12 and, to be certified as a lead (Pb) inspector, risk assessor or supervisor, shall pass a certification examination under par. (c). To apply for certification, the applicant shall submit to the department an application under sub. (4) and include the applicable fee under s. HFS 163.11.

(b) Education and experience. 1. 'Requirement.' An applicant for initial certification as a lead (Pb) project designer, risk assessor or supervisor shall meet the applicable education and experience qualifications in this paragraph in addition to the certification training requirements under s. HFS 163.12.

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

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

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

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

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

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

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

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

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

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

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

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

a. Pass a certification examination administered by the department or by a person authorized by the department to administer the certification examination under the department's direction or with the department's approval. A training provider may not administer a certification examination, except that the department may be a training provider and also administer a certification examination.

b. Successfully demonstrate knowledge of subchs. 1, II and IV of this chapter if the individual previously passed a certification examination administered by EPA, another EPA-authorized state or an EPA-authorized tribe and currently possesses an applicable

certification card or license issued by EPA, another EPA-authorized state or an EPA-authorized tribe. To demonstrate knowledge of subchs. 1, II and IV of this chapter, the applicant shall obtain a regulation worksheet and regulations from the department, shall accurately complete the worksheet with information from the regulations and shall submit the worksheet to the department with the certification application.

Note: To obtain a copy of the worksheet and regulations, write or phone the Asbestos and Lead Unit, Bureau of Public Health, Room 117, 1414 E. Washington Avenue, Madison, WI 53703-3043; (608) 261-6876 or fax (608) 266-9711. Return the completed worksheet, application and fees 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. (5) (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 163.12. 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.

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

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

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

b. Register for the certification examination by submitting to the department a completed application for certification under sub. (4) and the registration fee under s. HFS 163.11.

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

4. 'Rescheduling a certification examination.' If unable to take the certification examination at the time or date scheduled by the department, the applicant may

reschedule the certification examination at another time or date without payment of an additional fee if the applicant requests the transfer not less than one work day prior to the scheduled certification examination. The certification examination fee is not refundable.

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

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

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

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

(d) Documentation of training. 1. Copies of all previous training certificates for required courses under s. HFS 163.12. The copy of the most current training certificate shall be notarized as a true copy of the original certificate.

2. Except for an applicant for worker-homeowner certification, documentation of worker safety training under s. HFS 163.12 (5) on a form obtained from or approved by the department.

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

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

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

a. A resume describing the relevant experience.

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

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

d. Copies of inspection reports prepared by the applicant.

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

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

(f) Fees. 1. The appropriate certification fee under s. HFS 163.11 or a written request for a government certification fee exemption under s. HFS 163.11 (1). To request an exemption, the applicant shall complete the exemption section of the application and submit a letter from the employing agency describing the job duties that qualify an employe for a certification fee exemption.

2. For lead (Pb) inspector, risk assessor or supervisor initial certification, a certification examination registration fee under s. HFS 163.11.

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

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

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

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. 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).

(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 163.05.

(6) **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 163.12.

(b) Initial certification. Initial certification shall remain valid for a maximum of 3 years after the completion date of the most recent training course for the discipline under s. HFS 163.12, depending on the fee paid and compliance with training and other certification requirements under this subchapter. The department may not grant a certification expiration date that extends 12 months or more beyond the date the applicant is required to complete refresher training for the discipline.

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

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

1. Be in compliance with all requirements of subch. I and this subchapter.
2. Be current with the certification training requirements under s. HFS 163.12.
3. Submit an application for recertification to the department under par. (c) and include the appropriate certification fee under s. HFS 163.11.
4. Pass a certification examination under sub. (3) (c) when one of the following applies:

a. The department requires the individual to pass the certification examination because the department has reason to believe a training course or training certificate does not meet all requirements of this chapter.

b. The applicant for recertification as a lead (Pb) inspector, risk assessor or supervisor has not previously passed a certification examination under sub. (3) (c) 1.

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

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

1. 'Application form.' A fully and accurately completed application on a form obtained from the department. The applicant shall personally sign the application affidavit verifying the accuracy of the information.

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

3. 'Training certificates.' A copy of any training certificate which was not previously submitted for training required under s. HFS 163.12. The copy of the training certificate shall be notarized as a true copy of the original certificate.

4. 'Fee.' The appropriate certification fee under s. HFS 163.11 or, if requesting a government fee exemption under s. HFS 163.11 (1), a letter from the employing agency describing the job duties that qualify the employe for a fee exemption.

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

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

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

3. 'Deny recertification.' If recertification is denied, the department shall give the applicant a written explanation for the denial and shall notify the applicant of the right to appeal that decision under s. HFS 163.05.

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

SECTION 10. HFS 163.105 is created to read:

HFS 163.105 CERTIFICATION OF A COMPANY. (1) REQUIREMENT. Only a company certified by the department as a lead (Pb) company under this chapter may perform, supervise or offer to perform or supervise a lead-based paint activity.

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

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

(b) Agree to employ only appropriately certified employees to perform or supervise lead-based paint activities.

(c) Agree that all company employees will follow the work practice standards under s. HFS 163.14.

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

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

(3) APPLICATION FOR CERTIFICATION. A company seeking certification shall submit to the department a fully and accurately completed application on a form obtained from the department. The application shall include the name of any individual certified under sub. (2) (d) or (e) and a signed statement attesting that the company will employ only appropriately certified employees to conduct or supervise lead-based paint activities and that the company and its employees will follow the work practice standards in s. HFS 163.14 for conducting lead-based paint activities. The statement shall be signed by an owner or officer of the company.

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

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

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

(c) Deny certification. If the department denies lead (Pb) company certification, the department shall give the company a written explanation for the denial and shall notify the company of the right to appeal that decision under s. HFS 163.05.

(5) LENGTH OF COMPANY CERTIFICATION. A company's certification shall remain valid for a maximum of 3 years from the date of issuance, depending on compliance with this chapter.

(6) RECERTIFICATION OF A COMPANY. (a) Requirement. A lead company certified under this subchapter may not perform, supervise or offer to perform or supervise a lead-based paint activity for which certification is required after that

company's certification expires until the company is recertified by the department and possesses a new, unexpired certificate of approval.

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

1. Be in compliance with all requirements of this chapter.
2. Submit an application for recertification to the department under par. (c).

(c) Application. A company applying for recertification shall submit to the department a fully and accurately completed application on a form obtained from the department. The application shall include a signed statement attesting that the company will employ only appropriately certified employees to conduct or supervise lead-based paint activities, and that the company and its employees will follow the work practice standards in s. HFS 163.14 for conducting lead-based paint activities. The statement shall be signed by an owner or officer of the company. In the application, the company may designate an employee who is authorized to act on the company's behalf.

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

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

2. 'Grant recertification.' If the department grants recertification to a lead (Pb) company, the department shall issue a certificate of approval to extend certification for a maximum of 3 years, depending on compliance with this chapter.

3. 'Deny recertification.' If the department denies recertification to a lead (Pb) company, the department shall give the company a written explanation for the denial and shall notify the company of the right to appeal that decision under s. HFS 163.05.

SECTION 11. HFS 163.12 and 163.13 are repealed and recreated to read:

HFS 163.12 CERTIFICATION TRAINING REQUIREMENTS. To be certified under subch. I and this subchapter as a lead (Pb) inspector, project designer, risk assessor, supervisor, worker or worker-homeowner, an individual shall meet all of the following training requirements:

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

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

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

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

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

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

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

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

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

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

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

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

(3) REFRESHER TRAINING. (a) Requirement for refresher training. The individual shall remain current with training by completing the applicable refresher training course under par. (b) no later than 3 years after completing the initial training course and each subsequent refresher training course within 3 years after completing the previous training course.

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

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

1. For certification as a lead (Pb) inspector, a lead inspector refresher course.
2. For certification as a lead (Pb) risk assessor, a lead inspector refresher course and a lead risk assessor refresher course.
3. For certification as a lead (Pb) project designer, a lead project designer refresher course.
4. For certification as a lead (Pb) supervisor, a lead supervisor refresher course.
5. For certification as a lead (Pb) worker, a lead worker refresher course.
6. For certification as a lead (Pb) worker-homeowner, a lead worker-homeowner refresher course or a lead worker refresher course.

(c) Retaking initial training. When an individual fails to take a refresher course within 3 years of previous training, the individual is not in compliance with certification requirements and may not perform services for which certification is required. Before performing services for which certification is required, the individual shall comply with the following:

1. If the individual's training is past due and certification has not expired, the individual shall complete a refresher training course.
2. If the individual's training is past due and certification has expired, the individual shall complete an initial training course.

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

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

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

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

2. Worker safety, including Material Safety Data Sheets (MSDS), respiratory protection program, basic lead (Pb) engineering controls, trips and falls, heat stress, scaffold and ladder hazards, electrical hazards and fire hazards.

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

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

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

(3) **REQUIREMENT TO PASS CERTIFICATION EXAMINATION.** To maintain certification, a lead (Pb) inspector, risk assessor or supervisor certified by the department prior to August 31, 1998, shall pass the certification examination under s. HFS 163.10 (3) (c) prior to August 31, 1999.

(4) **RESPONSIBILITY FOR TRAINING CERTIFICATE AND CERTIFICATION CARD.** The individual to whom a training certificate is issued by a training manager and a certification card is issued by the department is responsible for that training certificate and certification card. They are not the property of that individual's employer. The employer may not confiscate an employee's training certificate or certification card and may be subject to an enforcement action under s. HFS 163.32 for violating this subsection.

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

(6) **SUMMARY OF LEAD IDENTIFICATION ACTIVITIES.** (a) Requirement for summary. A person conducting a lead inspection, lead hazard screen or lead risk assessment on or after August 31, 1998, for which a certified lead (Pb) inspector or risk assessor is required, shall submit to the department a summary of the lead

identification activity conducted on a form obtained from or approved by, the department.

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

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

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

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

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

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

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

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

SECTION 12. HFS 163.14 is hereby repealed and recreated to read:

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

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

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

Note: Refer to the note under s. HFS 163.03 (13m) for examples of documented methodologies.

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

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

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

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

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

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

1. Date of the inspection.
2. Address of building.
3. Date of construction.

4. Apartment numbers, if applicable.
5. Name, address and telephone number of the owner or owners of each residential dwelling or child-occupied facility.
6. Name, address, telephone number, certification number and signature of each certified inspector and risk assessor conducting the inspection.
7. Name, address, telephone number and certification number of the certified lead (Pb) company employing the certified inspector and risk assessor conducting the inspection.
8. Each testing method and device and each sampling procedure used for paint analysis, including quality control data and, if used, the serial number of any x-ray fluorescence (XRF) device.
9. Specific locations of each painted component tested for the presence of lead-based paint.
10. The results of the inspection expressed in terms appropriate to the sampling method used.

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

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

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

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

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

Note: Refer to the note under s. HFS 163.03 (13m) for examples of documented methodologies.

(d) In residential dwellings, use the standards under sub. (8) to collect 2 composite dust samples, one from the floors and the other from the windows, in rooms, hallways

or stairwells where one or more children under 6 years of age are most likely to come into contact with dust.

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

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

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

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

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

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

(i) Following a lead hazard screen, prepare a written lead hazard screen report for submission to the property owner 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.

3. Date of construction of buildings.

4. Apartment number, if applicable.

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

6. Name, address, telephone number, certification number and signature of the certified risk assessor conducting the lead hazard screen.

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

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

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

10. Results of the visual inspection.

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

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

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

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

15. Any other sampling results.

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

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

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

(b) Collect background information on the physical characteristics of the residential dwelling or child-occupied facility and occupant use patterns that may cause lead-based paint exposure to one or more children under 6 years of age.

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

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

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

Note: Refer to the note under s. HFS 163.03 (13m) for examples of documented methodologies.

(d) In residential dwellings, collect single-surface dust samples or use the standards under sub. (8) to collect composite dust samples from the window and floor

in each living area where a child under 6 years of age is likely to come into contact with dust.

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

1. Common areas adjacent to the sampled residential dwelling or child-occupied facility.
2. Other common areas in the building where the risk assessor determines that one or more children under 6 years of age are likely to come into contact with dust.

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

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

1. Exterior play areas where bare soil is present.
2. Dripline and foundation areas where bare soil is present.

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

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

(j) Following a risk assessment, prepare a written risk assessment report for submission to the property owner 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.
3. Date of construction of buildings.
4. Apartment number, if applicable.
5. Name, address and telephone number of each owner of each building.

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

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

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

9. Results of the visual inspection.

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

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

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

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

14. Any other sampling results.

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

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

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

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

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

(5) ABATEMENT. Only a certified lead (Pb) supervisor, worker, worker-homeowner or project designer may perform abatement. In performing abatement, the

certified lead (Pb) supervisor, worker, worker-homeowner or project designer shall comply with all of the following:

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

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

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

(d) Requirement for notification of abatement. Before performing a lead hazard reduction activity for which certification is required, a lead (Pb) company's supervisor certified under s. HFS 163.105 (2) (d) or a certified worker-homeowner shall notify the department of the activity as follows:

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

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

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

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

4. 'Content of notification.' Original or emergency notification to the department shall include all of the following information:

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

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

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

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

(e) 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. All elements of the form shall be completed, including type of notification, project type, project activities, project information, lead identification information, abatement contractor identification, facility information and the quantity of lead-based paint materials in the project.

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

3. 'Official date of written notification.' a. The official date of a written notification shall be the date of postmark for notification sent by the U.S. mail or the date of acceptance by the carrier for notification sent by a commercial carrier.

b. The official date of a written notification submitted by fax or any other department-approved method shall be the department's date of receipt stamp. For any notification submitted by fax or other department-approved method, a notification received after 4:00 p.m. shall be dated as received the next work day.

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

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

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

(f) Verbal notification. 1. 'Acceptable methods for submitting verbal notification.' Verbal notification may be made by telephone or in person.

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

3. 'Written follow-up to verbal notification.' When verbal notification is given, the supervisor or worker-homeowner shall also submit a written notification within 2 work days after the notification by telephone.

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

(g) Requirement for written occupant protection plan. A certified lead (Pb) supervisor or project designer shall prepare a written occupant protection plan prior to an abatement. The occupant protection plan shall be unique to each residential dwelling or child-occupied facility and shall describe the measures and management procedures that will be taken during the abatement to protect the building occupants from exposure to any lead-based paint hazards.

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

1. Open-flame burning or torching of lead-based paint is prohibited.
2. Machine sanding or grinding or abrasive blasting or sandblasting of lead-based paint is prohibited unless used with a High Efficiency Particulate Air (HEPA) exhaust control which removes particles of 0.3 microns or larger from the air at 99.97 percent or greater efficiency.
3. Dry scraping of lead-based paint is permitted only in the following situations:
 - a. Dry scraping in conjunction with a heat gun which produces heat at a temperature below 1100°F.
 - b. Dry scraping around electrical outlets.
 - c. Dry scraping when treating defective paint spots totaling no more than 2 square feet in any one room, hallway or stairwell or totaling no more than 20 square feet on exterior surfaces.

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

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

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

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

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

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

1. Start and completion dates of the abatement project.

2. A copy of the written abatement notice under par. (e) or (f) 3.

3. Name, address, telephone number and certification number of each certified lead (Pb) company conducting the abatement project and the name and certification number of each supervisor assigned to the abatement project.

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

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

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

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

(a) Perform a visual inspection to determine if deteriorated painted surfaces or visible amounts of dust, debris or residue are still present. If deteriorated painted surfaces or visible amounts of dust, debris or residue are present, the abatement company shall eliminate these conditions prior to the continuation of the clearance procedures.

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

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

Note: Refer to the note under s. HFS 163.03 (13m) for examples of documented methodologies.

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

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

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

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

3. Following an exterior paint abatement, conduct a visual inspection. If visible dust and debris is present on horizontal surfaces in the outdoor living area closest to the abated surface, the abatement company shall eliminate these conditions before clearance may continue. In addition, conduct a visual inspection to determine the presence of paint chips on the dripline or next to the foundation below any exterior surface abated. If paint chips are present, the abatement company shall remove the paint chips from the site and properly dispose of them according to applicable federal, state and local government requirements.

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

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

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

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

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

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

1. The persons who abate or clean the dwelling units do not know which dwelling units will be selected for the random sample.

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

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

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

1. Date of the clearance.

2. Address of abatement site.

3. Name, address, telephone number, certification number and signature of each certified lead (Pb) inspector or risk assessor conducting the clearance.

4. Name, address, telephone number and certification number of the certified lead (Pb) company employing each certified risk assessor conducting the risk assessment, if applicable.

5. The results of clearance testing and, if applicable, all soil analyses and the name, address and telephone number of each recognized laboratory that conducted the analyses.

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

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

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

(a) A composite dust sample shall consist of at least 2 subsamples.

(b) Every component that is being tested shall be included in the sampling.

(c) A composite dust sample may not consist of subsamples from more than one type of component.

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

SECTION 13. HFS 163.20 (6) to (10) are repealed and recreated to read:

HFS 163.20 (6) APPROVED TRAINING MANAGER. (a) Requirement for a training manager. The training provider or an owner of a training provider business, shall be an approved training manager. If the training provider or owner is not eligible for approval as a training manager, the training provider shall employ a training manager who is approved under s. HFS 163.24 (2). The actions of the training manager shall be deemed actions of the owner.

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

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

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

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

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

1. 'Principal instructor.' At least one principal instructor shall provide direct supervision of each hands-on instructional activity and skills assessment.
2. 'Student-to-instructor ratio.' A student-to-instructor ratio of not greater than 8:1 shall be maintained during hands-on instructional activities and a student-to-instructor ratio of not greater than 5:1 shall be maintained during hands-on skills assessment to ensure adequate instruction and observation of student performance.
3. 'Guest instructors.' One or more guest instructors may assist the principal instructor with hands-on instructional activities and skills assessment.

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

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

- a. Role and responsibilities of a lead (Pb) inspector.
- b. Background information on lead and its adverse health effects.
- c. Background information on federal, state and local regulations and guidance that pertains to lead-based paint and lead-based paint activities.
- d. Lead-based paint inspection methods, including selection of rooms and components for sampling or testing. This topic shall include hands-on instructional activities and hands-on skills assessment.
- e. Paint, dust and soil sampling methodologies. This topic shall include hands-on instructional activities and hands-on skills assessment.
- f. Clearance standards and testing, including random sampling. This topic shall include hands-on instructional activities and hands-on skills assessment.
- g. Preparation of the final inspection report. This topic shall include hands-on instructional activities and hands-on skills assessment.
- h. Recordkeeping.

2. 'Lead (Pb) project designer courses.' A lead project designer training course shall provide a minimum of 8 training hours to persons who have successfully completed the lead supervisor course. The lead project designer training course shall include lectures, demonstrations, a course review and a written course test. The training course shall adequately cover the course learning goals and objectives submitted by the training manager and all of the following topics, which are further described in sub. (2) of Appendix A:

- a. Role and responsibilities of a lead (Pb) project designer.
- b. Development and implementation of an occupant protection plan for large scale abatement projects.
- c. Lead-based paint abatement and lead-based paint hazard reduction methods, including restricted practices for large-scale abatement projects.
- d. Interior dust abatement and cleanup or lead hazard reduction methods for large-scale abatement projects.
- e. Clearance standards and testing for large scale abatement projects.
- f. Integration of lead-based paint abatement methods with modernization and rehabilitation projects for large scale abatement projects.

3. 'Lead (Pb) risk assessor courses.' A lead risk assessor training course shall provide a minimum of 16 training hours to persons who have successfully completed the lead inspector course. The lead risk assessor training course shall include lectures, demonstrations, a minimum of 4 hours of hands-on practice, hands-on skills assessment, a course review and a written course test. The training course shall adequately cover the course learning goals and objectives submitted by the training manager and all of the following topics, which are further described in sub. (3) of Appendix A:

- a. Role and responsibilities of a lead (Pb) risk assessor.
- b. Collection of background information to perform a risk assessment.
- c. Sources of environmental lead contamination such as paint, surface dust and soil, water, air, packaging and food.
- d. Visual inspection for the purposes of identifying potential sources of lead-based paint hazards. This topic shall include hands-on instructional activities and hands-on skills assessment.
- e. Lead hazard screen protocol.
- f. Sampling for other sources of lead exposure. This topic shall include hands-on instructional activities and hands-on skills assessment.
- g. Interpretation of lead-based paint and other lead sampling results, including all applicable state and federal regulations and guidance pertaining to lead-based paint hazards. This topic shall include hands-on instructional activities and hands-on skills assessment.

h. Development of hazard control options, the role of interim controls and operations and maintenance activities to reduce lead-based paint hazards.

i. Preparation of a final risk assessment report.

4. 'Lead (Pb) supervisor courses.' A lead supervisor training course shall provide a minimum of 16 training hours to persons who have successfully completed the lead worker course. The lead supervisor training course shall include lectures, demonstrations, a minimum of one hour of hands-on practice, hands-on skills assessment, a course review and a written course test. The training course shall adequately cover the course learning goals and objectives submitted by the training manager and all of the following topics, which are further described in sub. (4) of Appendix A:

a. Role and responsibilities of a lead (Pb) supervisor.

b. Background information on lead and its adverse health effects.

c. Background information on federal, state and local regulations and guidance that pertain to lead-based paint abatement.

d. Liability and insurance issues relating to lead-based paint abatement.

e. Risk assessment and inspection report interpretation. This topic shall include hands-on instructional activities and hands-on skills assessment.

f. Development and implementation of an occupant protection plan and abatement report.

g. Lead-based paint hazard recognition and control. The hands-on instructional activities and hands-on skills assessment for this topic are covered in the prerequisite worker course.

h. Lead-based paint abatement and lead-based paint hazard reduction methods, including restricted practices. The hands-on instructional activities and hands-on skills assessment for this topic are covered in the prerequisite worker course.

i. Interior dust abatement, cleanup, lead-based paint hazard control and reduction methods. The hands-on instructional activities and hands-on skills assessment for this topic are covered in the prerequisite worker course.

j. Soil and exterior dust abatement, lead-based paint hazard control and reduction methods. The hands-on instructional activities and hands-on skills assessment for this topic are covered in the prerequisite worker course.

k. Clearance standards and testing.

l. Cleanup and waste disposal.

m. Recordkeeping.

5. 'Lead (Pb) worker courses.' A lead worker training course shall provide a minimum of 16 training hours to persons who have successfully completed worker-safety training. The lead worker training course shall include lectures, demonstrations, a minimum of 8 hours of hands-on practice, hands-on skills assessment, a course review and a written course test. The training course shall adequately cover the course learning goals and objectives submitted by the training manager and all of the following topics, which are further described in sub. (5) of Appendix A:

a. Role and responsibilities of a lead (Pb) worker.

b. Background information on lead and its adverse health effects.

c. Background information on federal, state and local regulations and guidance that pertains to lead-based paint abatement.

d. Lead-based paint hazard recognition and control. This topic shall include hands-on instructional activities and hands-on skills assessment.

e. Lead-based paint abatement and lead-based paint hazard reduction methods, including restricted practices. This topic shall include hands-on instructional activities and hands-on skills assessment.

f. Interior dust abatement methods, cleanup and lead-based paint hazard reduction. This topic shall include hands-on instructional activities and hands-on skills assessment.

g. Soil and exterior dust abatement methods and lead-based paint hazard reduction. This topic shall include hands-on instructional activities and hands-on skills assessment.

6. 'Lead (Pb) worker-homeowner courses.' A lead worker-homeowner training course for homeowners performing work in their own non-rental dwelling shall provide a minimum of 16 training hours. The lead worker-homeowner training course shall include lectures, demonstrations, a minimum of 8 hours of hands-on practice, hands-on skills assessment, a course review and a written course test. The training course shall adequately cover the course learning goals and objectives submitted by the training manager and all of the following topics, which are further described in sub. (6) of Appendix A:

a. Role and responsibilities of a lead (Pb) worker-homeowner.

- b. Background information on lead and its adverse health effects.
- c. Background information on federal, state and local regulations and guidance that pertains to lead-based paint abatement.
- d. Lead-based paint hazard recognition and control. This topic shall include hands-on instructional activities and hands-on skills assessment.
- e. Lead-based paint abatement and lead-based paint hazard reduction methods, including restricted practices. This topic shall include hands-on instructional activities and hands-on skills assessment.
- f. Interior dust abatement methods, cleanup and lead-based paint hazard reduction. This topic shall include hands-on instructional activities and hands-on skills assessment.
- g. Soil and exterior dust abatement methods and lead-based paint hazard reduction. This topic shall include hands-on instructional activities and hands-on skills assessment.

7. 'Lead refresher courses.' Each refresher training course shall be a minimum of 8 training hours, except that a lead (Pb) project designer refresher training course shall be a minimum of 4 training hours. Each refresher training course 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 refresher course shall adequately cover the course learning goals and objectives submitted by the training manager and all of the following topics, which are further described in sub. (7) of Appendix A:

- a. Review of the curriculum topics for the full-length course, as appropriate.
- b. An overview of current safety practices relating to lead-based paint activities in general, as well as specific information pertaining to the appropriate discipline.
- c. Current federal, state and local statutes, ordinances, rules and regulations relating to lead-based paint activities in general, as well as specific information pertaining to the discipline.
- d. Current technologies relating to lead-based paint activities in general, as well as specific information pertaining to the appropriate discipline.

Note: Since risk assessors are required to complete both lead inspector and risk assessor refresher training courses, training providers are urged to offer lead (Pb) inspector and risk assessor refresher courses on consecutive days to assist them in complying with training requirements.

(b) Length of training. All required training for any conducted course shall be completed within a continuous 30-day period. In no case may actual training exceed 8 training hours during any single calendar day.

(c) 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 Unit, Bureau of Public Health, Room 117, 1414 E. Washington Avenue, Madison, WI 53703-3043; (608) 261-6876 or fax (608) 266-9711.

(d) Teaching methods. An accredited training course shall be taught using a mixture of teaching methods designed to meet the course learning goals and objectives, including methods which require active participation by the students.

Note: Examples of participatory teaching methods include: hands-on exercise, questionnaire, problem solving, quiz, worksheet exercise, focus questions, case study, brainstorming, on-site visit, learning games, group discussion, role play, writing assignment and personal action plan.

(e) Quality control plan. The training manager shall develop and implement a quality control plan for an accredited training course. The quality control plan shall include procedures for annual review and revision of training materials and the course test to reflect innovations and changes in the field and procedures for annually reviewing instructor competency.

(f) Course test. 1. A written, closed-book course test, monitored by the principal instructor, 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 which 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 in weighted content and shall consist of a minimum of 25 multiple choice questions for every 8 training hours.

4. The minimum passing score on a course test shall be correct answers to 70% of the total number of questions.

5. The training manager shall maintain the validity and integrity of the course test to ensure that it accurately evaluates each student's knowledge and skills.

(g) Hands-on skills assessment. The principal instructor shall conduct and document a hands-on skills assessment of each student for each topic under par. (a) for which hands-on instructional activities are required and for each refresher course

topic where hands-on instructional activities are performed. Guest instructors who are approved for a topic requiring hands-on instruction may assist the principal instructor in performing hands-on skills assessment for the topic. A student-to-instructor ratio of not greater than 5:1 shall be maintained during hands-on skills assessment.

(9) TRAINING CERTIFICATE. (a) Requirement for training certificate. After verifying a student's identify, the training manager shall issue a training certificate to a student when the student completes a course and passes the course test and any required skills assessment.

(b) 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, which shall be related to a specific discipline under s. HFS 163.10 (2).
4. The student's full legal name and address.
5. 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.
6. A statement that the student passed the course test.
7. The date of the course test.
8. 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 (5) (a) or (b).
9. The name and signature of the course training manager.
10. 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, an individual's social security number should not 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 lead-based paint activities and the conduct of training.

SECTION 14. HFS 163.21 (1), (2) (c) and (d), (5) and (6) (f) are amended to read:

HFS 163.21 (1) COMPLETED APPLICATION FORM. A fully and accurately completed application on a form obtained from the department. The application shall include a statement signed by the training manager which certifies that the training course meets the requirements of this subchapter.

(2) (c) 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.

(d) Student-to-instructor ratio during any hands-on training and hands-on skills assessment.

(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 ~~(4) (b) or (c)~~ (3) (b) and a written plan for admitting only students who meet lead training prerequisites under s. HFS 163.12 (2), (3) and (5).

(6) (f) ~~A description of~~ The course test blueprint which shows how the course test was developed to reflect the course content and learning objectives.

SECTION 15. HFS 163.21 (10) is created to read:

HFS 163.21 (10) QUALITY CONTROL PLAN. The written quality control plan under s. HFS 163.20 (8) (e).

SECTION 16. HFS 163.23 is repealed and recreated to read:

HFS 163.23 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 163.05.

(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 and guest instructors are approved under s. HFS 163.24, 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 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) 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 a maximum of 4 years from the date of issuance, depending on compliance with this chapter. A training course may renew accreditation under the provisions of s. HFS 163.235.

(b) 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 another on-site audit. 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 163.05.

(c) The department may suspend or revoke contingent accreditation 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 163.05.

(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 (5) (a) and shall make the certificate available for review upon request by the public.

(6) **ACCREDITATION AUDITS.** (a) On-site audits. On-site accreditation audits of a training course may be conducted by department staff to review for compliance with this subchapter. 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,

but is not limited to, a review of records, facilities, instructional curriculum, course test administration and security procedures, classroom instruction, audio-visual materials, 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 in class discussions, class activities and in the course test.

(b) Records audits. The department may conduct audits of training course records, including records required under s. HFS 163.25 (7), 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 preliminary audit results.

SECTION 17. HFS 163.235 is created to read:

HFS 163.235 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 full accreditation of a training course has been expired for less than one year, full accreditation may be reinstated by applying to the department for renewal of accreditation under this section. When full accreditation of a training course has been expired for more than one year, 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 which includes all of the following:

(a) A fully and accurately completed application form. The application shall include a statement signed by the training manager which certifies that the training course complies at all times with the requirements of this chapter.

(b) 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) When directed by the department, other documents that verify compliance of the training course with this chapter.

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

(4) **AUDIT.** To determine compliance with the requirements of this chapter and eligibility for renewal of accreditation, the department may conduct one or more audits under s. HFS 163.23 (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) The department may grant renewal of accreditation. If accreditation is renewed, the department shall send the training manager a certificate of accreditation under s. HFS 163.23 (5) to extend accreditation for a maximum of 4 years.

(b) The department may 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 denial and shall inform the training manager of the right to appeal that action under s. HFS 163.05.

SECTION 18. HFS 163.24 (5) is amended to read:

HFS 163.24 (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 them 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.

SECTION 19. HFS 163.25 (7) (b) 2. is amended to read:

HFS 163.25 (7) (b) 2. A copy of each instructor and student manual, course test, course test blueprint, form, other training material and any document reflecting changes made to any material.

SECTION 20. HFS 163.25 (7) (b) 7. is renumbered HFS 163.25 (7) (b) 10.

SECTION 21. HFS 163.25 (7) (b) 7. to 9. are created to read:

HFS 163.25 (7) (b) 7. The quality control plan, including documentation of activities performed in compliance with the quality control plan.

8. Information regarding how the 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.
9. Results of the students' hands-on skills assessments.

SECTION 22. HFS 163.26 is repealed.

SECTION 23. Subchapter IV of chapter HFS 163 is created to read:

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.

(2) **OTHER AGENCY ACTION.** Any other state agency in the course of the performance of its duties may determine that an individual, 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 shall 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 premises where the violation is alleged to be occurring or to have occurred.

(b) An authorized representative of the department may enter a dwelling, child-occupied facility or real property where an activity regulated under this chapter is being conducted or 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 may refuse to establish or maintain records under s. HFS 163.14 (9), 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 163.23 (6) for the purpose of ascertaining whether or not an accredited training course continues to meet requirements for accreditation.

(d) An authorized representative of the department entering a premises 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.

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, 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, but are not limited to, one or more of the following violations:

(a) Submitted a check to the state that was not paid by the bank on which it was drawn.

(b) Deceptively issued or used training certificates.

(c) 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) Made false or misleading statements to the department in its application for accreditation or reaccreditation which the department relied upon in approving the application.

(e) Falsified accreditation records, instructor qualifications or other accreditation-related information or documentation.

(f) Offered or conducted a course that failed to meet one or more requirements of this chapter.

(g) Failed to comply with the accreditation standards and requirements in

subchapter III.

(h) Failed or refused to establish, maintain, provide, copy or permit access by an authorized representative of the department to records or reports.

(i) Failed to submit required information or notifications to the department in a timely manner.

(j) Failed to comply with any other federal, state or local lead-based paint statute, ordinance, rule or regulation.

(k) 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, but is not limited to, one or more 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 company, if the person has violated any provision of this chapter. Reasons for certification enforcement actions may include, but are not limited to, one or more of the following violations:

(a) Submitted a check to the state that was not paid by the bank on which it was drawn.

(b) Was issued a training certificate by a training manager without attending an appropriate course or an entire course or without passing an approved course test.

(c) Obtained training documentation through fraudulent means.

(d) Gained admission to and completed an accredited training program through misrepresentation of admission requirements.

(e) Was a certified lead inspector, risk assessor or supervisor and failed to pass the certification examination under s. HFS 163.10 (3) (c) prior to August 31, 1999, as

required under s. HFS 163.13 (3).

(f) Misrepresented facts or made false or misleading statements in applying for certification.

(g) Obtained certification through misrepresentation of certification requirements or related documents dealing with education, training, professional registration or experience.

(h) Permitted the duplication or use of one person's training certificate, certification card or other certification document by another.

(i) Withheld or confiscated an employee's training certificate or certification card in violation of s. HFS 163.13 (4).

(j) Performed work requiring certification at a job site without having proof of certification onsite.

(k) Performed work for which certification is required, but for which appropriate certification had not been received.

(l) Performed work using individuals who were not certified when certification was required.

(m) Failed or refused to establish, maintain, provide, copy or permit access to records or reports.

(n) Failed or refused to permit entry or inspection.

(o) Failed or refused to comply with or to ensure that employed or contracted staff comply with the work practice standards established in s. HFS 163.14.

(p) Displayed conduct relating to a lead-based paint activity which in the department's judgment constitutes unreasonable risk to the health of any person.

(q) Displayed a pattern of conduct which in the department's judgment constitutes unreasonable risk to the health and safety of persons or the environment.

(r) 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 sub. (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 who the department has determined 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 lead-based paint activities or other environmental remediation.

(6) REASONS FOR SUMMARY SUSPENSION. A finding of a requirement for summary suspension may be based on but is not limited to any the following:

1. 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 but is not limited to one or more of the following:

a. Performance of work for which certification is required but for which appropriate certification was not received.

b. Performance of work using individuals who were not certified when certification was required.

c. 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.

2. A person has committed an action or has created a condition relating to a lead-based paint activity that directly threatens the health, safety or welfare of any person.

HFS 163.32 ENFORCEMENT ACTIONS. The department may take one or more of the following actions against a certified individual or 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 for any reason stated under s. HFS 163.31:

(1) LETTER OF INQUIRY. If the department provides written notice of the grounds for an inquiry and an explanation of the consequences for failing to respond to an inquiry, the department may order a person to respond to a letter of inquiry regarding a complaint or potential violation.

(2) NOTICE OF NONCOMPLIANCE. If the department provides written notice of the grounds for a notice of noncompliance, the department may issue a notice of noncompliance against a person who fails to comply with a provision under this chapter or who fails to respond to a letter of inquiry under sub. (1) by the time specified in the letter of inquiry.

(3) 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 under sub. (2) was previously issued:

(a) That the person stop performing, supervising 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, guest 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 on the premises 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.

(4) DENIAL. 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 163.05 for appealing the 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).

(5) CIVIL FORFEITURE. If the department provides written notice of the grounds for a forfeiture and an explanation of the process under s. HFS 163.05 for appealing a 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 notice of inquiry under sub. (1) by the time specified in the order, continues to violate or resumes violation of a provision for which notice under sub. (2) was previously issued or fails to comply with an order issued under sub. (3) by the time specified in the order. 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 days after receipt of notice of the assessment or, if that person contests that assessment under s. HFS 163.05, within 10 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 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.

(c) 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). The only contestable issue in an action under this subsection is whether or not the forfeiture has been paid.

(6) **SUSPENSION.** If the department provides written notice of suspension, the grounds for suspension and an explanation of the process under s. HFS 163.05 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, the department may suspend a certification, an accreditation or an approval issued under this chapter. 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.

(7) **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 lead-based paint activity may be a verbal or written order. Within 7 work days after the order takes effect, the department shall either permit the continuation of the lead-based paint 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 work days after the date of suspension if the department has initiated revocation proceedings.

(8) **REVOCAATION.** If the department provides written notice of revocation, the grounds for revocation and an explanation of the process under s. HFS 163.05 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 certification, an accreditation or an approval issued under this chapter.

(9) **CRIMINAL PENALTY.** Any person who knowingly violates any provision of this chapter or an order issued under sub. (3) shall be fined not less than \$100 nor more than \$5,000 per day for each violation. Pursuant to s. 254.30, Stats., the court may place the person on probation under s. 973.09 for a period not to exceed 2 years.

SECTION 24. Subsections (4) and (5) of HFS 163 APPENDIX A are repealed and recreated to read:

(4) **LEAD (Pb) SUPERVISOR COURSE TOPICS.** (a) Role and responsibilities of a lead (Pb) supervisor. Management of lead hazard reduction projects, supervision of lead (Pb) workers, community relations and contract specifications.

(b) Background information on lead and its adverse health effects. Emphasize the need to prevent additional exposure to lead hazards.

(c) Background information on federal, state and local regulations and guidance that pertain to lead-based paint abatement. Supplement material from lead (Pb) worker course with an in-depth review of federal, state and local government regulations and guidance that pertain to lead hazard reduction activities and requirements for training employes. Current regulations and guidelines, which are continuously evolving, include the following:

1. Federal regulations: 40 CFR Part 745, Subparts L and Q (Lead: Requirements for Lead-based Paint Activities in Target Housing and Child-Occupied Facilities; Final Rule); 24 CFR Part 35 and 40 CFR Part 745 (Lead: Requirements for Disclosure of Known Lead-based Paint and/or Lead-based Paint Hazards in Housing); 29 CFR 1926.62 with Appendices A, B and C (Lead Exposure in Construction, Interim Final Rule); Consumer Product Safety Commission Act of 1977; and Residential Lead-Based Paint Hazard Reduction Act of 1992 (Title X of the Housing and Community Development Act of 1992).

2. State regulations: applicable sections of Wisconsin Statutes ch. 254 (Environmental Health), s. 704.07 (landlord and tenant, repairs; untenability) and ch. 709 (Disclosures by Owners of Residential Real Estate); applicable parts of Wisconsin Administrative Code ch. HFS 163 (Certification for the Identification, removal and Reduction of Lead-Based Paint Hazards), ss. ILHR 32.15 and 32.50 (Safety and Health Standards for Public Employes), ch. ATCP 110 (Home Improvement Trade Practices), ch. NR 500 (General Solid Waste Management), ch. NR 502 (Solid Waste Storage, Transportation, etc.), ch. NR 506 (Landfill Operational Criteria), s. NR 600.03 (107) (household waste defined), s. NR 605.08(5) (toxicity testing defined), s. NR 610.07 (very small quantity generators), ch. NR 615 (Large Quantity Generator Standards) and ch. NR 620 (Transporter Standards and Licensing Requirements).

3. Federal guidelines: Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing (HUD); A Statement by the Centers for Disease Control and Prevention, "Preventing Lead Poisoning in Young Children", (U.S. Department of Health and Human Services); EPA, "Guidance on Residential Lead-Based Paint, Lead-Contaminated Dust and Lead-Contaminated Soil" (FR 47248, Vol. 60, No. 175); EPA, "Residential Sampling for Lead: Protocols for Dust and Soil Sampling" (EPA report number 7474-R-95-001); other EPA guidelines for lead abatement and lead hazard reduction activities.

4. Local ordinances: s. 66-20, Subch. 2, Milwaukee Ordinance (Toxic and Hazardous Substances, Lead Poisoning Prevention and Control); Madison Ordinance 749 (Standards for Exterior Painting and Remodeling); ordinances relating to lead-based paint for Brown County, Eau Claire and Racine and other applicable local ordinances.

(d) Liability and insurance issues relating to lead-based paint abatement. An overview of contract liability, standard of reasonable care, property damage and personal injury, tort liability, vicarious liability, types of lead abatement insurance and worker's compensation insurance.

(e) Risk assessment and inspection report interpretation, including hands-on activities. Using a risk assessment or inspection report in planning an abatement project.

(f) Development and implementation of an occupant protection plan and abatement report. Work practice standards for occupant protection plans and reports, including their purpose and development.

(g) Lead-based paint hazard recognition and control. Supplement material from lead (Pb) worker course on limiting exposure to lead-based paint hazards by reviewing engineering practices, developing the safety and health care plan, medical surveillance, site characterization and measuring exposure during abatement. The hands-on instructional activities and hands-on skills assessment for this topic are covered in the prerequisite worker course.

(h) Lead-based paint abatement, lead-based paint hazard reduction methods and restricted practices. With an emphasis on ensuring compliance with work practice standards, supplement material from lead (Pb) worker course by reviewing abatement procedures. The hands-on instructional activities and hands-on skills assessment for this topic are covered in the prerequisite worker course.

(i) Interior dust abatement, cleanup and lead-based paint hazard control and reduction methods. With an emphasis on ensuring compliance with work practice standards, supplement material from lead (Pb) worker course by reviewing interior cleanup procedures. The hands-on instructional activities and hands-on skills assessment for this topic are covered in the prerequisite worker course.

(j) Soil and exterior dust abatement, lead-based paint hazard control and reduction methods. With an emphasis on ensuring compliance with work practice standards, supplement material from lead (Pb) worker course by reviewing soil and exterior dust cleanup procedures. The hands-on instructional activities and hands-on skills assessment for this topic are covered in the prerequisite worker course.

(k) Clearance standards and testing. Preparing for clearance, working with the inspector or risk assessor conducting clearance and ensuring compliance with work practice standards for clearance.

(l) Cleanup and waste disposal. Washing techniques, HEPA vacuuming and preparing waste for disposal. Ensuring compliance with work practice standards.

(m) Recordkeeping. Work practice standards for reports and records.

(5) LEAD (Pb) WORKER COURSE TOPICS. (a) Role and responsibilities of a lead (Pb) worker performing abatement or other lead hazard reduction.

(b) Background information on lead and its adverse health effects. Identification of lead-based paint and coatings; exposure measurements; examples and discussion of the uses of lead in buildings, such as in pipes, petroleum products and solder; locations of lead-based paint in buildings; sources of environmental lead contamination, such as paint, surface dust and soil, water, air, packaging and food; the association of deteriorated lead-based paint and lead poisoning and the need for objective testing; and the nature of lead-related diseases, including the definition of lead poisoning in terms of symptoms and diagnosis.

(c) Background information on federal, state and local government regulations and guidance that pertain to lead-based paint and lead-based paint activities. This is to be an overview of federal, state and local government regulations and guidelines pertaining to lead-based paint activities, with emphasis on training, certification and notification requirements under ch. HFS 163, Wis. Adm. Code.

(d) Lead-based paint hazard recognition and control, including hands-on activities. Overview of construction terminology, site characterization, exposure measurements, material identification, safety issues and engineering, program implementation and work practices.

(e) Abatement, lead-based paint hazard reduction methods and restricted practices, including hands-on activities. Work practice standards for abatement, abatement methods, engineering, cleanup after abatement, waste disposal, hands-on practice in lead reduction and the advantages and disadvantages of each lead hazard reduction activity.

(f) Interior dust abatement methods, cleanup and lead-based paint hazard

reduction, including hands-on activities. Work practice standards for interior dust reduction, lead hazard reduction methods for interior dust, including cleaning methods, cleanup after abatement or lead hazard reduction, engineering and work practices, waste disposal and hands-on practice with interior dust abatement methods.

(g) Soil and exterior dust abatement methods and lead-based paint hazard reduction, including hands-on activities. Work practice standards for soil and exterior dust reduction, lead hazard reduction methods for soil and exterior dust, cleanup after abatement or lead hazard reduction, engineering and work practices, waste disposal and hands-on practice with soil and exterior dust abatement methods.

SECTION 25. Subsection (6) of HFS 163 Appendix A is renumbered sub. (7).

SECTION 26. Subsection (6) of HFS 163. Appendix A is created to read:

(6) LEAD (Pb) WORKER-HOMEOWNER COURSE TOPICS. (a) Role and responsibilities of a worker-homeowner performing abatement in the homeowner's own nonrental dwelling or real property. Include the need to use special procedures, such as cleaning for clearance, or special equipment, such as a HEPA vacuum, to reduce exposure to lead hazards during the lead hazard reduction project.

(b) Background information on lead and its adverse health effects. Identification of lead-based paint and coatings; exposure measurements; examples and discussion of the uses of lead in buildings, such as in pipes, petroleum products and solder; locations of lead-based paint in buildings; sources of environmental lead contamination, such as paint, surface dust and soil, water, air, packaging and food; the association of deteriorated lead-based paint and lead poisoning and the need for objective testing; and the nature of lead-related diseases, including the definition of lead poisoning in terms of symptoms and diagnosis.

(c) Background information on federal, state and local government regulations and guidance that pertain to a homeowner performing lead-based paint abatement in the homeowner's own nonrental dwelling. Current regulations and guidelines, which are continuously evolving, include the following:

1. Federal regulations: 24 CFR Part 35 and 40 CFR Part 745 (Lead: Requirements for Disclosure of Known Lead-based Paint and/or Lead-based Paint Hazards in Housing).

2. State regulations: ch. 709, Stats., (Disclosures by Owners of Residential Real Estate) and Wisconsin Administrative Code ch. HFS 163 (Certification for Lead Hazard Reduction Work and Accreditation of Lead Training Courses).

3. Federal guidelines: Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing (HUD) and Lead in Your Home: A Parent's Reference Guide (EPA).

4. Local ordinances: s. 66-20, Subch. 2, Milwaukee Ordinance (Toxic and Hazardous Substances, Lead Poisoning Prevention and Control); Madison Ordinance 749 (Standards for Exterior Painting and Remodeling); ordinances relating to lead-based paint for Brown County, Eau Claire and Racine and other applicable local ordinances.

(d) Lead-based paint hazard recognition and control, including hands-on activities. Overview of construction terminology, site characterization, exposure measurements, material identification, safety issues and engineering, program implementation and work practices.

(e) Abatement, lead-based paint hazard reduction methods and restricted practices, including hands-on activities. Work practice standards for abatement, abatement methods, engineering, cleanup after abatement, waste disposal, hands-on practice in lead reduction and the advantages and disadvantages of each lead hazard reduction activity.

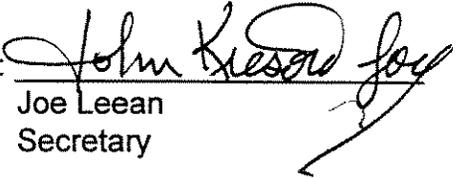
(f) Interior dust abatement methods, cleanup and lead-based paint hazard reduction, including hands-on activities. Work practice standards for interior dust reduction, lead hazard reduction methods for interior dust, including cleaning methods, cleanup after abatement or lead hazard reduction, engineering and work practices, waste disposal and hands-on practice with interior dust abatement methods.

(g) Soil and exterior dust abatement methods and lead-based paint hazard reduction, including hands-on activities. Work practice standards for soil and exterior dust reduction, lead hazard reduction methods for soil and exterior dust, cleanup after abatement or lead hazard reduction, engineering and work practices, waste disposal and hands-on practice with soil and exterior dust abatement methods.

The rules contained in this order shall take effect as emergency rules on August 29, 1998.

Wisconsin Department of
Health and Family Services

Date: August 24, 1998

By: 
Joe Leean
Secretary

Seal:

FISCAL ESTIMATE

DOA-2048 N(R10/96)

- ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.
HFS 163E

Amendment No. if Applicable

Subject

CERTIFICATION FOR THE IDENTIFICATION AND REMOVAL OF LEAD-BASED PAINT

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

Increase Costs - May be possible to Absorb Within Agency's Budget Yes No

- Increase Existing Appropriation Increase Existing Revenues
 Decrease Existing Appropriation Decrease Existing Revenues
 Create New Appropriation

Decrease Costs

Local: No local government costs

- | | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. <input type="checkbox"/> Increase Costs
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory
2. <input type="checkbox"/> Decrease Costs
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | 3. <input type="checkbox"/> Increase Revenues
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory
4. <input type="checkbox"/> Decrease Revenues
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | 5. Types of Local Governmental Units Affected:
<input type="checkbox"/> Towns <input type="checkbox"/> Villages <input type="checkbox"/> Cities
<input type="checkbox"/> Counties <input type="checkbox"/> Others _____
<input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts |
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Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

The emergency order revising HFS 163 is necessary to allow the State to apply to the U.S. Environmental Protection Agency (EPA) for approval of the State lead certification program under ss. 254.167, 254.172, 254.176 and 254.178, Stats.

The emergency order does not include fee changes, so it will not affect program revenues. Fee changes are planned for the permanent replacement rule in order to receive public comment before implementing fee changes.

The emergency order will not increase state expenditures or revenues. Although certification of lead companies is a new activity under the emergency order, information about most companies is currently in the certification data base. The certification work and costs of formally certifying lead companies will be approximately \$500, which can be covered by current grant funding from EPA.

To assist with the development and implementation of the mandatory enforcement portion of the program, the Department may add two project environmental health positions with grant funding from EPA.

Without EPA approval of the State lead certification program, the State will lose nearly \$500,000 in EPA grants.

Local government employees are exempt from paying certification fees. Although the rules require local government agencies to be certified, there is no fee at this time.

Long-Range Fiscal Implications

Agency/Prepared by: (Name & Phone No.)

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Date

8-20-98