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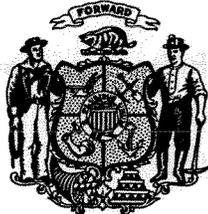
LCRC
FORM 2

WISCONSIN LEGISLATIVE COUNCIL STAFF

RULES CLEARINGHOUSE

Ronald Sklansky
Director
(608) 266-1946

Richard Sweet
Assistant Director
(608) 266-2982



Terry C. Anderson, Director
Legislative Council Staff
(608) 266-1304

One E. Main St., Ste. 401
P.O. Box 2536
Madison, WI 53701-2536
FAX: (608) 266-3830

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 00-172

AN ORDER to repeal and recreate chapter HFS 163, relating to certification for the identification, removal and reduction of lead-based paint hazards and the issuance and registration of certificates of lead-free status and lead-safe status.

Submitted by **DEPARTMENT OF HEALTH AND FAMILY SERVICES**

12-08-00 RECEIVED BY LEGISLATIVE COUNCIL.
01-08-01 REPORT SENT TO AGENCY.

RNS:PS:jal;rv

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached

YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached

YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached

YES NO 4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached

YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached

YES NO 6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached

YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached

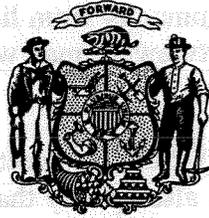
YES NO

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CLEARINGHOUSE RULE 00-172

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

I. Statutory Authority

a. It is unclear under what statutory authority the department prohibits issuance of certificates of lead-safe and lead-free status after August 31, 2008, in ss. HFS 163.40 (2) (a) and (b), 163.42 (2) (d) 1. and 2. (intro.) and 163.43 (2) (d) 1. and 2. and (e) (intro.). 1999 Wisconsin Act 113, the legislation requiring promulgation of this rule, requires the department to promulgate rules relating to the issuance and periods of validity for certificates of lead-safe and lead-free status. Regarding the period of validity for lead-safe certificates, s. 254.179 (1) (c) 2., Stats., as created in Act 113, requires that the rules set forth standards limiting the length of validity of a certificate, including the condition of a premises, the type of lead hazard reduction activity performed, if any, and any other requirements that must be met to maintain the certificate. The rules must specify that: (a) the face of the lead-safe certificate indicates the certificate's length of validity; and (b) no more than two successive certificates of lead-safe status of less than one year in duration may be issued, with certain exceptions. Regarding the period of validity of certificates of lead-free status, s. 254.179 (1) (c) 1., Stats., as created in Act 113, requires that the rules include authorization for certificates of lead-free status to remain in effect unless revoked because of erroneous issuance or because the premises are not free of lead-bearing paint. This provision also requires that the rules specify that the face of the lead-free certificate shall indicate that the certificate is valid unless revoked.

Nowhere in the Act 113 provisions is there a prohibition on issuance of certificates after August 31, 2008. The department may have believed that because Act 113 limits the time period within which immunity from liability is provided to property owners, it also restricted issuance

of certificates to that time period. However, an examination of Act 113 reflects only the repeal, in SECTION 35, of the immunity provisions on August 31, 2008. If Act 113 had intended to restrict issuance of certificates to that same time period, it would have explicitly stated that certificates could not be issued once immunity from liability is no longer available. Even after immunity from liability ends, a property owner may wish to continue to have a valid certificate, as a defense in a lawsuit.

b. Section HFS 163.42 (2) (e), Stats., correctly provides that a certificate of lead-free status is valid until revoked. It should also specify that the face of the lead-free certificate must indicate that the certificate is valid unless revoked.

2. Form, Style and Placement in Administrative Code

a. In s. HFS 163.03 (1) (a) 5. to 7., it is inappropriate to use a term in the definition of that term. Can "the activities in subds. 1. to 4." be substituted for "an abatement" in those three subdivisions?

b. Throughout the rule, subdivision titles should be enclosed in single quotation marks. For example, see s. HFS 163.10 (3) (b) 1. to 4. [See s. 1.05 (2) (e), Manual.]

c. In s. HFS 163.20 (8) (a) 2. s., the phrase "HEPA-planing" should be defined.

d. In s. HFS 163.20 (8) (a) 3., and elsewhere in the rule, material after subd. z. should be numbered za., zb., zc., etc.

e. In s. HFS 163.41 (1) (a) note, the word "Section" on line 1 should be rewritten "SECTION." The entire rule should be checked for other occurrences.

4. Adequacy of References to Related Statutes, Rules and Forms

a. In s. HFS 163.10 (3) (c) 3. b., it appears that the cite to sub. (4) is incorrect. That subsection discusses submitting copies versus originals of required documents.

b. In s. HFS 163.10 (5) (e), "par." should precede "(f)."

c. In s. HFS 163.10 (8) (b) 4. b., the cite to s. 163.11 (3) (a) 2. b. is incorrect. Is the correct citation s. 163.11 (3) (c) 2. b.?

d. In s. HFS 163.13 (4) it appears that the cite to s. 163.14 (3) (a), (3) (b), (5) (a) or (5) (b), should be to s. 163.14 (3) (c) or (5) (c). If the citation is correct, however, it should be written as "s. 163.14 (3) (a) or (b) or (5) (a) or (b)."

e. In s. HFS 163.14 (4) (d) (intro.), "par." should be inserted before "(c) 1. or 2."

f. In s. HFS 163.14 (7) (c) 3., "subd. 1 or 2 above" should be replaced with "subd. 1. or 2."

- g. In s. HFS 163.14 (7) (e) 7., "subd." should be inserted before "6."
- h. In s. HFS 163.14 (8) (b), "(n)" should be replaced with "(k)."
- i. In s. HFS 163.14 (9) (j), the reference to ch. NR 147 is incorrect. There is no ch. NR 147. Also, "105-106" should be written as "105, 106" and "200-299" should be written as "200 to 299."
- j. In s. HFS 163.20 (8) (a) 3. g., it appears that the reference to s. HFS 163.14 (5) and (6) should instead be to s. HFS 163.14 (3) and (5), as those are the two subsections in which notification is discussed. The same comment applies to the material in subd. 4. k. of this provision.
- k. In s. HFS 163.20 (8) (b) 1. s. and v., the cited provision, s. HFS 163.14 (1) (b) 6., pertains to visual inspections after exterior activity. Is this the intended provision?
- l. In s. HFS 163.20 (8) (b) 3. f., "statutes, ordinances, rules and" should precede "regulations."
- m. In s. HFS 163.41 (1) (c) 4., "HFS" should be inserted after the "s." on line 2.
- n. In s. HFS 163.41 (2) (c) 4., the reference to sub. (2) (a) should be changed to "par. (b)."
- o. In s. HFS 163.43 (5) (f), should "statute, ordinance, rule or regulation" replace "regulation or ordinance"?

5. Clarity, Grammar, Punctuation and Use of Plain Language

- a. In s. HFS 163.03 (1) (intro.), it appears that "or intended" could be deleted.
- b. In s. HFS 163.03 (1) (b) 3., "represent, advertise or hold themselves" should be replaced with "represents, advertises or holds himself or herself."
- c. In s. HFS 163.03 (13), it appears that the definition of "child-occupied facility" would include, for example, a grandparent's house that is visited regularly by a small child. While, ideally, such a home would be lead safe, is it the intent of the rule to define "child-occupied facility" so broadly?
- d. In the note to s. HFS 163.03 (16), a boundary fence does not seem to fall under the category of "common area."
- e. In s. HFS 163.03 (25), the hyphens in "wear-and-tear" should be deleted. Also, quotation marks should be placed around "Deteriorated point" in the second sentence.
- f. In s. HFS 163.03 (35), "a" should be inserted before "known area."

- g. In s. HFS 163.03 (69), the "T" following "high-risk" should be deleted.
- h. In s. HFS 163.03 (93), "dwelling yard" should be replaced with "dwelling's yard."
- i. In s. HFS 163.03 (99), "covering" should be replaced with "coverings."
- j. In s. HFS 163.03 (100), it appears that "any body politic" could be deleted.
- k. In s. HFS 163.10 (1) (intro.), "doing" should be replaced with "the individual may do."
- l. In s. HFS 163.10 (2) (a) 3., the hyphens in "dust-wipes" and "clean-up" should be deleted.
- m. In s. HFS 163.10 (3) (b) 2. a., "as a" should be inserted before the first "low-risk."
- n. In s. HFS 163.11 (1) (d), "is comparable to" should be replaced with a phrase such as, "meets requirements that are comparable to" or "meets."
- o. In s. HFS 163.12 (3) (intro.), the sentence should end with a colon.
- p. In s. HFS 163.12 (3) (a) 2. (intro.), a sentence such as: "The application shall include all of the following fees:" should be inserted.
- q. In s. HFS 163.13 (6) (a) 1., the comma should be replaced with "and."
- r. In s. HFS 163.14 (1) (b) 4. a., "areasin" should be written as two words.
- s. In s. HFS 163.14 (5) (e) 2., "shall" in the first sentence should be replaced with "may."
- t. In s. HFS 163.14 (5) (g) 1. a., the comma after "covered" should be deleted.
- u. In s. HFS 163.14 (6) (d) note, "to" should be inserted after "Refer."
- v. In s. HFS 163.14 (7) (f) 3., "of the building" should be inserted at the end of the sentence.
- w. The following comments pertain to s. HFS 163.20:
 - (1) In sub. (3), the phrase "but is not required to," is not necessary, as the word "may" means that something is not required.
 - (2) In sub. (4) (b) and (c), it does not make sense to say that an initial training *course* shall be for a specific *course*. Could these phrases be rewritten to clarify their meaning?

- (3) In sub. (5), the semicolon on line 3 should be replaced by a period and the word "instructional" should start a new sentence. On line 6, a new sentence should begin after the first occurrence of "department."
 - (4) In sub. (7) (c) 2. and (8) (i), is it at the instructor's discretion whether the student-to-student ratio "may need to be less" than 8:1 when necessary to ensure adequate instruction and observation of student performance?
 - (5) In sub. (8) (a) 1. j., it is suggested that the word "activity" be inserted after the word "construction" and instead of the word "project" for consistency with the definition in s. HFS 163.09 (66).
 - (6) In sub. (8) (b) 2. (intro.), the word "lead" should be inserted before the second "hazard" on line 1. The same comment applies to the language in subd. 2. s.
 - (7) In the note following sub. (9), the word "make" should be changed to "require."
- x. The following comments pertain to s. HFS 163.24:
- (1) In sub. (2) (a) 1., it is suggested that the word "other" be inserted before "adults."
 - (2) In sub. (3) (a) 2. a., a comma should be inserted after the word "assessor" on line 1. The same comment applies to the word "supervisor" in subd. 2. b. and to the word "designer" in subd. 2. c.
 - (3) In sub. (3) (a) 3. c., for consistency with the language at the beginning of subd. 3. a. and b., it is suggested that this provision begin with the phrase "For approval to . . ." so that it is clear to what this requirement applies. Also, subd. 3. c. repeats much of what is in subd. 3. (intro.).
 - (4) In sub. (4) (a), the word "guest" should be inserted before "instructor" on line 5.
 - (5) In sub. (4) (c), the capital "A" in the title should be lowercase.
 - (6) In sub. (5), the word "them" should be replaced by the phrase "the qualifications."
- y. The following comment pertains to s. HFS 163.25: In sub. (1), the word "it" should be inserted after the "as" on line 3.
- z. The following comments pertain to s. HFS 163.31:

- (1) In sub. (2) (intro.), the two sentences appear to be inconsistent, as the first sentence provides that the department may act regarding a violation of *any* provision of this chapter, while the reasons for accreditation enforcement actions may include *one* of several listed violations. These provisions should be reviewed and reconciled. On a related note, use of the word "one" on line 4 of subs. (3) (intro.) and (4) (intro.) should be reviewed. Could "any" be substituted?
- (2) In sub. (4) (q), it appears that the phrase "certified as an inspector, risk assessor or supervisor" should not be in this provision.
- (3) In sub. (5) (b), it is suggested that the first sentence be rewritten to read: "A person whom the department determines is not fit and qualified."
- (4) In sub. (6), perhaps the term "summary suspension" should be defined, or at least s. HFS 163.32 (5), which explains summary suspension, should be cited. Also, in sub. (6) (intro.), commas should be inserted around the phrase "but is not limited to" on line 2.

aa. The following comments pertain to s. HFS 163.32:

- (1) In s. HFS 163.32 (intro.), the phrase "for any reason stated under s. HFS 163.31" on line 5 should be moved to follow the word "actions" on line 3.
- (2) It is suggested that the language in sub. (2) be rewritten so that the provision begins with the language currently on lines 3 to 5, beginning with the phrase "The department may deny" The same comment pertains to the language in subs. (3) and (4).
- (3) In sub. (5), note, "Stats." should be inserted after the statutory citation on line 1.

ab. The following comments pertain to s. HFS 163.40:

- (1) In sub. (1) (a) (intro.), the second occurrence of the phrase "owner-occupied" on lines 4 and 5 could be deleted.
- (2) In sub. (3) (a), the word "shall" should be inserted after "owner" on line 3 and the phrase "on which" should be inserted after the "date" on line 4.

ac. In s. HFS 163.41 (1) (a), note, the word "beginning" on line 4 is misspelled.

ad. The following comments pertain to s. HFS 163.43:

- (1) In sub. (2) (title), the word "STATUS" should be inserted at the end of the title.

- (2) In sub. (2) (d) 4. a., the period following the word "support" on line 3 should be changed to a comma and the word "and" on line 3 should be changed to "or."
- (3) In sub. (2) (d) 4. b., the word "and" on line 3 should be changed to "or."
- (4) In sub. (3) (d) 1., for consistency with previous terminology, the word "examination" should be changed to "assessment."

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

To repeal and recreate chapter HFS 163, relating to certification for the identification, removal and reduction of lead-based paint hazards and the issuance and registration of certificates of lead-free status and lead-safe status.

Analysis Prepared by the Department of Health and Family Services

Chapter 254, Stats., provides for a comprehensive lead (Pb) hazard reduction program, including lead exposure screening, medical case management and reporting requirements, and the development of lead training accreditation and certification programs. Under the authority of Chapter 254, Stats., the Department promulgated Chapter HFS 163, Wis. Adm. Code, in 1988 to provide rules for the certification of individuals performing lead hazard reduction and for the accreditation of the courses that prepare individuals for certification. These rules have been revised over time to meet requirements of the U.S. Environmental Protection Agency (EPA).

Wisconsin met federal standards for a state-administered lead training accreditation and certification program and received EPA authorization effective January 27, 1999. The Department's Asbestos and Lead Section of the Bureau of Occupational Health administers and enforces lead-based paint training, certification and work practice provisions of Chapter HFS 163, Wis. Adm. Code. The Section derives its revenues from two sources: various fees the Department assesses under this chapter; and lead program development grant monies the Department receives from EPA.

Under Chapter HFS 163, Wis. Adm. Code, a person offering, providing or supervising lead-based paint activities for which certification is required must be certified as a lead company and may only employ or contract with appropriately certified individuals to perform these activities. Effective December 1, 2000, the Department revised the training accreditation and certification requirements of the rule by emergency order. An individual may apply for certification in the following disciplines: lead low-risk worker, low-risk supervisor, high-risk worker, contractor supervisor, hazard investigator, inspector, risk assessor, project designer and sampling technician. For initial certification, the individual must be 18 years of age or older, must meet applicable education and experience qualifications, must successfully complete certification training requirements and, to be certified as a lead hazard investigator, inspector, risk assessor, low-risk supervisor or contractor supervisor, must pass a certification examination. In addition, the Department must accredit the lead training courses that prepare persons for certification.

New Wisconsin Law

1999 Wisconsin Act 113 requires the Department to review local ordinances and promulgate rules using a research-based methodology. These rules must establish all of the following:

- Standards that a premises, dwelling or unit of a dwelling must meet for issuance of a certificate of lead-free status or lead-safe status.
- A process for issuing the certificates and registering the properties for which certificates are issued.
- Procedures for revoking a certificate, and the period of validity for a certificate.
- What interim lead hazard control measures a new owner must take in vacant units when immunity from liability is provided during the first 60 days after acquiring a new dwelling.

- The requirements for a training course of up to 16 hours that property owners, their agents and employees must complete if seeking certification.
- The scope of the lead investigation and lead hazard reduction activities that may be performed following certification.

If a dwelling unit has a valid certificate of lead-free or lead-safe status when a person who resides in or visits the unit is lead poisoned, the property owner, and his or her agents and employees are generally immune from civil and criminal liability for their acts or omissions related to the lead poisoning or lead exposure.

New Provisions

This order proposes adding the following provisions to Chapter HFS 163:

Subchapter I – General Provisions

- Authority and purpose for activities involving lead-free or lead-safe property.
- The scope of Subchapter V, which the department proposes adding to implement Act 113.
- Definitions required by new provisions of the rule.

Subchapter II – Certification

- Training and certification requirements for persons who disturb lead-based paint involving lead-based property.
- For certification as a lead inspector or risk assessor, a requirement that the applicant submit proof of manufacturer's training for the XRF the person will use in inspections.
- Requirement that photo identification be presented for certification if training was not obtained from a Department-accredited training provider.
- Additional responsibilities for lead companies, including disclosure of information about the work to be performed and more information on the quarterly lead investigation activities summary.
- Expanded work practice section to address other activities, such as elevated blood investigations, lead-based paint construction, lead-free inspections, lead-safe investigations.

Subchapter III – Accreditation

- Requirement to take photographs of students to submit to the Department and insert in training certificates.

Subchapter V - Registry of Property with Certificates of Lead-Free Status or Lead-Safe Status.

- Lead-free and lead-safe property standards.
- Lead-free inspection and lead-safe investigation work practice standards and protocols to be used to determine whether a property meets the lead-free or lead-safe property standards.
- Limitations on who may conduct lead-free inspections and lead-safe investigations.
- The conditions that apply to maintaining a valid lead-safe certificate.
- Procedures for issuing a certificate of lead-free or lead-safe status, including the establishment of the effective date and expiration date. (Not effective before September 1, 2001.)
- Requirement for a property owner to obtain a certificate of lead-free or lead-safe status if a child residing in the property has been identified with an elevated blood level. (Not effective before September 1, 2001.)

- Immunity provisions under s. 254.173, Stats., that are provided by a certificate of lead-free or lead-safe status. (Not effective before September 1, 2001.)
- What a property owner must do to have temporary immunity for 60 days after acquiring a dwelling or unit. (Not effective before September 1, 2001.)

Consultation with the Lead Technical Advisory Committee and the Public

As mandated by s. 254.174, Wis. Statutes, the Department created a Lead Technical Advisory Committee (LTAC) to make recommendations to the Department concerning promulgation of lead-based paint rules. Advisory Committee members were selected to represent a key interest groups. These groups included lead hazard reduction professionals, lead identification professionals, landlords and other property owners, public health departments, child advocates and day care providers.

The Department charged the LTAC with advising the Department on implementation of statutory changes enacted in 1999 Wisconsin Act 113. The LTAC met on May 26, July 12, August 16, September 8 and September 22 to review reports and recommendations from 14 public forums previously held. At the May 26 meeting, members agreed on the following guiding principles for the rules developed implement Act 113:

- Focus on protecting the most children possible with current resources.
- Encourage proper maintenance as a means of reducing lead poisoning.
- Encourage wide participation in the registry program.
- Reduce confusion by limiting differences between Department rules and other applicable regulations, such as HUD's lead hazard reduction regulations under 24 CFR Part 35.
- Strive for simplicity and clarity in order to achieve better compliance.
- Be sensitive to costs and the impact costs have on the ability to get work done.
- Reward long-term improvements.
- Encourage work when a building is vacant in order to reduce risks to occupants.
- Enforce the regulations in order to encourage compliance.
- Evaluate the registry process regularly and revise as needed.
- Look for resources to reduce lead-based paint hazards.

The Department's 14 public forums were held in various locations statewide and facilitated relatively wide public participation in the LTAC's development of recommendations. In addition to Department staff and LTAC members, more than 50 people participated in the public forum process. Public forums discussed the following issues:

- Issuance of certificates of lead-free status or lead-safe status.
- Standards buildings must meet to qualify for a certificate.
- Standards for limiting the length of certificate validity.
- Requirements that certificate-holders must meet to maintain a certificate.
- Protocols the certified lead professional must use when determining whether a building meets the standards for a certificate of lead-free status or lead-safe status.
- Forms for the certificates of "lead-free status" and "lead-safe status."
- Lead-safe work practices that must be used when conducting an activity that disturbs lead-based paint on a property.
- Training and certification of persons who perform work involving property included in the registry of certificates of lead-free status or lead-safe status.
- Educating the public about the registry of property with a valid certificate of lead-free status or lead-safe status.

Comparison to City of Milwaukee's Lead Ordinance

Act 113 directs the Department to include a summary of the differences between the standards under this rule and the standards under a lead ordinance for the City of Milwaukee. As the Department's proposed rule also provides, the Milwaukee lead ordinance authorizes the issuance of a certificate whenever lead-based paint hazards have been controlled. The principal differences between the Milwaukee lead ordinance and what the Department is proposing through this rule involve processes and procedures, not quantitative standards. Under the Milwaukee lead ordinance, Milwaukee Health Department inspectors conduct risk assessments, specify both the work that must be done and the work practices for completing the work, monitor and approve the work, and then verify that a property meets the lead-safe standards based on the unique qualifications of that property. Under the Department's proposed rule, no prior risk assessment is required and the Department does not have the opportunity to monitor the lead hazard reduction activity unless the required notice is submitted to the Department. Private lead professionals (instead of publicly employed inspectors) conduct the lead investigation to verify that a property meets the lead-safe standards, but these lead professionals will arrive after lead hazard reduction, if any, is completed. Since the quality of preparation done before painting is key to the longevity of a paint job, the private lead professionals will not be able to determine if a paint job should last five years or only 1 year. The Department's standards, therefore, have to treat all paint jobs the same.

The Milwaukee ordinance specifies actions that must be taken to reach the desired lead-safe outcome, while the Department's rule primarily dictates the desired outcome based on EPA's proposed definition of a lead hazard. By being less constraining in how lead-safe standards are met, the Department uses flexibility allowed by EPA to encourage the use of innovative, less costly, and more efficient methods of reducing lead-based paint hazards. To encourage property owners to perform those lead hazard reduction activities that last the longest, the Department proposes variable certificate expiration dates that reward activities such as window replacement. Ideally, no property would have deteriorated lead-based paint or lead-based paint on friction or impact surfaces.

The Milwaukee ordinance, however, might appear to be in conflict with window standards proposed in this rule. The Milwaukee ordinance requires that that all *deteriorated components* of a double hung window, except for exterior casings and the exterior sill, have paint removed to bare wood, be enclosed or be replaced. The ordinance does not state a lead hazard reduction requirement if a window has been maintained in good condition. The Department's rule allows lead-based paint to remain on a window if all of the following apply:

- The paint is not deteriorated;
- The substrate is sound;
- Dust-lead hazards are not present;
- The window trough is smooth and cleanable;
- Accumulated paint is not present in areas it might be crushed to create dust-lead or debris;
- The window functions properly, glazing does not have gaps, and operable storm windows are present and installed unless windows are double-paned.

If lead-based paint is not present on a window, however, the property might qualify for a longer certificate.

Finally, the Milwaukee ordinance authorizes the Milwaukee Health Department to provide lead-safe maintenance training, but does not require property owners to be trained. The Department's proposed rule requires persons be certified in order to perform work that disturbs lead-

based paint on lead-safe property, and provides several levels of certification. HUD requires lead-safe maintenance training for work in Section 8 apartments.

New Federal Regulations

The U.S. Department of Housing and Urban Development (HUD) revised 24 CFR Part 35 effective September 15, 2000. The regulations require most properties owned by the federal government or receiving federal assistance to conduct specified activities to make the property lead-safe. The HUD regulations most directly affect property owners receiving federal rehabilitation funds and landlords whose tenants receive federal rental assistance. To meet HUD's lead-safe standards, most affected properties must have a risk assessment completed and must use certified persons to reduce or eliminate the lead-based paint hazards identified in the risk assessment report. Property owners must also use trained people to perform maintenance or renovation activities and must have a clearance visual examination and dust-lead sampling conducted after completing activities that disturb lead-based paint. The regulations also require annual re-evaluation of the property by a certified lead risk assessor.

On June 3, 1998, EPA proposed standards for identifying lead-based paint hazards under the authority of section 403 of the federal Toxic Substance Control Act. Unlike previous federal lead-based paint legislation which focused only on the presence of lead-based paint, this legislation switches the focus of Federal lead-poisoning prevention efforts away from the removal of lead-based paint toward management of lead-based paint hazards. The proposed standards, when finalized, will play an important role in the national lead-based paint program. For example, the standards will be used by risk assessors to determine if lead-based paint hazards exist in pre-1978 housing and child-occupied facilities (e.g., daycare centers). Property owners will use the standards to identify conditions that must be disclosed before leasing or selling target housing under regulations of the U.S. Department of Housing and Urban Development (HUD) and EPA. The Department of Housing and Urban Development will also incorporate these standards into its regulations on lead-based paint hazard evaluation and control in federally-assisted and owned housing. In addition, these regulations will provide advice to the public about conditions considered to present health risks to young children that should be addressed. The standards may also be incorporated into local laws and regulations, housing codes, and lending and insurance underwriting standards.

EPA is also preparing to promulgate lead training and certification requirements under 40 CFR Part 745 for persons performing renovation and remodeling regulations. Under these regulations, any person who disturbs paint in a pre-1978 dwelling, other than a homeowner performing activities in an owner-occupied dwelling, will have to complete lead-safe training. EPA is also considering requiring a visual examination and dust sampling for clearance after any activity that disturbs paint in a pre-1978 dwelling, except when work on owner-occupied property was done by the property owner.

The Department's authority to repeal and recreate these rules is found in ss. 227.24 (1), 250.04 (7), 250.041, 254.115, 254.167, 254.172, 254.176 (1) and (3), 254.178 (2), and 254.179, Stats. The rules interpret ss. 254.167, 254.171, 254.172, 254.173, 254.176, 254.178, 254.179, 254.18 and 284.181, Stats.

SECTION 1. Chapter HFS 163 is repealed and recreated to read:

Chapter HFS 163

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

Subchapter I – General Provisions

- HFS 163.01 Authority and purpose.
- HFS 163.02 Scope.
- HFS 163.03 Definitions.

Subchapter II – Certification of Persons to Perform Lead Abatement, Other Lead Hazard Reduction Activities, Lead-Based Paint Construction Activities or Lead Identification Activities

- HFS 163.10 Certification of an individual.
- HFS 163.11 Certification training requirements.
- HFS 163.12 Certification of a lead company.
- HFS 163.13 Responsibilities of certified persons.
- HFS 163.14 Work practice standards.
- HFS 163.15 Lead-based paint hazard standards.

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

- HFS 163.20 Accreditation requirements.
- HFS 163.21 Application for accreditation.
- HFS 163.22 Accreditation procedures.
- HFS 163.23 Renewal of course accreditation.
- HFS 163.24 Training manager and instructor approval.
- HFS 163.25 Administrative responsibilities of training managers.

Subchapter IV – Enforcement

- HFS 163.30 General provisions.
- HFS 163.31 Reasons for enforcement actions.
- HFS 163.32 Enforcement actions.
- HFS 163.33 Appeal.

Subchapter V – Registry of Property with Certificates of Lead-Free Status or Lead-Safe Status

- HFS 163.40 General provisions.
- HFS 163.41 Immunity.
- HFS 163.42 Certificate of lead-free status.
- HFS 163.43 Certificate of lead-safe status.

Subchapter I - General Provisions

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

(2) ACTIVITIES INVOLVING TARGET HOUSING AND CHILD-OCCUPIED FACILITIES.

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

(3) ACTIVITIES INVOLVING LEAD-FREE OR LEAD-SAFE PROPERTY.

In addition to requirements under sub. (1), a person who performs lead-based paint construction activities shall successfully meet the requirements of this chapter and have documentation of certification issued by the department or be registered with the department before performing, supervising or offering to perform or supervise a lead-based paint construction activity involving lead-safe property. In addition, this chapter establishes standards for lead-free and lead-safe property that encourage long-term lead hazard reduction, procedures for determining whether a property meets the standards, and procedures for issuing and maintaining certificates of lead-free status and lead-safe status.

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

(b) This subchapter, subch. III and subch. IV apply to any person or organization that offers, advertises, conducts or teaches a lead inspector, project designer, risk assessor, supervisor, worker, hazard investigation, high-risk work, inspection, low-risk work, sampling or low-risk supervision training course leading to, or intended to lead to, certification by the department.

(c) This subchapter, subch. IV and subch. V apply to any property for which a certificate of lead-free status or lead-safe status has been issued and to the owner of that property. This subchapter, subch. II, subch. IV and subch. V apply to any person performing, supervising or offering to perform or supervise a lead-based paint activity or lead-based paint construction activity involving property for which a certificate of lead-safe status is in effect.

(2) APPROVED ALTERNATIVE TO A REQUIREMENT. The department may approve an alternative to any requirement in this chapter that is not a statutory requirement when the department is provided with satisfactory written proof that the alternative is as protective of human health and the environment as the original requirement. A request for approval of an alternative shall be in writing, shall be sent to the department and shall include justification for the alternative.

The department shall approve or deny the alternative or request additional information within 20 work days of receipt of the request for approval. If granted, the department shall send the applicant a written notice of approval that may include limits on the approval.

Note: Submit your request for approval of an alternative to a requirement to the Asbestos and Lead Section, Bureau of Occupational Health, Room 137, 1 W. Wilson St., P.O. Box 2659, Madison, WI 53701-2659; ph. 608-261-6876; or fax 608-266-9711.

HFS 163.03 Definitions. In this chapter:

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

(a) "Abatement" includes the following activities:

1. Removal of lead-based paint or dust lead.
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. *subds. 1 to 4.*
6. Cleanup associated with an abatement.
7. Preparation for disposal of waste from an abatement.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(7) "Certificate of lead-free status" means a certificate issued by a certified lead inspector or risk assessor that documents a finding by the inspector or risk assessor that a premises, dwelling or unit of a dwelling is free of lead-bearing paint as of the date specified on the certificate.

(8) "Certificate of lead-safe status" means a certificate issued by a certified lead hazard investigator or risk assessor that documents that the hazard investigator or risk assessor detected no lead-bearing paint hazards affecting the premises, dwelling or unit of the dwelling on the date specified on the certificate.

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

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

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

(12) "Chewable surface" means an interior or exterior surface painted with lead-based paint that a young child can mouth or chew. Hard metal substrates and other materials that cannot be dented by the bite of a young child are not considered chewable.

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

(14) "Clearance" means the visual examination or sampling conducted after an activity that disturbed known or presumed lead-based paint to make a final determination that the dust-lead levels are below the clearance level.

(15) "Clearance level" means the value that indicates the maximum amount of lead permitted in dust on a surface following completion of an activity that disturbed known or presumed lead-based paint.

(16) "Common area" means a portion of a building or the building's real property that is available for use by occupants of more than one dwelling unit.

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

(17) "Common area group" means a group of common areas that are similar in design, construction and function. Common area groups include a group of hallways, a group of stairwells and a group of laundry rooms.

(18) "Component" means a specific design, architectural or structural element or fixture of a building, residential dwelling or child-occupied facility that is distinguished from another component by form, function or location. Interior components include ceiling, crown molding, wall, chair rail, door, door trim, floor, fireplace, radiator or other heating unit, shelf, shelf support, stair tread, stair riser, stair stringer, newel post, railing cap, balustrade, window and trim (including sash, window head, jamb, interior sill or stool and trough), built-in cabinet, column, beam, bathroom vanity, counter top and air conditioner. Exterior components include painted roofing, chimney, flashing, gutter, downspout, ceiling, soffit, fascia, rake board, cornerboard, bulkhead, door and door trim, fence, floor, joist, lattice work, railing, railing cap, siding, handrail, stair riser, stair tread, stair stringer, column, balustrade, exterior windowsill, window trough or well, casing, sash and air conditioner.

(19) "Containment" means the physical measures taken either to ensure that dust and debris created or released during lead hazard reduction or lead-based paint construction activities are not spread, blown or tracked from inside to outside of the work area or to demarcate the work area. Containment that is a temporary structure built around an abatement site is referred to as "full containment" and containment that is a restricted area marked off with plastic, tape or signs is referred to as "partial containment".

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

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

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

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

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

(25) "Deteriorated paint" means known or presumed lead-based paint that is cracking, flaking, chipping, peeling, chalking or otherwise separating from the substrate of a building component or from underlying paint on a component. "Deteriorated paint" does not include known or presumed lead-based paint where nail holes, hair-line cracks, or small nicks or scratches resulting from normal wear-and-tear are present, provided all layers of paint remain securely bonded to the substrate.

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

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

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

(29) "Documented methodologies" means written protocols, standards or methods that are generally used and accepted for conducting lead hazard reduction activities, lead-based paint construction activities, and lead identification activities in a lead-safe manner.

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

(30) "Dripline" means the area within 3 feet surrounding the perimeter of a building.

(31) "Durable material" means a construction product capable of withstanding normal wear and tear, such as vinyl flooring, sheetrock and plywood.

(32) "Dust-lead" means surface dust that contains lead.

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

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

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

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

(37) " Dwelling unit" means a structure or that part of a structure which is used or intended to be used as a home, residence or sleeping place by one person or by 2 or more persons maintaining a common household, to the exclusion of all others.

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

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

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

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

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

(41) "Encapsulation" means the process of making lead-based paint inaccessible by the application of an encapsulant.

(42) "Enclosure" means the use of rigid, durable construction materials that are mechanically fastened to the substrate in order to act as a barrier between lead-based paint and the environment.

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

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

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

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

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

(48) "Hands-on skills assessment" means an evaluation that tests a trainee's ability to satisfactorily perform hands-on skills taught in a training course.

(49) "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.

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

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

(52) "High-risk lead-based paint activity" means a lead hazard reduction or lead-based paint construction activity that disturbs known or presumed lead-based paint, dust-lead or soil-lead and is likely to create an imminent lead-based paint hazard if lead-safe work practice standards are not carefully followed. High-risk lead-based paint activities include the following:

(a) Removing lead-based paint from components, such as by chemical stripping, using a heat gun, hand scraping to bare wood, or using power tools with or without a dust collection system with a HEPA filter or full enclosure of the work area.

(b) Removing components containing lead-based paint, such as removal of complete window systems, siding, walls, cabinet or trim, but not including removal of doors or components involved in window sash replacement.

(c) Using power tools that disturb lead-based paint and create dust-lead, with or without a HEPA-filtered dust collection system or full enclosure of the work area. Power tools that might create dust-lead include a sander, grinder, planer or saw, but do not include a power drill used for drilling.

(d) All activities specified under 29 CFR 1926.62 (d) (2), other than manual scraping and sanding.

(e) Any other activity that disturbs lead-based paint and is not a low-risk lead-based paint activity as determined by the department.

Note: Refer to Appendix A for a list of high-risk activities under 29 CFR 1926.62 (d) (2).

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

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

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

(a) Spouse.

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

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

(d) Sons-in-law or daughters-in-law.

(e) Brothers and their spouses. ← *brida?*

(f) Sisters and their spouses.

(g) Aunts and uncles.

(56) "Imminent lead hazard" means a lead hazard that, if allowed to continue, will place a child under 6 years of age at risk of developing lead poisoning or lead exposure, as determined by the department or other state agency, a local health department or a federal agency.

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

(58) "Independent" means a person meeting all of the following:

(a) Not directly or beneficially owned, controlled or managed by the owner or an immediate family member, agent or employee of the owners.

(b) Performs the assigned work in an unbiased, objective and impartial manner in accordance with work practice standards under s. HFS 163.14. *✓*

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

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

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

(62) "Interior windowsill" or "window stool" means the portion of the horizontal window ledge that protrudes into the interior of the room. The interior windowsill is adjacent to the window sash when the window is closed.

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

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

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

(65) "Lead-based paint activity" means an activity that is conducted when performing an abatement, clearance, HUD LBP grant-funded interim control, inspection, lead hazard screen, lead-free inspection, lead-safe investigation, risk assessment or project design.

(66) "Lead-based paint construction activity" means an activity other than lead hazard reduction that disturbs paint on lead-safe property when the paint has not been proven to be lead-free. Lead-based paint construction activities include scraping, sanding, cutting, planing, drilling or sawing painted surfaces during modification, demolition, maintenance, rehabilitation, remodeling, renovation or restoration activities.

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

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

(69) "Lead contractor supervisor" or "lead supervisor" means an individual who supervises or performs high-risk lead hazard reduction or high-risk lead-based paint construction activities.

(70) "Lead-free inspection" means any lead inspection activity conducted to determine whether a dwelling, dwelling unit, child-occupied facility or premises is free of lead-based paint and qualifies for a certificate of lead-free status.

(71) "Lead-free property" means those portions of a dwelling, dwelling unit, child-occupied facility or premises, the real property on which the dwelling, child-occupied facility or premises stands, and all structures on the real property that are accessible to property occupants, that are covered by a current, valid certificate of lead-free status registered with the department.

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

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

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

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

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

(77) "Lead high-risk worker" or "~~lead~~ worker" means an individual who performs high-risk lead hazard reduction or high-risk lead-based paint construction activities.

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

(79) "Lead inspector" means an individual who conducts lead-free inspection, lead inspection or clearance activities.

(80) "Lead investigation activity" means any activity that determines whether lead-based paint or lead hazards are present. Lead investigation activities include an elevated blood lead investigation, lead-free inspection, lead inspection, lead hazard screen, risk assessment, lead-safe investigation or clearance activity.

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

(82) "Lead low-risk supervisor" means an individual who supervises or performs low-risk lead hazard reduction or lead-based paint construction activities that do not involve high-risk lead-based paint activities.

(83) "Lead low-risk worker" means an individual who performs low-risk lead hazard reduction or lead-based paint construction activities that do not involve high-risk lead-based paint activities.

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

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

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

(87) "Lead sampling technician" means an individual who performs clearance activities or assists a lead hazard investigator, inspector or risk assessor in conducting other lead investigation activities.

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

(89) "Lead-safe property" means that portion of a dwelling, child-occupied facility or premises, the real property on which the dwelling, dwelling unit, child-occupied facility, or premises stands, and all other structures on the real property that are accessible to property occupants, that are covered by a current certificate of lead-safe status registered with the department.

(90) "Living area" means any area of a residential dwelling, dwelling unit or child-occupied facility used by one or more residents. Living areas include living rooms, kitchen areas, dens, play rooms and children's bedrooms.

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

(92) "Low-risk lead-based paint activity" means a lead hazard reduction or lead-based paint construction activity that disturbs known or presumed lead-based paint, dust-lead or soil-lead but is not likely to create an imminent lead-based paint hazard even if lead-safe work practice standards are not carefully followed. Low-risk lead-based paint activities include the following:

(a) Surface preparation and repainting, including manual scraping or sanding of paint.

(b) Restoring proper functioning of windows and doors.

(c) Enclosure or encapsulation of lead-based painted components without removing components.

(d) Removal of lead-based painted window sashes and replacement with new window sashes without removing the window framing or trim.

(e) Removal of lead-based painted doors and replacement with new doors without removing the door framing or trim.

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

(94) "Multi-family dwelling" means a structure that contains more than one separate 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.

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

(96) "Paint removal" means a method of abatement that permanently eliminates lead-based paint from surfaces.

(97) "Paint stabilization" means repairing any physical defect in the substrate of a painted surface that is causing paint deterioration, removing loose paint and other material from the surface to be treated, and applying a new protective coating or paint.

(98) "Paint testing" means the process of determining, by a certified lead inspector, hazard investigator or risk assessor, the presence or the absence of lead-based paint on painted surfaces or painted surfaces to be disturbed or replaced.

(99) "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 asphalt or concrete. Grass, mulch and other landscaping materials are not considered permanent covering.

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

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

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

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

(b) Other buildings and facilities, including attached structures and real property upon which the buildings or facilities stand, that might pose a significant risk of contributing to the lead poisoning or lead exposure of children under 6 years of age.

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

(104) "Property owner" means, with the following exception, any person having a legal or equitable interest in the dwelling. "Property owner" does not include any person whose legal or equitable interest in the dwelling is a security interest derived solely from the extension of credit to permit construction or remodeling of the dwelling or purchase of the dwelling by a 3rd party.

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

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

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

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

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

(109) "Residential property" means a dwelling unit, common areas, building exterior surfaces, and any surrounding land, including outbuildings, fences and play equipment affixed to the land, belonging to an owner and available for use by residents, but not including land used for agricultural, commercial, industrial or other non-residential purposes, and not including paint on the surface of parking lots, garages, or roadways.

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

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

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

(112) "Soil-lead hazard" means bare soil on residential property that contains lead equal to or exceeding the applicable level under s. HFS 163.15.

Note: For properties subject to HUD lead hazard reduction regulations, the following soil-lead hazard levels apply: (a) 400 micrograms per gram of soil in play areas. (b) 2,000 micrograms per gram of soil in areas that are not play areas when bare soil totals more than 9 square feet per residential property.

(113) "Substrate" means the material directly beneath the painted surface out of which the components are constructed, including wood, drywall, plaster, concrete, brick or metal.

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

(115) "Tenant" means the individual named lessee in a lease, rental agreement or occupancy agreement for a dwelling unit, who pays rent to live in a dwelling unit, or occupies a dwelling unit with the express or implied permission of the owner.

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

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

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

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

(120) "Unkeyed plaster" means plaster whose mechanical bond with the supporting structure of wooden lath is broken, causing the plaster to become loose or bowed.

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

(122) "Visual inspection" means:

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

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

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

(124) "Window trough" or "window well" means the portion of the windowsill between the interior windowsill or stool and the frame of the storm window. If there is no storm window, the window trough is the area that receives both the upper and lower sashes when they are both lowered.

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

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

(127) "Zero-bedroom dwelling" means any dwelling in which the living area is not separated from the sleeping area. Zero-bedroom dwellings include efficiencies, studio apartments, dormitory housing, military barracks and rentals of individual rooms in residential dwellings.

Subchapter II - Certification of Persons to Perform Lead Abatement, Other Lead Hazard Reduction Activities, Lead-Based Paint Construction Activities, or Lead Identification Activities

HFS 163.10 Certification of an individual. (1) REQUIREMENT. Except as provided under (d), an individual shall be certified by the department under this chapter and employed by, under contract with or an owner of a certified lead company before doing any of the following: ①

(a) Perform, supervise or offer to perform or supervise a lead-based paint activity involving one of the following:

1. A child-occupied facility or the real property on which the child-occupied facility stands.
2. Target housing or the real property on which the target housing stands when one of the following applies:
 - a. The individual performing the work does not own the target housing or real property.
 - b. An individual other than the target housing's owner or the owner's immediate family rents or occupies the target housing or real property.
 - c. A child residing in the target housing has been identified as having an elevated blood lead level.

- (b) Perform interim controls when funded by a HUD lead-based paint grant.
- (c) Perform a lead hazard reduction activity when certification is required under an order issued by a court, the department, another state agency or a local agency.

(d) 1. Except as provided in subd. 2., perform, supervise or offer to perform or supervise a lead-based paint construction activity involving lead-safe property.

2. An individual is not required to be certified if all activities are within the scope of a license, certification or registration issued to the individual by the department of commerce under s. 101.178, 101.87 or ch. 145, Stats. ✓

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

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

(a) **Lead hazard reduction disciplines.** 1. **Lead low-risk worker.** With supervision under s. HFS 163.14 (3) or (5), a certified lead low-risk worker may perform a low-risk lead-based paint activity. A lead low-risk worker may not perform any high-risk lead-based paint activity, prepare an occupant protection plan or abatement report, conduct sampling or supervise lead-based paint activities. ✓

2. **Lead high-risk worker.** With supervision under s. HFS 163.14 (3) or (5), a certified lead high-risk worker may perform any high-risk or low-risk lead-based paint activity. A lead high-risk worker may not prepare an occupant protection plan or abatement report, conduct sampling or supervise lead-based paint activities. ✓

3. **Lead low-risk supervisor.** A certified lead low-risk supervisor may develop occupant protection plans, write lead hazard reduction reports, and supervise or perform low-risk lead-based paint activities. A lead low-risk supervisor may take dust-wipes before clearance is conducted to determine if clean-up is complete, but this activity does not meet the criteria for clearance or sampling under s. 901.055, Stats. A low-risk supervisor may not perform or supervise high-risk lead-based paint activities. ✓

4. **Lead contractor supervisor.** A certified lead contractor supervisor may develop occupant protection plans, write lead hazard reduction reports, and supervise or perform high-risk and low-risk lead-based paint activities. A certified lead contractor supervisor may take dust-wipes before clearance is conducted to determine if clean-up is complete, but this activity does not meet the criteria for clearance or sampling under s. 901.055, Stats. ✓

5. **Lead project designer.** A certified lead project designer may design lead hazard reduction projects, develop occupant protection plans and write lead hazard reduction reports. A certified lead project designer may not perform or supervise lead-based paint activities without certification in another lead hazard reduction discipline.

(b) **Lead investigation disciplines.** 1. **Lead sampling technician.** A certified lead sampling technician may conduct clearance following a lead-based paint construction or interim control activity involving a single-family dwelling, multifamily housing with no more than 4 units, or an

individual dwelling unit in multifamily housing. A certified lead sampling technician may assist a certified lead investigator, inspector or risk assessor to conduct other lead investigation activities. A certified lead sampling technician may not use an XRF, conduct clearance after an abatement or provide recommendations for reducing a lead hazard.

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

3. Lead hazard investigator. A certified lead hazard investigator may conduct any clearance, elevated blood-lead investigation, lead hazard screen, lead-safe investigation or risk assessment activity. A certified lead hazard investigator may assist a certified lead inspector or risk assessor to conduct a lead inspection, but may not use an XRF.

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

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

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

3. An individual applying for certification as a lead inspector or risk assessor shall have completed XRF manufacturer's training under par. (d).

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

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

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

2. Contractor supervisor or low-risk supervisor. An applicant for lead contractor supervisor or lead low-risk supervisor certification shall meet or exceed one of the following:

a. Have one year of experience as a certified lead worker, including low-risk or high-risk worker, lead low-risk supervisor or lead contractor supervisor. (3) ✓

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) *XRF manufacturer's training for lead inspectors or risk assessors.* Before applying for certification, an individual applying for certification as a lead inspector or risk assessor shall complete manufacturer's training meeting the requirements under ch. HFS 157 for at least one make and model of XRF the individual will be using and shall submit a completion certificate for the training with the application for initial certification. Manufacturer's training shall be provided by the XRF manufacturer or by an individual who has been directly trained by the XRF manufacturer. Documentation of any other training completed to operate other makes or models of XRF shall be retained by the applicant and submitted upon request by the department.

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

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

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

(b) **Photograph.** A clearly identifiable photograph of the applicant's face in a standard passport size of 2" x 2," taken within the previous 24 months.

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

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

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

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

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

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

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

a. A resume describing the relevant experience.

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

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

d. Copies of inspection reports prepared by the applicant.

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

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

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

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

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

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

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

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

c. For certification as a lead high-risk worker, a fee of \$75.

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

e. For certification as a lead low-risk supervisor, a fee of \$75.

f. For certification as a lead low-risk worker, a fee of \$50.

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

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

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

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

2. Certification examination fee. For lead contractor supervisor, hazard investigator, inspector, low-risk supervisor or risk assessor initial certification, a nonrefundable certification examination registration of \$50.

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

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

Note: For copies of the application form, worker-safety training form or affidavit of education and experience, write or phone the Asbestos and Lead Section, Bureau of Occupational Health, Room 137, 1 W. Wilson Street, P.O. Box 2659, Madison, WI 53701-2659; ph. 608-261-6876; or fax 608-266-9711. Return the completed application and fee to the same office.

(6) ACTION BY THE DEPARTMENT. (a) *Time limit.* Within 10 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 contractor supervisor, hazard investigator, inspector, low-risk supervisor or risk assessor certification, meets all of the certification examination prerequisites under sub. (3) (c) 3. and is registered for, but has not passed, the certification examination for the discipline, the department may grant interim certification. When interim certification is granted, the department shall issue or arrange for the issuance of an interim certification card for the appropriate specific discipline under sub. (2). An individual may be granted interim certification only once per discipline per lifetime.

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

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

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

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

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

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

2. For lead high-risk worker, low-risk supervisor, low-risk worker or sampling technician:

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

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

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

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

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

1. Be in compliance with all requirements of this chapter.
2. Be current with the certification training requirements under s. HFS 163.11.
3. Submit an application for recertification to the department under par. (c). The department shall refund the recertification fee if recertification is denied and the payer does not owe the department other fees.
4. Pass a certification examination under sub. (3) (c) when 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 was late in completing refresher training and is required to retake and pass the certification examination under s. 163.11 (3) (a) 2. b.

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

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

1. **Application form.** A fully and accurately completed application on a form obtained from the department. The applicant shall include on the form his or her social security number if it is not already shown on the form. The applicant shall personally sign the application affidavit verifying the accuracy of the information.
2. **Photograph.** A recent, clearly identifiable photograph of the applicant's face in a standard passport size of 2" x 2," taken within the previous 24 months.
3. **Training certificates.** A copy of any training certificate that was not previously submitted for training required under s. HFS 163.11.
4. **Recertification fee.** A written request for a government certification fee exemption under subd. par. j. or a recertification fee as follows:

a. For recertification as a lead contractor supervisor, a 1-year fee of \$125 or a 2-year fee of \$225.

b. For recertification as a lead hazard investigator, a 1-year fee of \$150 or a 2-year fee of \$275.

c. For recertification as a lead high-risk worker, a 2-year fee of \$75.

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

e. For recertification as a lead low-risk supervisor, a 2-year fee of \$75.

f. For recertification as a lead low-risk worker, a 2-year fee of \$50.

g. For recertification as a lead project designer, a 1-year fee of \$175 or a 2-year fee of \$325.

h. For recertification as a lead risk assessor, a 1-year fee of \$175 or a 2-year fee of \$325.

i. For recertification as a lead sampling technician, a 2-year fee of \$50.

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

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

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

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

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

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

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

(e) *Length of recertification.* 1. When the department recertifies a lead contractor supervisor, hazard investigator, inspector, project designer or risk assessor, the department shall recertify the individual for 1 or 2 years depending on whether a 1-year or 2-year fee is paid.

2. When the department recertifies a lead high-risk worker, low-risk supervisor, low-risk worker or sampling technician, the department shall recertify the individual for 2 years.

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

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

(a) Accredited by the department under this chapter.

(b) Accredited by EPA or an EPA-authorized state or tribal lead training and certification program if the course was completed in another state where the accrediting program has authority.

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

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

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

1. Lead low-risk worker. For certification as a lead low-risk worker, one of the following:

a. An initial 1-day lead low-risk work course.

b. An initial 2-day lead worker course.

2. Lead high-risk worker. For certification as a lead high-risk worker, one of the following:

a. An initial 1-day lead low-risk work course followed by an initial 1-day lead high-risk work course.

b. An initial 2-day lead worker course.

3. Lead low-risk supervisor. For certification as a lead low-risk supervisor, one of the following:

a. An initial 1-day lead low-risk work course followed by an initial 1-day lead low-risk supervision course.

b. An initial 2-day lead worker course followed by an initial 2-day lead supervisor course or a 1-day lead low-risk supervision course.

4. Lead contractor supervisor. For certification as a lead contractor supervisor, one of the following:

a. An initial 1-day lead low-risk work course followed by an initial 1-day lead high-risk work course and an initial 2-day lead contractor supervision course.

b. An initial 1-day lead low-risk work course followed by an initial 1-day lead high-risk work course, an initial 1-day lead low-risk supervision course, and an initial 1-day lead contractor supervision course.

c. An initial 2-day lead worker course followed by an initial 2-day lead contractor supervision course.

5. Lead project designer. For certification as a lead project designer, lead contractor supervisor training under subd. 4. followed by an initial 1-day lead project designer course.

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

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

2. Lead inspector. For certification as a lead inspector, one of the following:

a. An initial 1-day lead sampling course followed by an initial 2-day lead inspection course.

b. An initial 3-day lead inspector course.

3. Lead hazard investigator. For certification as a lead hazard investigator, one of the following:

a. An initial 1-day lead sampling course followed by an initial 2-day lead hazard investigation course.

b. An initial 3-day lead inspector course followed by an initial 2-day lead risk assessor or lead hazard investigation course.

4. Lead risk assessor. For certification as a lead risk assessor, one of the following:

a. An initial 1-day lead sampling course followed by an initial 2-day lead inspection course and an initial 2-day lead hazard investigation course.

b. An initial 3-day lead inspector course followed by an initial 2-day lead risk assessor or an initial 2-day lead hazard investigation course.

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

a. An individual issued initial certification as a lead contractor supervisor, hazard investigator, inspector, project designer or risk assessor or recertification based on payment of a 1-year fee shall complete a refresher training course under par. (b) every 2 years, as indicated by the training due date on the certification card.

b. An individual issued initial certification as a lead high-risk worker, low-risk supervisor, low-risk worker or sampling technician or recertification based on payment of a 2-year fee shall complete a refresher training course under par. (b) during that certification period, as indicated by the training due date on the certification card.

2. As a condition for certification, an individual who is not certified and has not completed initial or refresher lead training within the previous 24 months, shall meet one of the following refresher training requirements:

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

b. An individual whose certification has been expired for 12 months shall complete initial training under sub. (2) (a) or (b) or a refresher training course under par. (b) and shall retake and pass the certification examination under s. HFS 163.10 (3) (c).

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

a. For certification as a lead low-risk worker, a 2-hour lead low-risk worker refresher training course.

b. For certification as a lead high-risk worker, a 4-hour lead high-risk worker refresher training course.

c. For certification as a lead low-risk supervisor, a 4-hour lead low-risk supervisor refresher training course.

d. For certification as a lead contractor supervisor, an 8-hour lead contractor supervisor refresher training course.

e. For certification as a lead project designer, a 4-hour lead project designer refresher training course.

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

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

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

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

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

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

HFS 163.12 Certification of a lead company. (1) **REQUIREMENT.** A company, partnership, corporation, sole proprietorship, association, governmental agency or other entity shall be certified by the department as a lead company under this chapter and shall have appropriately certified staff before it may perform, supervise, advertise, claim to provide or offer to perform or supervise a lead-based paint activity or a lead-based paint construction activity.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Note: To request a copy of the Department's lead company regulatory work sheet, contact the Asbestos and Lead Section, Bureau of Occupational Health, Room 137, 1 W. Wilson Street, P.O. Box 2659, Madison, WI 53701-2659; ph. 608-261-6876; or fax 608-266-9711.

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

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

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

2. Fee. *The fee shall include all of the following:*
a. A nonrefundable initial certification fee of \$75.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) *Length of lead company renewal of certification.* When the department renews the certification of a lead company, the department shall extend a lead company's certification 2 years, except that lead company certifications with an expiration date of November 1, 2001, shall be renewed to expire at midnight on August 1, 2003. 32

HFS 163.13 Responsibilities of certified persons. (1) **MAY NOT REFUSE ENTRY.** No person at a site where a lead company conducts business or at the site of a 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 certification card is valid in this state for performing a lead-based paint activity or lead-based paint construction activity. Each individual performing or supervising a lead-based paint activity or lead-based paint construction activity for which certification is required shall have a valid unexpired certification card at the jobsite whenever performing or supervising a lead-based paint activity or lead-based paint construction activity. Only the most recent certification card is valid.

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

(4) REQUIREMENT FOR SUPERVISION OF A WORKER. A lead low-risk worker or high-risk worker shall be supervised according to s. 163.14 (3) (a), ~~(3) (b)~~, (5) (a) or (5) (b). According to recordkeeping requirements under sub. (3), the lead company shall maintain documentation of all jobs where a lead low-risk worker was directly supervised and shall maintain documentation that a lead low-risk worker successfully demonstrated understanding and compliance with pertinent regulations and protocols when performing lead-based paint activities. Documentation of competence shall be on a form obtained from or approved by the department. (4)

Note: For a copy of the worker competency form, write or phone the Asbestos and Lead Section, Bureau of Occupational Health, Room 137, 1 W. Wilson St., P.O. Box 2659, Madison, WI 53701-2659; ph. 608-261-6876; or fax 608-266-9711.

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

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

(b) For a lead hazard reduction or lead-based paint construction activity, a statement regarding who is responsible for paying additional cleanup and clearance costs if clearance levels are not met.

(c) For a clearance activity, a statement regarding whether the lead company and individual conducting the clearance are independent from the lead company conducting the lead hazard reduction or lead-based paint construction activity.

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

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

- a. Assume the paint is lead-based paint.
- b. Take a paint chip sample for submission to a recognized laboratory for testing.
- (e) For a lead-free inspection or a lead-safe investigation, what action will be taken if the property is found ineligible for the certificate being sought.

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

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

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

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

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

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

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

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

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

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

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

(8) **SUMMARY OF LEAD INVESTIGATION ACTIVITIES.** (a) *Requirement for summary.* Except when a certificate of lead-free status or lead-safe status is issued as the result of the lead investigation activity, a certified lead company with staff certified as a lead hazard investigator, inspector, risk assessor or sampling technician, shall submit to the department a summary of lead investigation activities conducted on a form obtained from or approved by the department. If no activities are conducted in a quarter, the report must be filed to show no activity.

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

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

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

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

Note: To request a summary form, to request approval of an alternative form or to submit a summary, fax to 608-266-9711 or mail to the Asbestos and Lead Section, Bureau of Occupational Health, P.O. Box 2659, Madison, WI 53701-2659.