

Pt 1

Emergency Rule HFS 163

Relating to certification for the identification, removal
and reduction of lead-based paint hazards



State of Wisconsin
Department of Health and Family Services

JUN 12 2001

Scott McCallum, Governor
Phyllis J. Dubé, Secretary

June 12, 2001

The Honorable Judy Robson, Co-Chairperson
Joint Committee for Review of Administrative Rules
Room 15 South, State Capitol
P.O. Box 7882
Madison, Wisconsin 53707-7882

Dear Senator Robson:

The Department of Health and Family Services has an emergency rulemaking order in effect that will expire before the emergency rules are replaced by permanent rules unless the effective period of the emergency order is extended. Pursuant to s. 227.24 (2), Stats., I ask the Joint Committee to extend the effective period of the emergency order by 60 days as indicated below. The emergency rules are as follows:

Identification, Removal and Reduction of Lead-Based Paint Hazards and the Issuance and Registration of Certificates of Lead-Free Status and Lead-Safe Status. The emergency rulemaking order repealing, amending, repealing and recreating, and creating rules was published and effective on December 1, 2000, and extended for 60-days on April 24th by your Committee. The rules are going to **expire June 29th**, unless they are extended. The Department's rulemaking order responded to September 2000 regulations issued by the U.S. Department of Housing and Urban Development (HUD). The federal regulations assumed states' commencing lead abatement activities compliant with the federal regulations beginning March 15, 2001. The Department estimates that about 5,000 structures in the state require lead abatement activities. About 300 persons need to be trained to conduct lead abatement activities on these 5,000 structures. Wisconsin's lead training programs have altered their courses under the provisions of the emergency rulemaking order to provide more modular training that allows them to more quickly train the workforce. The Department has also worked with HUD to recognize certain HUD-approved courses and for HUD to recognize certain Department-accredited courses. If the emergency rulemaking order is not extended, the Department will be unable to accept credentials of persons who complete these courses.

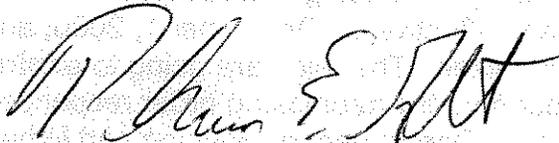
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In addition to revising training courses, the emergency rulemaking order adds several certification disciplines that allow people to perform lead abatement and lead investigation activities with less training and at a lower cost than under the less flexible ch. HFS. 163 training and certification rules in place before the emergency rule order was issued. If the emergency rulemaking order is not extended, these new, lower level certification disciplines will be invalid and the affected persons will need to complete additional training and be certified in a higher level certification discipline in order to perform regulated lead-based paint activities.

Replacement permanent rules were sent to the Legislative Council for review on December 8, 2000 and again on May 21st. The rules were the subject of public hearings held on January 12th, 16th, 17th, 18th and 19th, 2001. The Department hopes to send the Legislative Report to the Presiding Officers of the Senate and Assembly later this month. Consequently, the Department will probably not be able to file the permanent rules until July for an October 1, 2001, effective date. Therefore, I request an extension of the effective period of the emergency rules by **60 days**, through August 28, 2001. With this extension, there still will be an unavoidable regulatory gap of at least a month.

A copy of the emergency rulemaking order is attached to this letter. If you have any questions about the rules, you may contact Gail Boushon, Regulatory Specialist, Asbestos and Lead Section, Bureau of Occupational Health, Division of Public Health at 267-2289.

Sincerely,



for Phyllis J. Dubé
Secretary

Attachments

cc Senator Grothman

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

FINDING OF EMERGENCY

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

Summary

September 2000 regulations issued by the U.S. Department of Housing and Urban Development (HUD) assume states' commencing lead abatement activities compliant with the federal regulations beginning March 15, 2001. The Department estimates that about 5,000 structures in the state require lead abatement activities. About 300 persons need to be trained to conduct lead abatement activities on these 5,000 structures. Without DHFS issuance of revised training program requirements, Wisconsin's lead training programs will not alter their courses to HUD standards or receive state accreditation in time for sufficient personnel to be trained by the time high demands for lead abatement commences. To sanction ill-trained lead abatement personnel by March 15, 2001, the Department would needlessly endanger the health of both untrained lead abatement personnel and the public whose residences are affected.

Lead Abatement Activities

Residences built before 1978 have a high likelihood of containing lead-based paint. When lead-based paint is in poor condition or when it is disturbed through activities such as sanding or scraping, the paint can break down into chips and dust that become a potential source of lead poisoning for occupants. Wisconsin has nearly 500,000 rental units and 1 million owner-occupied units built before 1978 and presumed to contain lead-based paint.

Exposure to lead in paint, dust or soil has both short-term and long-term adverse health effects on children, causing learning disabilities, decreased growth, hyperactivity, impaired hearing, brain damage and even death. When not fatal, these effects on the body last a lifetime. Of 63,400 Wisconsin children under the age of 6 screened for lead poisoning in 1999, 3,744 were identified as having lead poisoning. However, the number of children affected by lead poisoning is probably much greater, since the 63,400 screened represented only 16% of the state's children under the age of 6. Many of these children would not become lead poisoned if pre-1978 dwellings did not have deteriorated paint or lead-based paint on friction or impact surfaces and if lead-safe techniques were used when disturbing lead-based paint.

Lead poisoning can also affect older children and adults. In 1999, a 40-year old man employed to remove paint from windows of a rental dwelling was severely lead poisoned. He was hospitalized with complaints of headaches and joint pain. He underwent multiple sessions of chelation therapy to remove some of the lead from his blood, but still suffered serious neurological damage, which effected his speech and balance. This man's lead poisoning could have been avoided if he had been trained to use lead-safe techniques and personal protection equipment.

Existing Wisconsin Law

Chapter 254, Stats., provides for a comprehensive lead 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 operates on a combination of program revenue and lead program development grants from the 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. An individual may apply for certification in the following disciplines: lead (Pb) worker, supervisor, inspector, risk assessor and project designer. 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 (Pb) inspector, risk assessor or supervisor, must pass a certification examination. All individuals must have completed worker safety training required by the U.S. Occupational Health and Safety Administration for lead in construction. In addition, a lead (Pb) worker, supervisor, or project designer must complete a 16-hour lead (Pb) worker course, a lead (Pb) supervisor or project designer also must complete a 16-hour lead (Pb) supervisor course, and a lead (Pb) project designer must complete an 8-hour lead (Pb) project designer course. A lead (Pb) inspector or risk assessor must complete a 24-hour lead (Pb) inspector course and a lead (Pb) risk assessor must also complete a 16-hour lead (Pb) risk assessor course.

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. Specifically, these regulations 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 clearance conducted after completing activities that disturb lead-based paint. Clearance is a visual inspection and dust-lead sampling to verify that lead-based paint hazards are not left behind. The HUD regulations also establish a new, research-based standard for clearance that is more protective than HUD's previously recommended standard.

The EPA has issued a memorandum urging States to implement a lead sampling technician discipline for which a 1-day training course would be required. Addition of this discipli

would help to meet the increased demand for clearance under both the HUD regulations and renovation and remodeling regulations being considered by EPA.

The EPA is preparing to promulgate lead renovation and remodeling regulations under 40 CFR Part 745. Under these training and certification regulations for renovators, 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 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.

New Wisconsin Law

1999 Wisconsin Act 113 requires the Department to establish a process for issuing certificates of lead-free or lead-safe status and registering the properties for which certificates are issued. 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. Act 113 also requires the Department to establish the requirements for a training course of up to 16 hours that property owners, their agents and employees may complete in order to receive certification. The Department must also specify the scope of the lead investigation and lead hazard reduction activities that may be performed following certification. Act 113 specifies that administrative rules to implement Act 113 must be submitted to the Legislative Council Rules Clearinghouse by December 1, 2000. The rules providing the standards for lead-free and lead-safe property, and the procedures for issuing certificates of lead-free status and lead-safe status, are being promulgated separately and are not expected to be published for several months.

Result of Changing Federal and State Requirements

New HUD regulations create an urgent need for appropriately trained and certified workers to conduct activities that reduce or identify lead-based paint hazards. Due to a lack of trained and certified individuals to perform the activities required by the HUD regulations, housing agencies in Wisconsin have been forced to ask HUD for a 6-month extension before beginning enforcement of the regulations. To be granted the extension, the agencies must provide a plan for increasing the number of certified persons to meet the demand by March 15, 2001. If HUD does not grant an extension, millions of dollars in federal funding for rehabilitation and lead hazard reduction may be lost.

In addition to the demand for certified persons generated by the HUD regulations, Act 113 is generating its own demand for certified persons. Many property owners want to begin reducing lead-based paint hazards on their properties in order to meet the standards for lead-free or lead-safe property when the standards take effect. Although property owners and their employees may be certified now under Chapter HFS 163, Wis. Adm. Code, some property owners feel 5 days of training is too extensive for the work they will be performing. Act 113 requires the Department to establish the requirements for a training course of up to 16 hours that property owners, their agents and employees may complete in order to receive certification. This emergency rule meets the requirement of Act 113 by providing for certification as a lead (Pb) low-risk supervisor to independently perform limited lead hazard reduction activities after only 2 days of training.

Department Response

The Department is gravely concerned that a lack of properly trained and certified individuals to meet the increased demand may lead to an increase in lead poisoning due to work being performed by untrained individuals. The new disciplines in this emergency order will help meet the demand for certified individuals because the rules reduce the training hours required for certification by targeting training to specific activities. With more individuals becoming certified, housing authorities and property owners will be able to comply with HUD regulations and property owners will be able to reduce lead-based paint hazards in preparation for the implementation of Act 113 lead-free and lead-safe property standards.

In promulgating these revisions to the certification and training accreditation requirements under chapter HFS 163, the Department seeks to meet the needs of all the parties affected by training or certification requirements under State, federal or local lead regulations. For each revision made by these rules, the Department considered the impact of the cost, the ease with which persons could comply, the ability to easily move to a higher level of certification, and the consistency with other regulations. In developing the low-risk worker and low-risk supervisor disciplines, the Department also considered potential requirements of EPA's renovation and remodeling regulations.

The Department divided required training into smaller independent modules to allow individuals to complete the least amount of training necessary to safely and accurately perform the lead-based paint activities for which the individual becomes certified. In addition, the Department:

- Divided lead hazard reduction activities into those that are low-risk and high-risk.
- Divided site management activities into project design and supervision of low-risk versus high-risk activities.
- Divided lead investigation activities conducted by lead risk assessors into sampling, inspection, and hazard investigation.
- Revised the definitions, training and certification requirements and accreditation standards to reflect these categories of activities.

ORDER

Pursuant to the authority vested in the Department of Health and Family Services by ss. 227.24 (1), 250.04 (7), 254.167, 254.172, 254.176 (1) and (3), 254.178 (2) and 254.179, Stats., the Department hereby repeals, amends, repeals and recreates, and creates rules interpreting ss. 254.167, 254.172, 254.176, 254.178 and 254.179, Stats.

SECTION 1. HFS 163.01 is amended to read:

HFS 163.01 Authority and purpose. This chapter is promulgated under the authority of ss. 250.04 (7), 254.167, 254.172, 254.176 (1) and (3) ~~and 254.178 (2) and 254.179~~, Stats., to ensure that persons who perform lead-based paint activities do so safely to prevent exposure of building occupants to hazardous levels of lead. This is accomplished by requiring that before a person performs, supervises or offers to perform or supervise a lead-based paint activity involving target housing or a child-occupied facility or the real property on which the target housing or child-occupied facility stands, the person shall successfully meet the requirements of this chapter and have documentation of certification issued by the department. A homeowner is not required to be certified except as specified under s. HFS 163.10 (1) (a) 3. or 4., (b) or (c). This chapter also requires that a training course that is represented as qualifying any person for certification in this state as a lead (Pb) inspector, project designer, risk assessor, contractor supervisor, low-risk supervisor, high-risk worker, low-risk worker, hazard investigator or ~~worker-homeownersampling 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.

SECTION 2. HFS 163.02 (1) (b) is amended to read:

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

SECTION 3. HFS 163.03 (9) and (10) are repealed and recreated to read:

HFS 163.03 (9) "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 dust-lead levels are below the clearance level.

(10) "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.

SECTION 4. HFS 163.03 (24m), (33g), (33m) and Note, (40m), (45m), (46m), (49g), (49m), (49r), (49s), and (54m) are created to read:

HFS 163.03 (24m) "Elevated blood lead investigation" means the environmental investigation activities that are conducted in response to a report of a lead poisoning and intended to identify lead hazards that may contribute to the lead poisoning.

(33g) "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.

(33m) "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) Removal of 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) Removal of 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 or as determined by the department.

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

(40m) "Lead-based paint construction activity" means an activity other than lead hazard reduction that disturbs known or presumed lead-based paint, including demolition, maintenance, rehabilitation, remodeling, renovation and restoration activities.

(45m) "Lead (Pb) hazard investigator" means an individual who conducts lead hazard screen, lead risk assessment or clearance activities, but does not use an XRF or conduct lead inspections.

(46m) "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.

(49g) "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, inspection, lead hazard screen, risk assessment or clearance activities.

(49m) "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.

(49r) "Lead (Pb) 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.

(49s) "Lead (Pb) 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.

(54m) "Lead (Pb) sampling technician" means an individual who performs clearance activities or assists a lead (Pb) hazard investigator, inspector or risk assessor in conducting other lead investigation activities.

SECTION 5. HFS 163.03 (55) and (56) are repealed and recreated to read:

HFS 163.03 (55) "Lead (Pb) supervisor or lead (Pb) contractor supervisor" means an individual who supervises or performs high-risk lead hazard reduction or high-risk lead-based paint construction activities.

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

SECTION 6. HFS 163.03 (57m) is created to read:

HFS 163.03 (57m) "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.

SECTION 7. HFS 163.10 (2) is repealed and recreated to read:

HFS 163.10 (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 (Pb) low-risk worker. With supervision under s. HFS 163.14 (5), a certified lead (Pb) low-risk worker may perform low-risk lead-based paint activities. A lead (Pb) 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 (Pb) high-risk worker. With supervision under s. HFS 163.14 (5), a certified lead (Pb) high-risk worker may perform high-risk and low-risk lead-based paint activities. A lead (Pb) high-risk worker may not prepare an occupant protection plan or abatement report, conduct sampling or supervise lead-based paint activities.

3. Lead (Pb) low-risk supervisor. A certified lead (Pb) 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 (Pb) low-risk supervisor may take dust-wipes before clearance is conducted to determine if clean-up is complete, but may not conduct 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 (Pb) contractor supervisor. A certified lead (Pb) contractor supervisor may develop occupant protection plans, write lead hazard reduction reports, and supervise or perform any high-risk and low-risk lead-based paint activities. A certified lead (Pb) contractor supervisor may take dust-wipes before clearance is conducted to determine if clean-up is complete, but may not conduct clearance or sampling under s. 901.055, Stats.

5. Lead (Pb) project designer. A certified lead (Pb) project designer may design lead hazard reduction projects, develop occupant protection plans and write lead hazard reduction reports. A certified lead (Pb) 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 (Pb) sampling technician. A certified lead (Pb) 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 (Pb) sampling technician may assist a certified lead (Pb) hazard investigator, inspector or risk assessor to conduct other lead investigation activities. A certified lead (Pb) sampling technician may not use an XRF, conduct clearance after abatement, or provide recommendations for reducing a lead hazard.

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

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

SECTION 8. HFS 163.10 (3) (a), (b) 1., 3. (intro.) and 4. (intro.) and a., and (c) 1. (intro.) are amended to read:

HFS 163.10 (3) CONDITIONS FOR INITIAL CERTIFICATION. (a) *Summary.* An individual applying for initial certification in any discipline identified under sub. (2) shall be 18 years of age or

older, shall meet applicable education and experience qualifications under par. (b), shall successfully complete certification training requirements under s. HFS 163.11 and, to be certified as a lead (Pb) hazard investigator, inspector, risk assessor, low-risk supervisor or contractor supervisor, shall pass a certification examination under par. (c). To apply for certification, the applicant shall submit to the department an application under sub. (4) and include the applicable fee under sub. (5).

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

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

4. ~~Supervisor~~ Contractor supervisor or low-risk supervisor. An applicant for lead (Pb) contractor supervisor or lead (Pb) low-risk supervisor certification shall meet or exceed one of the following:

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

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

SECTION 9. HFS 163.10 (4) (e) (intro.) and (g) (2) are amended to read:

HFS 163.10 (4) (e) *Documentation of education and experience*. For certification as a lead (Pb) project designer, risk assessor, hazard investigator, contractor supervisor or low-risk supervisor, an affidavit of education and experience required under sub. (3) (b) on a form obtained from the department. The applicant shall also be prepared to submit one or more of the following forms of documentation if requested by the department:

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

SECTION 10. HFS 163.10 (5) (a) is repealed and recreated to read:

HFS 163.10 (5) FEES. (a) *Initial certification fee*. Except when a government certification fee exemption is requested under sub. (4) (g), an applicant for initial certification shall pay a fee as follows:

1. For certification as a lead (Pb) contractor supervisor, a fee of \$125.
2. For certification as a lead (Pb) hazard investigator, a fee of \$150.
3. For certification as a lead (Pb) high-risk worker, a fee of \$75.

4. For certification as a lead (Pb) inspector, a fee of \$150.

5. For certification as a lead (Pb) low-risk supervisor, a fee of \$75.

6. For certification as a lead (Pb) low-risk worker, a fee of \$50.

7. For certification as a lead (Pb) project designer, a fee of \$175.

8. For certification as a lead (Pb) risk assessor, a fee of \$175.

9. For certification as a lead (Pb) sampling technician, a fee of \$50.

SECTION 11. HFS 163.10 (6) (b) is amended to read:

HFS 163.10 (6) (b) *Grant interim certification.* If an individual applies for lead (Pb) hazard investigator, inspector, risk assessor, low-risk supervisor or contractor supervisor certification, meets all of the certification examination prerequisites under sub. (3) (c) 3. and is registered for, but has not passed, the certification examination for the discipline, the department may grant interim certification. When interim certification is granted, the department shall issue or arrange for the issuance of an interim certification card for the appropriate specific discipline under sub. (2). An individual may be granted interim certification only once per discipline per lifetime.

SECTION 12. HFS 163.10 (7) (b), (8) (c) 4. and (8) (e) are repealed and recreated to read:

HFS 163.10 (7) (b) *Initial certification.* 1. For a lead (Pb) contractor supervisor, hazard investigator, inspector, project designer or risk assessor, initial certification shall be valid for 1 year after the completion date of the most recent training required under s. HFS 163.11.

2. For lead (Pb) 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.

c. An initial certification issued between November 30, 2000, and January 1, 2001, shall expire at midnight on August 1, 2003.

(8) (c) 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.

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

2. When the department recertifies a lead (Pb) high-risk worker, low-risk supervisor, low-risk worker or sampling technician, the department shall extend the individual's certification for 2 years.

SECTION 13. HFS 163.11 is repealed and recreated to read:

HFS 163.11 Certification training requirements. To be certified under this chapter as a lead (Pb) 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.** (a) *Approved training courses.* Each training course the individual completes for purposes of certification or recertification shall be one of the following:

- 1. Accredited by the department under subch. III.
- 2. Accredited by EPA or an EPA-authorized state or tribal lead certification program if the course was completed in another state where the accrediting program has authority.
- 3. Given by a training center authorized by EPA and completed in another state before March 1, 1999.
- 4. Accredited by another state if the training course is comparable to the accreditation requirements under subch. III and was completed in that state before 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 (Pb) 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 (Pb) 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 (Pb) 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 (Pb) 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 supervisor course.

b. An initial 2-day lead worker course followed by an initial 2-day lead supervisor course.

5. Lead project designer. For certification as a lead (Pb) project designer, lead (Pb) 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 (Pb) sampling technician, an initial 1-day lead sampling course.

2. Lead inspector. For certification as a lead (Pb) 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 (Pb) 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 (Pb) 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 (Pb) 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 (Pb) 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 (Pb) low-risk worker, a 2-hour lead low-risk worker refresher training course.
- b. For certification as a lead (Pb) high-risk worker, a 4-hour lead high-risk worker refresher training course.
- c. For certification as a lead (Pb) low-risk supervisor, a 4-hour lead low-risk supervisor refresher training course.
- d. For certification as a lead (Pb) contractor supervisor, an 8-hour lead contractor supervisor refresher training course.
- e. For certification as a lead (Pb) 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 (Pb) sampling technician, a 2-hour lead sampling technician refresher training course.
- b. For certification as a lead (Pb) inspector, an 8-hour lead inspector refresher training course.
- c. For certification as a lead (Pb) hazard investigator, an 8-hour lead hazard investigator refresher training course.
- d. For certification as a lead (Pb) 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.

SECTION 14. HFS 163.12 (1) is amended to read:

(1) REQUIREMENT. ~~Only a~~ company, partnership, corporation, sole proprietorship, association, governmental agency or other entity shall be certified by the department as a lead (Pb) 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 on and after August 30, 1999.

SECTION 15. HFS 163.12 (2) (d) is repealed and recreated to read:

HFS 163.12 (2) (d) *Demonstrate knowledge of applicable regulations.* An owner, officer or employe of the lead (Pb) company who is authorized by the lead (Pb) company to act on the lead (Pb) 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 (Pb) 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.

SECTION 16. HFS 163.12 (2) (e) and (note) are repealed.

SECTION 17. HFS 163.12 (3) (a) 1.e is repealed and recreated to read:

HFS 163.12 (3) (a) 1. 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).

Note: To request a copy of the Department's lead company regulatory work sheet, contact the Asbestos and Lead Section, Bureau of Occupational Health, P.O. Box 2659, Madison, WI, 53701-2659 or send a fax to 608-266-9711.

SECTION 18. HFS 163.12 (3) (a) 2. is amended to read:

HFS 163.12 (3) (a) 2. Fee. a. A nonrefundable initial certification fee of ~~\$50~~\$75.

SECTION 19. HFS 163.12 (5) is repealed and recreated to read:

HFS 163.12 (5) EXPIRATION OF LEAD (Pb) COMPANY CERTIFICATION. A lead (Pb) 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.

(c) An initial certification issued between November 30, 2000, and January 1, 2001, shall expire at midnight on August 1, 2003.

SECTION 20. HFS 163.12 (6) (a) (intro), 2., 2. Note and (c) are amended to read:

HFS 163.12 (6) RENEWAL OF CERTIFICATION. (a) *Requirement.* To continue to perform, supervise, advertise, claim to provide or offer to perform or supervise a lead-based paint activity ~~after certification expires on November 1,~~ a lead (Pb) company shall submit the following to the department before ~~November 1~~certification expires:

2. A nonrefundable fee of ~~\$50~~\$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, ~~Room 117, 1414 E. Washington Ave.,~~ P.O. Box 2659, Madison, WI 53703-3043~~53701-2659.~~

~~(c) Length of lead (Pb) company renewal of certification. When renewal of certification is granted the department recertifies a lead (Pb) company, the department shall extend a lead (Pb) company's certification 2 years shall be extended a maximum of and shall expire annually at 12:01 a.m. on November 1 following renewal of certification, except that lead company certifications with an expiration date of November 1, 2001, shall be renewed to expire at midnight on August 1, 2003.~~

SECTION 21. HFS 163.13 (8) is created to read:

(8) REQUIREMENT FOR SUPERVISION OF A WORKER. A lead (Pb) low-risk worker or high-risk worker shall be supervised according to s. 163.14 (5) (a) or (b). According to the recordkeeping requirements under s. HFS 163.14 (9), the lead (Pb) company shall maintain documentation of all jobs where the lead low-risk worker was directly supervised and shall maintain documentation that the 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.

Note: Obtain a copy of the form from the Asbestos and Lead Section, Bureau of Occupational Health, P.O. Box 2659, Madison, WI 53701-2659; 608-261-6876.

SECTION 22. HFS 163.14 (2) (intro.), (3) (intro.), (c) and (i) 6., (4) (intro.), (e) 2., (f) and (j) 6. are hereby amended to read:

HFS 163.14 (2) INSPECTION. Only a certified lead (Pb) inspector or risk assessor may perform an inspection. Under direct on-site supervision of a certified lead (Pb) inspector or risk assessor, a certified lead (Pb) hazard investigator or sampling technician may assist with an inspection, but may not use an XRF. In performing an inspection, the certified lead (Pb) inspector or risk assessor shall comply with all of the following:

(3) LEAD HAZARD SCREEN. Only a certified lead (Pb) hazard investigator or risk assessor may perform a lead hazard screen. Under direct on-site supervision of a certified lead (Pb) hazard investigator or risk assessor, a certified lead (Pb) inspector or sampling technician may assist with a lead hazard screen. In performing a lead hazard screen, the certified lead (Pb) hazard investigator or risk assessor shall comply with all of the following:

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

(i) 6. Name, address, telephone number, certification number and signature of the certified lead (Pb) hazard investigator or risk assessor conducting the lead hazard screen.

(4) RISK ASSESSMENT. Only a certified lead (Pb) hazard investigator or risk assessor may perform a risk assessment. Under direct on-site supervision of a certified lead (Pb) hazard investigator or risk assessor, a certified lead (Pb) inspector or sampling technician may assist with a risk assessment. In performing a risk assessment, the certified lead (Pb) hazard investigator or risk assessor shall comply with all of the following:

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

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

(j) 6. Name, address, telephone number, certification number and signature of the certified hazard investigator or risk assessor conducting the risk assessment.

SECTION 23. HFS 163.14 (5) (intro.), (a), (b), and (c) are repealed and recreated to read:

HFS 163.14 (5) **LEAD HAZARD REDUCTION ACTIVITIES.** Only an individual certified in an appropriate lead hazard reduction discipline may perform lead abatement activities or HUD LBP grant-funded interim controls. In performing abatement or HUD LBP grant-funded interim controls, the certified individual shall comply with all of the following:

(a) *Requirement for supervision of high-risk work.* When a lead (Pb) high-risk worker performs a high-risk abatement activity, a lead (Pb) contractor supervisor shall provide direct on-site supervision.

(b) *Requirement for supervision of low-risk work.* When a lead (Pb) low-risk worker or high-risk worker performs low-risk lead hazard reduction activities, a lead (Pb) low-risk supervisor or contractor supervisor shall provide direct on-site supervision until the supervisor is able to document that the worker understands and demonstrates compliance with pertinent regulations and protocols when performing lead-based paint activities, at which time general supervision of the worker is required. General supervision includes verification before work begins of occupant protection according to the plan developed under par. (g), a site visit each day the worker performs the activities, and verification of appropriate daily clean-up and disposal of waste and debris when work ends.

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

SECTION 24. HFS 163.14 (5) (d), (e) 1. b. and 5., (g), (i) (intro.), (j), and (k) (intro.) are amended to read:

HFS 163.14 (5) (d) *Requirement for notification of lead hazard reduction.* Before performing a lead hazard reduction activity for which certification is required, a lead (Pb) company's certified lead (Pb) contractor supervisor ~~certified under s. HFS 163.12 (2) (d), a certified worker homeowner, or the person contracting for performance of the lead hazard reduction activity shall notify~~ low-risk supervisor is responsible for notifying the department of the activity as follows:

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

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

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

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

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

(e) 1. b. Lead investigation details, including how and when it was identified and the name and certification number of the lead (Pb) hazard investigator, inspector or risk assessor.

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

(g) Requirement for written occupant protection plan for abatement. Before starting an abatement, a certified lead (Pb) contractor supervisor, low-risk supervisor or project designer shall prepare a written occupant protection plan and discuss the plan with the building occupants affected by one or more of the planned activities prior to the abatement. The occupant protection plan shall be unique to each residential dwelling or child-occupied facility and shall describe the measures and management procedures that will be taken during the abatement to protect the building occupants from exposure to any lead-based paint hazards. The occupant protection plan shall be followed by all lead (Pb) company staff and kept at the worksite for viewing by interested persons.

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

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

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

SECTION 25. HFS 163.14 (6) (intro.), (h), and (j) 3. are amended to read:

HFS 163.14 (6) **CLEARANCE.** Only a certified lead (Pb) hazard investigator, inspector, or risk assessor may perform clearance following a lead abatement activity involving target housing or a child-occupied facility. A certified lead (Pb) 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 when no lead abatement activity was conducted. In performing clearance, the certified lead (Pb) hazard investigator, inspector, or risk assessor or sampling technician shall comply with all of the following:

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

1. For an uncarpeted floor, 400 $\mu\text{g}/\text{ft}^2$ 40 micrograms per square foot.
2. For an interior window sill, or window stool, 500 $\mu\text{g}/\text{ft}^2$ 250 micrograms per square foot.
3. For a window well, or window trough, 800 $\mu\text{g}/\text{ft}^2$ micrograms per square foot.

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

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

SECTION 26. HFS 163.20 (4) (b) and (c), (7) (b) and (c) 2., (8) (title) and (a) (intro.) are amended to read:

HFS 163.20 (4) (b) *Initial training course.* An initial training course shall be ~~for a specific discipline under s. HFS 163.10 (2)~~ course under sub. (8) (a) 1. to 11. and shall meet all requirements of this section and all responsibility provisions of s. HFS 163.25.

(c) *Refresher training course.* A refresher training course shall be separate and distinct from the initial training course, be for a specific ~~discipline under s. HFS 163.10 (2)~~ course under sub. (8) (a) 12. and meet all accreditation requirements of this section and all responsibility provisions of s. HFS 163.25. A refresher course may not be accredited unless an initial course in

the same discipline and by the same training provider is accredited by the department the training provider obtains accreditation from the department for all corresponding initial courses.

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

(c) 2. Student-to-instructor ratio. A student-to-instructor ratio of not greater than 8:1 shall be maintained during hands-on instructional activities and ~~a student to instructor ratio of not greater than 5:1 shall be maintained during hands-on skills assessment~~ but may need to be less when necessary to ensure adequate instruction and observation of student performance.

(8) TRAINING COURSE CURRICULA. (a) *Curriculum Required topics or learning objectives.* No new or renewal course accreditation applications will be accepted for courses under subd. 1., 2. or 4. after November 30, 2000. An accredited training course shall teach work practice standards that are consistent with s. HFS 163.14 in order to provide students with the knowledge needed to perform the lead-based paint activities they are responsible for conducting. A training course shall meet or exceed the applicable minimum curriculum requirements, including both the minimum number of course training hours and the minimum number of hands-on training hours, as follows:

SECTION 27. HFS 163.20 (8) (a) 2., 6. and 7. are repealed and 3., 4. and 5. are renumbered 2., 3. and 4.

SECTION 28. HFS 163.20 (8) (a) 5. to 12. are created to read:

HFS 163.20 (8) (a) 5. Lead hazard investigation course. A hazard investigation course shall provide a minimum of 16 training hours to persons who have successfully completed a lead sampling course. The course shall include lectures, demonstrations, a minimum of 4 hours of hands-on practice, hands-on skills assessment, a course review and a written course test. The course shall provide instruction and materials that fulfill all of the following student learning goals and objectives:

- a. Describe the roles and responsibilities of a lead (Pb) hazard investigator for clearance and lead hazard investigation activities.
- b. Discuss the role of the lead hazard investigator in comparison to the roles of other related lead professionals.
- c. Describe the responsibilities of a lead hazard investigator under the lead-safe registry program.
- d. Describe the liability and insurance issues a lead professional must manage.
- e. List the types of background information needed to perform a lead hazard investigation or risk assessment.

- f. Describe the information needed during the initial client contact.
- g. Describe how to collect appropriate information on building occupants and any resident children with elevated blood lead levels.
- h. List at least seven possible sources of environmental lead contamination.
- i. Describe possible locations for lead and lead-based paint in buildings.
- j. Describe conditions when lead-based paint is considered a hazard.
- k. Discuss the purpose of the visual inspection for hazard detection.
- L. Describe documented protocols and methodologies for performing a visual inspection.
- m. Perform a visual inspection to identify potential sources of lead-based hazards.
- n. Determine when a lead hazard screen is an appropriate option.
- o. Discuss and compare protocols and documented methodologies for lead hazard screens, lead risk assessments, elevated blood lead investigations and lead-safe property certifications.
- p. Conduct a lead hazard screen following protocols and documented methodologies.
- q. Sample for sources of lead exposure other than lead-based paint using documented standards, protocols and methodologies.
- r. Apply current local, state and federal regulations and guidance to interpret lead-based paint and other lead sampling results.
- s. Develop hazard control options, including interim control, operations and maintenance, and abatement activities.
- t. Determine schedules for re-evaluation of interim controls.
- u. Discuss the use of cost/benefit analysis in determining the appropriate role of interim controls and operations and maintenance activities in lead hazard reduction.
- v. Prepare a final risk assessment report.
- w. Prepare a lead-safe investigation report.
- x. Describe the procedures for issuing lead-safe certificates.
- y. Discuss recordkeeping responsibilities for types of records kept and length of retention.
- z. Recognize common substrate problems that cause paint failure.

6. Lead high-risk work. A lead high-risk work course shall provide a minimum of 8 training hours to persons who successfully completed a lead low-risk work course. The course shall include lectures, demonstrations, a minimum of 4 hours of hands-on practice, hands-on skills assessment, a course review and a written course test. The course shall provide instruction and materials that fulfill all of the following student learning goals and objectives:

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

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

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

d. Describe general lead-based paint waste disposal requirements.

e. Recognize the federal, state and local governmental agencies that have lead-based paint regulations.

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

g. Determine characteristics of a work site that can affect a lead-based paint project.

h. Interpret exposure measurements from personal air monitoring samples.

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

j. Discuss general work site safety issues.

k. Discuss general engineering controls used for reducing and containing dust-lead.

(5). L. List at least 5 work practices for lead hazard reduction activities under s. HFS 163.14

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

n. List at least 4 prohibited or restricted lead-based paint hazard reduction methods under s. HFS 163.14 (5).

o. Remove paint from components using documented work methods.

p. Discuss the structural conditions required for using most encapsulants successfully.

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

r. Build a mini-containment for high-risk engineering control.

- s. Perform window treatments with HEPA-planing using appropriate work methods.
- t. Remove components and prepare for proper disposal.
- u. Describe special cleanup and waste disposal after high-risk abatement.
- v. Discuss the advantages and disadvantages of different lead hazard reduction activities.
- w. Describe 3 soil-lead and exterior dust-lead abatement methods and lead-based paint hazard reduction.
- x. Discuss engineering controls and work practice issues specific to exterior lead-based paint projects.
- y. Perform a work site preparation and set-up for an exterior abatement project.
- z. Discuss cleanup after soil and exterior abatement or lead hazard reduction.

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

- a. Describe the role and responsibilities of a lead inspector for clearance, lead investigation activities and lead-free inspections.
- b. Discuss the role of the lead inspector in relation to the roles of other lead professionals.
- c. Describe the liability and insurance issues a lead professional must manage.
- d. List the types of background information needed to perform a lead hazard investigation or risk assessment.
- e. Describe the lead inspector's responsibilities under the lead-free registry program.
- f. Discuss federal, state and local regulations that pertain to lead-based paint inspections.
- g. Describe the requirements for training, certification and work practices under ch. HFS 163.
- h. Discuss requirements for lead identification and clearance under 24 CFR Part 35, requirements of HUD for notification, evaluation and reduction of lead-based paint hazards in federally owned residential property and housing receiving federal assistance.
- i. Describe major lead-based paint regulations and guidelines of the department and other state, federal and local agencies, including all of the following: department of natural resources; department of agriculture, trade and consumer protection; U.S. occupational safety and health administration; U.S. consumer product safety commission; EPA, HUD and Milwaukee.

j. Compare the methods for conducting lead-based paint inspections, partial inspections and lead-free inspections.

k. Select rooms and components for sampling or testing using documented protocols.

l. Describe how to obtain appropriate background information on property being inspected.

m. Select sample locations using documented protocols.

n. Use an XRF following documented protocols.

o. Discuss legal and liability issues of using an XRF.

p. Discuss issues of using chemical tests.

q. Conduct an inspection using documented protocols.

r. Conduct a lead-free inspection using documented protocols.

s. Prepare an inspection report.

t. Describe the recordkeeping responsibilities of a lead inspector.

8. Lead low-risk work. A lead low-risk work course shall provide a minimum of 8 training hours. The course shall include lectures, demonstrations, a minimum of 4 hours of hands-on practice, hands-on skills assessment, a course review and a written course test. The course shall provide instruction and materials that fulfill all of the following student learning goals and objectives:

a. Discuss why lead is a concern in housing.

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

c. Define a lead-based paint hazard.

d. Name two approaches for controlling lead-based paint hazards.

e. List at least 7 lead-safe work practices.

f. Discuss occupant protection requirements.

g. Select appropriate personal protection equipment and clothing for lead-based paint work.

h. List at least 4 restricted or prohibited lead-based paint work practices.

i. Determine the level of certification required to conduct a given lead-based paint activity.

j. Choose appropriate materials and equipment to conduct a given project.

k. Plan a lead-based paint activity.

L. Prepare a work-site for lead hazard reduction.

m. Clean up a work-site after lead hazard reduction.

n. Remove a window sash.

o. Install a window well cover.

p. Describe lead-safe work practices required when installing exterior siding.

q. Describe lead-safe work practices required when installing floor coverings.

r. Describe how to remove a lead-contaminated carpet.

9. Lead project design course. A lead project design course shall provide a minimum of 8 training hours. The course shall include lectures, demonstrations, student participation, a course review and a written course test. The course shall provide instruction and materials that fulfill all of the following student learning goals and objectives:

a. Describe the major responsibilities of the project designer.

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

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

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

e. Explain the importance of writing specifications for a lead-based paint abatement or interim control project.

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

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

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

i. Explain when it is appropriate to use interim controls and when it is appropriate to use abatement.

j. Describe the procedures used for final clean-up after lead-based paint abatement activities.

k. Describe the procedures for interior dust-lead reduction when dust-lead reduction is used as an interim control and explain how those procedures differ from final clean-up procedures.

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

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

n. Explain how an occupant protection plan is implemented.

o. Identify problems associated with occupant relocation programs.

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

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

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

s. Describe clearance testing procedures for large lead-based paint abatement projects.

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

u. Explain the role of specifications in a contract.

v. Describe the content of specifications.

w. Write clear and concise specifications.

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

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

b. Discuss why lead is a concern in housing.

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

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

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

f. Identify the following lead-based paint hazards: visible dust, paint chips, painted debris and deteriorated paint.

- g. Describe the basic elements required for post-project clearance.
- h. Conduct a visual assessment.
- i. Record the results of a visual assessment on a visual assessment form.
- j. List three surfaces appropriate for dust wipe sampling.
- k. Collect a dust wipe sample using correct methods.
- L. Identify the appropriate locations for taking dust wipe samples to clear a given project.
- m. Describe the methods used to ensure that sampling media are not contaminated.
- n. Use the HUD field guide to plan for and perform clearance for a given situation.
- o. Collect a paint chip sample.
- p. Collect a soil sample.
- q. Select an accredited laboratory and complete a laboratory sample analysis request form.
- r. Describe methods for maintaining proper chain-of-custody for samples.
- s. Interpret laboratory analysis results using clearance standards under s. HFS 163.14 (6).
- t. List the required contents of a clearance report.
- u. Write a clearance report.
- v. Explain the clearance results using clearance standards under s. HFS 163.14 (6).

11. Lead low-risk supervision course. A lead low-risk supervision course shall provide a minimum of 8 training hours to persons who successfully completed a lead low-risk work course. The course shall include lectures, demonstrations, a minimum of 3 hours of hands-on practice, hands-on skills assessment, a course review and a written course test. The course shall provide instruction and materials that fulfill all of the following student learning goals and objectives:

- a. Describe the role and responsibilities of a lead (Pb) low-risk supervisor and compare to a lead (Pb) contractor supervisor.
- b. Discuss the major responsibility areas necessary to successfully manage lead-based paint projects.
- c. Describe basic supervisory techniques.
- d. Discuss the role of the site supervisor for community relations.
- e. Discuss the relation of contract specifications to the actual project.

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- f. Describe the requirements for training, certification and work practices under ch. HFS 163.14 (5).
- g. Determine when notification is required under s. HFS 163.14 (5).
- h. Complete a work notification form.
- i. Describe lead-based paint waste disposal requirements.
- j. Discuss employer responsibilities for worker training and protection under 29 CFR 1926.62, lead in construction regulations issued by the U.S. occupational safety and health administration.
- k. Discuss requirements for lead hazard reduction measures under 24 CFR Part 35, HUD requirements for notification, evaluation and reduction of lead-based paint hazards in federally owned residential property and housing receiving federal assistance.
- L. Discuss notification requirements under 35 CFR Part 745 Subpart E, the EPA lead-based paint pre-renovation education rule.
- m. Discuss liability and insurance issues as they relate to lead hazard reduction work.
- n. Interpret lead risk assessment and inspection reports.
- o. Describe the standards for lead-free and lead-safe property.
- p. Recognize common substrate problems that cause paint failure.
- q. Describe surface preparation techniques for repainting.
- r. Select appropriate paint types for various conditions and locations in a housing unit.
- s. List requirements for lead safety when performing building maintenance and repair work.
- t. Plan a lead-based paint activity.
- u. Complete an occupant protection plan.
- v. List the information required in an abatement report.
- w. Describe the basic requirements for performing post-project pre-clearance.
- x. Perform a post-project visual assessment.
- y. Perform a dust wipe sample using proper protocols.
- z. Complete a laboratory sample analysis request form.
- aa. Interpret laboratory analysis dust wipe results.

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

12. Lead refresher courses. Each refresher training course shall meet the required minimum training hours, shall include lectures, participatory activities and a written course test and shall include hands-on instructional activities and hands-on skills assessment as appropriate. Each refresher training course shall provide instruction and materials that fulfill student learning goals and objectives submitted by the training manager and all required topics as follows:

a. Lead contractor supervisor refresher course. A total of 8 training hours to include a review of the curriculum covered in courses required for contractor supervisor certification, as appropriate; an overview of current safety practices relating to lead-based paint activities; current federal, state and local statutes, ordinances, rules and regulations relating to lead-based paint activities, in general, as well as specific information pertaining to lead hazard reduction; and current technologies relating to lead-based paint activities generally and lead-based paint hazard reduction specifically.

b. Lead hazard investigator refresher course. A total of 8 training hours to include a review of the curriculum covered in courses required for lead hazard investigator certification, as appropriate; an overview of current safety practices relating to lead-based paint activities; current federal, state and local statutes, ordinances, rules and regulations relating to lead-based paint and hazard identification; and current technologies relating to lead-based paint activities generally and lead-based paint hazard assessment specifically.

c. Lead high-risk worker refresher course. A total of 8 training hours to include a review of the curriculum covered in courses required for lead high-risk worker certification, as appropriate; an overview of current safety practices relating to lead-based paint activities; current federal, state and local statutes, ordinances, rules and regulations relating to lead-based paint hazard reduction; and current technologies relating to lead-based paint activities generally and lead-based paint hazard reduction specifically.

d. Lead inspector refresher course. A total of 8 training hours to include a review of the curriculum covered in courses required for lead inspector certification, as appropriate; an overview of current safety practices relating to lead-based paint activities; current federal, state and local statutes, ordinances, rules and regulations relating to lead-based paint identification; and current technologies relating to lead-based paint activities generally and lead-based paint identification specifically.

e. Lead low-risk supervisor refresher course. A total of 4 training hours to include a review of the curriculum covered in courses required for lead low-risk supervisor certification, as appropriate; an overview of current safety practices relating to lead-based paint activities; current federal, state and local statutes, ordinances, rules and regulations relating to lead-based paint hazard reduction; and current technologies relating to lead-based paint activities generally and lead-based paint hazard reduction specifically.

f. Lead low-risk worker refresher course. A total of 2 training hours to include a review of the curriculum covered in the course required for lead low-risk worker certification, as appropriate; an overview of current safety practices relating to lead-based paint activities; current federal, state and local statutes, ordinances, rules and regulations relating to lead-based paint hazard reduction; and current technologies relating to lead-based paint hazard reduction.

g. Lead project designer refresher course. A total of 4 training hours to include a review of the curriculum covered in courses required for lead project designer certification, as appropriate; an overview of current safety practices relating to lead-based paint activities; current federal, state and local statutes, ordinances, rules and regulations relating to lead-based paint; and current technologies relating to lead-based paint activities generally and lead hazard reduction specifically.

h. Lead risk assessor refresher course. A total of 8 training hours to include review of the curriculum covered in courses required for lead risk assessor certification, as appropriate; an overview of current safety practices relating to lead-based paint activities; current federal, state and local statutes, ordinances, rules and regulations relating to lead-based paint activities generally as well as specific information pertaining to risk assessments; and current technologies relating to lead-based paint activities generally and lead risk assessment specifically.

i. Lead sampling technician refresher course. A total of 2 training hours to include a review of the curriculum covered in the course required for lead sampling technician certification, as appropriate; an overview of current safety practices relating to lead-based paint activities; current federal, state and local statutes, ordinances, rules and regulations relating to lead-based paint; and current technologies relating to lead-based paint hazard identification generally and clearance specifically.

SECTION 29. HFS 163.20 (8) (f) 1. and (g) and (9) (b) 3. are amended to read:

HFS 163.20 (8) (f) *Course test*. 1. A written, closed-book course test, monitored by the principal instructor or training manager, shall be administered for each initial training course and refresher training course, except that the lead low-risk work course does not require a written course test.

(g) *Hands-on skills assessment*. The principal instructor shall conduct and document a hands-on skills assessment of each student for each topic under par. (a) for which hands-on instructional activities are required and for each refresher course topic where hands-on instructional activities are performed. Guest instructors who are approved designated for a topic requiring hands-on instruction may assist the principal instructor in performing hands-on skills assessment for the topic. A student-to-instructor ratio of not greater than 58:1 shall be maintained during hands-on skills assessment but may need to be less when necessary to ensure adequate observation of student performance.

(9) (b) 3. The name of the course, ~~which shall be related to a specific discipline under s. HFS 163.10 (2)~~ as specified under sub. (8) (a), and which shall clearly indicate whether the course is an initial course or a refresher course.

SECTION 30. HFS 163.21 (9) (a) and (b) are amended to read:

HFS 163.21 (9) (a) *Application fee*. Each application for contingent course accreditation shall be accompanied by a nonrefundable application fee of \$500 for an initial course ~~for any one discipline~~ and \$125 for a refresher course ~~for any one discipline~~.

(b) *Accreditation fee*. Each application for course accreditation shall be accompanied by an accreditation fee of \$500 for 0-24 months or \$1,000 for 24-48 months for an initial course ~~for any one discipline~~ and \$250 for 0-24 months or \$500 for 24-48 months for a refresher course ~~for any~~.

~~one discipline.~~ The department shall refund the accreditation fee if accreditation is denied, the training provider does not owe the department other fees and the denial is not appealed or the denial is appealed and upheld.

SECTION 31. HFS 163.23 (3) (d) 1. is amended to read:

HFS 163.23 (3) (d) *Accreditation fee.* 1. Each application for renewal of course accreditation shall be accompanied by an accreditation fee of \$500 for 0-24 months for an initial course ~~for any one discipline~~ and \$250 for 0-24 months for a refresher course ~~for any one discipline~~. The department shall refund the accreditation fee if renewal of accreditation is denied, the training provider does not owe the department other fees and the denial is not appealed or the denial is appealed and upheld.

SECTION 32. HFS 163.24 (1) is amended to read:

HFS 163.24 Training manager and instructor approval. (1) **REQUIREMENT FOR APPROVAL.** No individual may function as a training manager, or principal instructor ~~or guest instructor~~ of an accredited training course without being approved by the department under this section.

SECTION 33. HFS 163.24 (3) (a) 1. b. is repealed and c. is renumbered b. and amended to read:

HFS 163.24 (3) (a) 1. b. For teaching lead investigation courses, training in radiation safety and use of each XRF the instructor will use in a course, as documented by a certificate of training from the manufacturer of the XRF.

SECTION 34. HFS 163.24 (3) (a) 2. is repealed and recreated to read:

2. Certification. A principal instructor shall be currently certified as follows:

a. As a lead (Pb) risk assessor for lead investigation instructor approval to teach initial inspector, risk assessor, sampling, inspection and hazard investigation courses and refresher lead hazard investigator, inspector, risk assessor and sampling technician courses.

b. As a lead (Pb) contractor supervisor for lead hazard reduction instructor approval to teach initial lead worker, supervisor, low-risk work, high-risk work and supervision courses and refresher lead high-risk worker, low-risk worker, worker, contractor supervisor, low-risk supervisor and supervisor courses.

c. As a lead (Pb) project designer for project design instructor approval to teach lead initial project design and refresher project designer courses.

SECTION 35. HFS 163.24 (3) (b) 4. and 7. and (e) 1. b. are amended to read:

HFS 163.24 (3) (b) 4. XRF training certificate. A copy of the XRF manufacturer training certificate for a person applying for lead investigation instructor approval to be the principal instructor for a lead inspector or risk assessor training course.

7. Fee. A nonrefundable principal instructor application and approval fee of \$50 for each discipline for which approval is sought. The application and approval fee includes the cost of approval for up to 12 months as follows:

a. \$100 for lead investigation instructor approval.

b. \$100 for lead hazard reduction instructor approval.

c. \$50 for lead project design instructor approval.

(e) 1. b. An annual approval renewal fee of \$25 per discipline \$50 for lead investigation instructor or lead hazard reduction instructor approval or \$25 for lead project design instructor approval. The department shall refund the approval renewal fee if approval is denied and is not appealed or is appealed and the denial is upheld.

SECTION 36. HFS 163.24 (4) is repealed and recreated to read:

HFS 163.24 (4) GUEST INSTRUCTOR (a) *Qualifications.* A guest instructor shall have experience in each topic the guest instructor proposes to teach and in each hands-on activity for which the guest instructor will provide assistance to the principal instructor. Guest instructor qualifications shall be documented on a form obtained from the department and kept on file by the training manager. The form shall document appropriate training and experience in each topic area the instructor intends to teach and in each hands-on activity for which the instructor will provide assistance. The training manager is responsible for verifying qualifications and credentials and for designating guest instructors for each course.

(b) *Submission of qualifications.* A training manager shall submit to the department a copy of the qualifications of each guest instructor the training manager designates before the guest instructor participates in a course.

Note: To obtain a copy of the form, write or phone the Asbestos and Lead Section, Bureau of Occupational Health, P.O. Box 2659, Madison, WI 53701-2659; 608-261-6876 or fax (608) 266-9711.

(c) *Department action.* If the department notifies a training manager that a guest instructor does not meet the qualifications under par. (a), the training manager shall withdraw designation of the guest instructor until the qualifications are met.

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

SECTION 37. HFS 163.25 (1g) is created to read:

HFS 163.25 (1g) DESIGNATION OF GUEST INSTRUCTORS. When a guest instructor assists with a training course, the training manager shall designate the guest instructor under s. HFS 163.24 (4).

SECTION 38. HFS 163.25 (7) (b) 5. is amended to read:

HFS 163.25 (7) (b) 5. Documentation of training manager, principal instructor and guest instructor qualifications, including copies of principal instructor approvals under s. HFS 163.24 and guest instructor designations under sub. (1g).

SECTION 39. Appendix A (2), (6) and (7) are repealed.

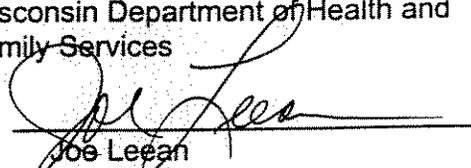
SECTION 40. Appendix A (Note) is created to read:

Note: This Appendix contains topics for training courses accredited before December 1, 2000.

The rules included in this order shall take effect as emergency rules on December 1, 2000.

Wisconsin Department of Health and
Family Services

Date: November 30, 2000

By: 

Joe Lagan
Secretary

SEAL:



State of Wisconsin
Department of Health and Family Services

Scott McCallum, Governor
Phyllis J. Dubé, Secretary

March 28, 2001

The Honorable Judy Robson, Co-Chairperson
Joint Committee for Review of Administrative Rules
Room 15 South, State Capitol
P.O. Box 7882
Madison, Wisconsin 53707-7882

Dear Senator Robson:

The Department of Health and Family Services has an emergency rulemaking order in effect that will expire before the emergency rules are replaced by permanent rules unless the effective period of the emergency order is extended. Pursuant to s. 227.24 (2), Stats., I ask the Joint Committee to extend the effective period of the emergency order by 60 days as indicated below. The emergency rules are as follows:

Identification, Removal and Reduction of Lead-Based Paint Hazards and the Issuance and Registration of Certificates of Lead-Free Status and Lead-Safe Status. The emergency rulemaking order repealing, amending, repealing and recreating, and creating rules was published and effective on December 1, 2000, and **will expire on April 29, 2001**, unless extended. The Department's rulemaking order responded to September 2000 regulations issued by the U.S. Department of Housing and Urban Development (HUD). The federal regulations assumed states' commencing lead abatement activities compliant with the federal regulations beginning March 15, 2001. The Department estimates that about 5,000 structures in the state require lead abatement activities. About 300 persons need to be trained to conduct lead abatement activities on these 5,000 structures. Wisconsin's lead training programs have altered their courses under the provisions of the emergency rulemaking order to provide more modular training that allows them to more quickly train the workforce. The Department has also worked with HUD to recognize certain HUD-approved courses and for HUD to recognize certain Department-accredited courses. If the emergency rulemaking order is not extended, the Department will be unable to accept credentials of persons who complete these courses.

In addition to revising training courses, the emergency rulemaking order adds several certification disciplines that allow people to perform lead abatement and lead

Senator Robson
March 28, 2001
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investigation activities with less training and at a lower cost than under the less flexible ch. HFS 163 training and certification rules in place before the emergency rule order was issued. If the emergency rulemaking order is not extended, these new, lower level certification disciplines will be invalid and the affected persons will need to complete additional training and be certified in a higher level certification discipline in order to perform regulated lead-based paint activities.

Replacement permanent rules were sent to the Legislative Council for review on December 8, 2000 and were the subject of public hearings held on January 12th, 16th, 17th, 18th and 19th, 2001. The Department hopes to send the Legislative Report to the Presiding Officers of the Senate and Assembly in April 2001. Consequently, the Department will probably not be able to file the permanent rules until early June for an August 1, 2001, effective date. Therefore, I request an extension of the effective period of the emergency rules by **60 days**, through June 28, 2001.

A copy of the emergency rulemaking order is attached to this letter. If you have any questions about the rules, you may contact Gail Boushon, Regulatory Specialist, Asbestos and Lead Section, Bureau of Occupational Health, Division of Public Health at 267-2289.

Sincerely,



Phyllis J. Dubé
Secretary

Attachments

cc Representative Grothman
Senator Fred Risser
Speaker Scott Jensen

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

FINDING OF EMERGENCY

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

Summary

September 2000 regulations issued by the U.S. Department of Housing and Urban Development (HUD) assume states' commencing lead abatement activities compliant with the federal regulations beginning March 15, 2001. The Department estimates that about 5,000 structures in the state require lead abatement activities. About 300 persons need to be trained to conduct lead abatement activities on these 5,000 structures. Without DHFS issuance of revised training program requirements, Wisconsin's lead training programs will not alter their courses to HUD standards or receive state accreditation in time for sufficient personnel to be trained by the time high demands for lead abatement commences. To sanction ill-trained lead abatement personnel by March 15, 2001, the Department would needlessly endanger the health of both untrained lead abatement personnel and the public whose residences are affected.

Lead Abatement Activities

Residences built before 1978 have a high likelihood of containing lead-based paint. When lead-based paint is in poor condition or when it is disturbed through activities such as sanding or scraping, the paint can break down into chips and dust that become a potential source of lead poisoning for occupants. Wisconsin has nearly 500,000 rental units and 1 million owner-occupied units built before 1978 and presumed to contain lead-based paint.

Exposure to lead in paint, dust or soil has both short-term and long-term adverse health effects on children, causing learning disabilities, decreased growth, hyperactivity, impaired hearing, brain damage and even death. When not fatal, these effects on the body last a lifetime. Of 63,400 Wisconsin children under the age of 6 screened for lead poisoning in 1999, 3,744 were identified as having lead poisoning. However, the number of children affected by lead poisoning is probably much greater, since the 63,400 screened represented only 16% of the state's children under the age of 6. Many of these children would not become lead poisoned if pre-1978 dwellings did not have deteriorated paint or lead-based paint on friction or impact surfaces and if lead-safe techniques were used when disturbing lead-based paint.

Lead poisoning can also affect older children and adults. In 1999, a 40-year old man employed to remove paint from windows of a rental dwelling was severely lead poisoned. He was hospitalized with complaints of headaches and joint pain. He underwent multiple sessions of chelation therapy to remove some of the lead from his blood, but still suffered serious neurological damage, which effected his speech and balance. This man's lead poisoning could have been avoided if he had been trained to use lead-safe techniques and personal protection equipment.

Existing Wisconsin Law

Chapter 254, Stats., provides for a comprehensive lead 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 operates on a combination of program revenue and lead program development grants from the 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. An individual may apply for certification in the following disciplines: lead (Pb) worker, supervisor, inspector, risk assessor and project designer. 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 (Pb) inspector, risk assessor or supervisor, must pass a certification examination. All individuals must have completed worker safety training required by the U.S. Occupational Health and Safety Administration for lead in construction. In addition, a lead (Pb) worker, supervisor, or project designer must complete a 16-hour lead (Pb) worker course, a lead (Pb) supervisor or project designer also must complete a 16-hour lead (Pb) supervisor course, and a lead (Pb) project designer must complete an 8-hour lead (Pb) project designer course. A lead (Pb) inspector or risk assessor must complete a 24-hour lead (Pb) inspector course and a lead (Pb) risk assessor must also complete a 16-hour lead (Pb) risk assessor course.

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. Specifically, these regulations 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 clearance conducted after completing activities that disturb lead-based paint. Clearance is a visual inspection and dust-lead sampling to verify that lead-based paint hazards are not left behind. The HUD regulations also establish a new, research-based standard for clearance that is more protective than HUD's previously recommended standard.

The EPA has issued a memorandum urging States to implement a lead sampling technician discipline for which a 1-day training course would be required. Addition of this discipline

would help to meet the increased demand for clearance under both the HUD regulations and renovation and remodeling regulations being considered by EPA.

The EPA is preparing to promulgate lead renovation and remodeling regulations under 40 CFR Part 745. Under these training and certification regulations for renovators, 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 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.

New Wisconsin Law

1999 Wisconsin Act 113 requires the Department to establish a process for issuing certificates of lead-free or lead-safe status and registering the properties for which certificates are issued. 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. Act 113 also requires the Department to establish the requirements for a training course of up to 16 hours that property owners, their agents and employees may complete in order to receive certification. The Department must also specify the scope of the lead investigation and lead hazard reduction activities that may be performed following certification. Act 113 specifies that administrative rules to implement Act 113 must be submitted to the Legislative Council Rules Clearinghouse by December 1, 2000. The rules providing the standards for lead-free and lead-safe property, and the procedures for issuing certificates of lead-free status and lead-safe status, are being promulgated separately and are not expected to be published for several months.

Result of Changing Federal and State Requirements

New HUD regulations create an urgent need for appropriately trained and certified workers to conduct activities that reduce or identify lead-based paint hazards. Due to a lack of trained and certified individuals to perform the activities required by the HUD regulations, housing agencies in Wisconsin have been forced to ask HUD for a 6-month extension before beginning enforcement of the regulations. To be granted the extension, the agencies must provide a plan for increasing the number of certified persons to meet the demand by March 15, 2001. If HUD does not grant an extension, millions of dollars in federal funding for rehabilitation and lead hazard reduction may be lost.

In addition to the demand for certified persons generated by the HUD regulations, Act 113 is generating its own demand for certified persons. Many property owners want to begin reducing lead-based paint hazards on their properties in order to meet the standards for lead-free or lead-safe property when the standards take effect. Although property owners and their employees may be certified now under Chapter HFS 163, Wis. Adm. Code, some property owners feel 5 days of training is too extensive for the work they will be performing. Act 113 requires the Department to establish the requirements for a training course of up to 16 hours that property owners, their agents and employees may complete in order to receive certification. This emergency rule meets the requirement of Act 113 by providing for certification as a lead (Pb) low-risk supervisor to independently perform limited lead hazard reduction activities after only 2 days of training.

Department Response

The Department is gravely concerned that a lack of properly trained and certified individuals to meet the increased demand may lead to an increase in lead poisoning due to work being performed by untrained individuals. The new disciplines in this emergency order will help meet the demand for certified individuals because the rules reduce the training hours required for certification by targeting training to specific activities. With more individuals becoming certified, housing authorities and property owners will be able to comply with HUD regulations and property owners will be able to reduce lead-based paint hazards in preparation for the implementation of Act 113 lead-free and lead-safe property standards.

In promulgating these revisions to the certification and training accreditation requirements under chapter HFS 163, the Department seeks to meet the needs of all the parties affected by training or certification requirements under State, federal or local lead regulations. For each revision made by these rules, the Department considered the impact of the cost, the ease with which persons could comply, the ability to easily move to a higher level of certification, and the consistency with other regulations. In developing the low-risk worker and low-risk supervisor disciplines, the Department also considered potential requirements of EPA's renovation and remodeling regulations.

The Department divided required training into smaller independent modules to allow individuals to complete the least amount of training necessary to safely and accurately perform the lead-based paint activities for which the individual becomes certified. In addition, the Department:

- Divided lead hazard reduction activities into those that are low-risk and high-risk.
- Divided site management activities into project design and supervision of low-risk versus high-risk activities.
- Divided lead investigation activities conducted by lead risk assessors into sampling, inspection, and hazard investigation.
- Revised the definitions, training and certification requirements and accreditation standards to reflect these categories of activities.

ORDER

Pursuant to the authority vested in the Department of Health and Family Services by ss. 227.24 (1), 250.04 (7), 254.167, 254.172, 254.176 (1) and (3), 254.178 (2) and 254.179, Stats., the Department hereby repeals, amends, repeals and recreates, and creates rules interpreting ss. 254.167, 254.172, 254.176, 254.178 and 254.179, Stats.

SECTION 1. HFS 163.01 is amended to read:

HFS 163.01 Authority and purpose. This chapter is promulgated under the authority of ss. 250.04 (7), 254.167, 254.172, 254.176 (1) and (3) ~~and 254.178 (2) and 254.179, Stats.~~, to ensure that persons who perform lead-based paint activities do so safely to prevent exposure of building occupants to hazardous levels of lead. This is accomplished by requiring that before a person performs, supervises or offers to perform or supervise a lead-based paint activity involving target housing or a child-occupied facility or the real property on which the target housing or child-occupied facility stands, the person shall successfully meet the requirements of this chapter and have documentation of certification issued by the department. A homeowner is not required to be certified except as specified under s. HFS 163.10 (1) (a) 3. or 4., (b) or (c). This chapter also requires that a training course that is represented as qualifying any person for certification in this state as a lead (Pb) inspector, project designer, risk assessor, contractor supervisor, low-risk supervisor, high-risk worker, low-risk worker, hazard investigator or worker-homeownersampling 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.

SECTION 2. HFS 163.02 (1) (b) is amended to read:

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

SECTION 3. HFS 163.03 (9) and (10) are repealed and recreated to read:

HFS 163.03 (9) "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 dust-lead levels are below the clearance level.

(10) "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.

SECTION 4. HFS 163.03 (24m), (33g), (33m) and Note, (40m), (45m), (46m), (49g), (49m), (49r), (49s), and (54m) are created to read:

HFS 163.03 (24m) "Elevated blood lead investigation" means the environmental investigation activities that are conducted in response to a report of a lead poisoning and intended to identify lead hazards that may contribute to the lead poisoning.

(33g) "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.

(33m) "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) Removal of 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) Removal of 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 or as determined by the department.

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

(40m) "Lead-based paint construction activity" means an activity other than lead hazard reduction that disturbs known or presumed lead-based paint, including demolition, maintenance, rehabilitation, remodeling, renovation and restoration activities.

(45m) "Lead (Pb) hazard investigator" means an individual who conducts lead hazard screen, lead risk assessment or clearance activities, but does not use an XRF or conduct lead inspections.

(46m) "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.

(49g) "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, inspection, lead hazard screen, risk assessment or clearance activities.

(49m) "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.

(49r) "Lead (Pb) 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.

(49s) "Lead (Pb) 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.

(54m) "Lead (Pb) sampling technician" means an individual who performs clearance activities or assists a lead (Pb) hazard investigator, inspector or risk assessor in conducting other lead investigation activities.

SECTION 5. HFS 163.03 (55) and (56) are repealed and recreated to read:

HFS 163.03 (55) "Lead (Pb) supervisor or lead (Pb) contractor supervisor" means an individual who supervises or performs high-risk lead hazard reduction or high-risk lead-based paint construction activities.

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

SECTION 6. HFS 163.03 (57m) is created to read:

HFS 163.03 (57m) "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.

SECTION 7. HFS 163.10 (2) is repealed and recreated to read:

HFS 163.10 (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 (Pb) low-risk worker. With supervision under s. HFS 163.14 (5), a certified lead (Pb) low-risk worker may perform low-risk lead-based paint activities. A lead (Pb) 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 (Pb) high-risk worker. With supervision under s. HFS 163.14 (5), a certified lead (Pb) high-risk worker may perform high-risk and low-risk lead-based paint activities. A lead (Pb) high-risk worker may not prepare an occupant protection plan or abatement report, conduct sampling or supervise lead-based paint activities.

3. Lead (Pb) low-risk supervisor. A certified lead (Pb) 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 (Pb) low-risk supervisor may take dust-wipes before clearance is conducted to determine if clean-up is complete, but may not conduct 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 (Pb) contractor supervisor. A certified lead (Pb) contractor supervisor may develop occupant protection plans, write lead hazard reduction reports, and supervise or perform any high-risk and low-risk lead-based paint activities. A certified lead (Pb) contractor supervisor may take dust-wipes before clearance is conducted to determine if clean-up is complete, but may not conduct clearance or sampling under s. 901.055, Stats.

5. Lead (Pb) project designer. A certified lead (Pb) project designer may design lead hazard reduction projects, develop occupant protection plans and write lead hazard reduction reports. A certified lead (Pb) 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 (Pb) sampling technician. A certified lead (Pb) 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 (Pb) sampling technician may assist a certified lead (Pb) hazard investigator, inspector or risk assessor to conduct other lead investigation activities. A certified lead (Pb) sampling technician may not use an XRF, conduct clearance after abatement, or provide recommendations for reducing a lead hazard.

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

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

SECTION 8. HFS 163.10 (3) (a), (b) 1., 3. (intro.) and 4. (intro.) and a., and (c) 1. (intro.) are amended to read:

HFS 163.10 (3) CONDITIONS FOR INITIAL CERTIFICATION. (a) *Summary.* An individual applying for initial certification in any discipline identified under sub. (2) shall be 18 years of age or

older, shall meet applicable education and experience qualifications under par. (b), shall successfully complete certification training requirements under s. HFS 163.11 and, to be certified as a lead (Pb) hazard investigator, inspector, risk assessor, low-risk supervisor or contractor supervisor, shall pass a certification examination under par. (c). To apply for certification, the applicant shall submit to the department an application under sub. (4) and include the applicable fee under sub. (5).

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

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

4. ~~Supervisor~~ Contractor supervisor or low-risk supervisor. An applicant for lead (Pb) contractor supervisor or lead (Pb) low-risk supervisor certification shall meet or exceed one of the following:

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

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

SECTION 9. HFS 163.10 (4) (e) (intro.) and (g) (2) are amended to read:

HFS 163.10 (4) (e) *Documentation of education and experience*. For certification as a lead (Pb) project designer, risk assessor, hazard investigator, contractor supervisor or low-risk supervisor, an affidavit of education and experience required under sub. (3) (b) on a form obtained from the department. The applicant shall also be prepared to submit one or more of the following forms of documentation if requested by the department:

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

SECTION 10. HFS 163.10 (5) (a) is repealed and recreated to read:

HFS 163.10 (5) FEES. (a) *Initial certification fee*. Except when a government certification fee exemption is requested under sub. (4) (g), an applicant for initial certification shall pay a fee as follows:

1. For certification as a lead (Pb) contractor supervisor, a fee of \$125.
2. For certification as a lead (Pb) hazard investigator, a fee of \$150.
3. For certification as a lead (Pb) high-risk worker, a fee of \$75.

4. For certification as a lead (Pb) inspector, a fee of \$150.
5. For certification as a lead (Pb) low-risk supervisor, a fee of \$75.
6. For certification as a lead (Pb) low-risk worker, a fee of \$50.
7. For certification as a lead (Pb) project designer, a fee of \$175.
8. For certification as a lead (Pb) risk assessor, a fee of \$175.
9. For certification as a lead (Pb) sampling technician, a fee of \$50.

SECTION 11. HFS 163.10 (6) (b) is amended to read:

HFS 163.10 (6) (b) *Grant interim certification.* If an individual applies for lead (Pb) hazard investigator, inspector, risk assessor, low-risk supervisor or contractor supervisor certification, meets all of the certification examination prerequisites under sub. (3) (c) 3. and is registered for, but has not passed, the certification examination for the discipline, the department may grant interim certification. When interim certification is granted, the department shall issue or arrange for the issuance of an interim certification card for the appropriate specific discipline under sub. (2). An individual may be granted interim certification only once per discipline per lifetime.

SECTION 12. HFS 163.10 (7) (b), (8) (c) 4. and (8) (e) are repealed and recreated to read:

HFS 163.10 (7) (b) *Initial certification.* 1. For a lead (Pb) contractor supervisor, hazard investigator, inspector, project designer or risk assessor, initial certification shall be valid for 1 year after the completion date of the most recent training required under s. HFS 163.11.

2. For lead (Pb) 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.

c. An initial certification issued between November 30, 2000, and January 1, 2001, shall expire at midnight on August 1, 2003.

(8) (c) 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.