

TRANSMITTAL TO LEGISLATIVE COUNCIL

PROPOSED RULES OF THE DEPARTMENT OF HEALTH AND FAMILY SERVICES

Subject:

Chapter HFS 159, relating to the training and certification of individuals performing regulated asbestos abatement activities, the certification of companies providing regulated asbestos activities, the accreditation of asbestos training courses, the approval of asbestos training instructors, and the responsibilities of designated school asbestos coordinators, and affecting small businesses.

Federal statutes or regulations which require adoption of or are relevant to the substance of proposed rules:

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

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

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

The following additional federal EPA regulations also apply to asbestos work:

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

The following federal OSHA regulations apply to asbestos work:

- 29 CFR 1910, which provides standards for asbestos work in general industry.
- 29 CFR 1926.1101, which provides standards for asbestos work in construction.

Court decisions directly relevant to the proposed rule: None known.

Public hearings:

A public hearing is required; however, a public hearing has not yet been scheduled for this proposed rule.

Names and phone numbers of agency contacts:

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Date rules submitted to the Legislative Council:

Authorized Signature and Telephone No.	Date
Kevin R. Hayden, Secretary 608-266-9622	