

- 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.

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

- a. Describe the role and responsibilities of a lead inspector or risk assessor for clearance, lead inspection and lead-free inspection activities.
- b. Discuss the role of the lead inspector in relation to the roles of other lead professionals.
- c. Describe the liability and insurance issues a lead professional must manage.
- d. List the types of background information needed to perform a lead inspection or lead-free inspection.
- e. Describe the responsibilities of a lead inspector or risk assessor under the lead-free registry program.
- f. Discuss federal, state and local regulations that pertain to lead-based paint inspections.
- g. Describe the requirements for training, certification and work practices under ch. HFS 163.
- h. Discuss requirements for lead identification and clearance under 24 CFR Part 35, requirements of HUD for notification, evaluation and reduction of lead-based paint hazards in federally owned residential property and housing receiving federal assistance.
- i. Describe major lead-based paint regulations and guidelines of the department and other state, federal and local agencies, including all of the following: department of natural resources; department of agriculture, trade and consumer protection; U.S. occupational safety and health administration; U.S. consumer product safety commission; EPA, HUD and City of Milwaukee.
- j. Compare the methods for conducting lead inspections, partial inspections and lead-free inspections.
- k. Select rooms and components for sampling or testing using protocols and documented methodologies.
- L. Describe how to obtain appropriate background information on property being inspected.
- m. Select sample locations using protocols and documented methodologies.
- n. Use an XRF following using protocols and documented methodologies.

- o. Discuss legal and liability issues of using an XRF.
- p. Discuss issues of using chemical tests.
- q. Conduct an inspection using protocols and documented methodologies.
- r. Conduct a lead-free inspection using protocols and documented methodologies.
- s. Prepare an inspection report and a lead-free inspection report.
- t. Describe the recordkeeping responsibilities for the types of records kept and length of retention.
- u. Describe the procedures for issuing lead-free certificates.

(c) *Required topics or learning objectives for lead refresher courses.* Each lead refresher training course shall meet the required minimum training hours, shall include lectures, participatory activities and a written course test and shall include hands-on instructional activities and hands-on skills assessment as appropriate. Each lead refresher training course shall be based on EPA and department-approved curricula and shall provide instruction and materials that address student learning goals and objectives submitted by the training manager and cover all required topics as follows:

1. Lead 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 in general and lead-based paint hazard reduction in particular.

2. 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 in general and lead-based paint hazard assessment in particular.

3. 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 in general and lead-based paint hazard reduction in particular.

4. Lead inspector refresher course. A total of 8 training hours to include a review of the curriculum covered in courses required for lead inspector certification, as appropriate, an overview of current safety practices relating to 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 in general and lead-based paint identification in particular.

5. 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 in general and lead-based paint hazard reduction in particular.

6. 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.

7. 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 in general and lead hazard reduction in particular.

8. 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 in general as well as specific information pertaining to risk assessments, and current technologies relating to lead-based paint activities generally and specifically.

9. 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 in general and clearance in particular.

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

(e) *Learning goals and objectives.* An accredited training course shall have written learning goals and objectives.

Note: To obtain model learning goals and objectives for preparing students to take a lead certification examination, write or phone the Asbestos and Lead Section, Bureau of Occupational Health, Room 137, 1 W. Wilson St., P.O. Box 2659, Madison, WI 53701-2659; ph. 608-261-6876; or fax 608-266-9711.

(f) *Teaching methods.* Instructors shall teach an accredited training course using a variety of teaching methods designed to meet the course learning goals and objectives, including methods that require active participation by the students.

Note: Examples of participatory teaching methods include: hands-on exercise, questionnaires, problem solving, quizzes, worksheet exercises, focus questions, case studies,

brainstorming, on-site visits, learning games, group discussions, role play, writing assignments and personal action plans.

(g) *Quality control plan.* The training manager shall develop and implement a quality control plan under s. HFS 163.25 (9) for an accredited training course.

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

2. Course tests shall be submitted to the department for review as part of the application for accreditation and shall be resubmitted whenever their content changes. Only course tests that have been approved by the department may be administered.

3. A course test shall be developed in accordance with the course test blueprint, shall reflect the learning goals and objectives of the training course and shall consist of a minimum of 25 multiple choice questions for every 8 training hours.

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

5. A student who fails the course test must retake the entire course test, but may not take the course test more than once in a given day or more than twice in a 2-week period. If a student fails to pass the course test within 30 days, the student shall retake the course or complete a corresponding refresher course before retaking the course test.

6. The training manager shall maintain the validity, security and integrity of the course test to ensure that it accurately evaluates each student's knowledge and skills. The training manager shall ensure that only the full course test is administered and not a portion of the course test.

(i) *Hands-on skills assessment.* The principal instructor shall conduct and document a hands-on skills assessment of each student for each student learning objective or goal under pars. (a) to (c) for which hands-on instructional activities are required and for each refresher course topic under par. (d) where hands-on instructional activities are performed. A guest instructor who is designated by the training manager for hands-on instruction, may assist the principal instructor in performing the corresponding hands-on skills assessment. A student-to-instructor ratio of not greater than 8:1 shall be maintained during hands-on skills assessment but may need to be less when necessary to ensure adequate observation of student performance.

(9) **TRAINING CERTIFICATE.** (a) *Requirement to verify identification.* The training manager is responsible for verifying the identify of a student by viewing 2 forms of identification, of which one shall include a clearly identifiable picture of the student. The training manager may delegate verification of identify to an employee of the training program.

(b) *Requirement to issue training certificate.* After verification of a student's identity under par. (a), the training manager shall issue a training certificate to a student when the student completes a course and passes the course test and any required skills assessment.

(c) *Content of training certificate.* A training certificate shall include all of the following information:

1. A unique certificate number.

2. The date the certificate is issued.
3. The name of the course, as specified under sub. (8) (a) to (c), and which shall clearly indicate if the course is an initial course or a refresher course.
4. The student's full name and address.
5. A clearly identifiable picture of the student's face.
6. The date or dates of the course, including starting and ending dates for consecutive day courses and each date of training for courses conducted on days that are not consecutive.
7. A statement that the student passed the course test.
8. The date of the course test.
9. The name, address and telephone number of the provider of the training course, as the information appears on the application for accreditation or is later changed by notice to the department under s. HFS 163.25 (7) (a) or (b).
10. The name and original signature of the course training manager written in blue ink.
11. The following statement: "This training course complies with the requirements of and is accredited by the State of Wisconsin, Department of Health and Family Services under ch. HFS 163, Wis. Adm. Code."

Note: For liability and security reasons, the Department does not make an individual's social security number to be included on the training certificate.

(10) **COMPLIANCE.** The training provider, the training manager and all instructors shall remain in compliance with applicable federal, state and local regulations related to lead-based paint activities and the conduct of training.

HFS 163.21 Application for accreditation. To request accreditation of a lead training course, the approved training manager, on behalf of the training provider, shall submit all of the following to the department:

(1) **COMPLETED APPLICATION FORM.** A fully and accurately completed application on a form obtained from the department. The application shall include the federal employer identification number or social security number for the training provider, social security numbers for all owners of the course and a statement signed by the training manager which certifies that the training course meets the requirements of this subchapter.

Note: To request a copy of the application form and instructions for submitting an application, write or phone the Bureau of Occupational Health, Room 137, 1 W. Wilson St., P.O. Box 2659, Madison, WI 53701-2659; ph. 608-261-6876; or fax 608-266-9711. Return the completed application and fee to the same office.

(2) **TRAINING COURSE DESCRIPTION.** A written description of the training course, including all of the following:

(a) *Topics.* Major topics covered.

(b) *Course length.* Length of training in days and training hours per day, excluding lunches and breaks.

(c) *Hands-on training.* Hands-on training segments, when hands-on training is used, including the number of training hours for each segment, a description of the hands-on skills assessment conducted by the principal instructor and a copy of the skills assessment check-off form.

(d) *Student-to-instructor ratio.* Student-to-instructor ratio that will be maintained during any hands-on training and hands-on skills assessment.

(3) TRAINING RESOURCES DESCRIPTION. A written description of training resources, including all of the following:

(a) *Facilities.* Location of facilities used for training, including classroom and any field sites.

(b) *Training and equipment for hands-on activities.* Training equipment and equipment for hands-on activities, including type of equipment, its location and method of storage.

(c) *Audiovisual and materials for hands-on activities.* Training audiovisual materials such as videos, slides, overheads, photographs and displays, and materials for hands-on activities, such as personal protective clothing, respirators and cartridges, duct tape, polyethylene sheeting, high efficiency particulate air vacuums, glove bags and hand tools, including the location where they are stored.

(4) RECORDKEEPING DESCRIPTION. A written description of how the recordkeeping requirements under s. HFS 163.25 (10) will be met, including all of the following:

(a) *Records retained.* Types of records kept and for what length of time.

(b) *Records location.* The complete street address of the location where the records will be kept.

(c) *Business hours.* Normal business days and hours at the location under par. (b).

(5) COURSE REGISTRATION PLAN. A written course registration plan consisting of a plan for advising potential students of education and experience qualifications under s. HFS 163.10 (3) (b) and a written plan for admitting only students who have completed any prerequisite lead training courses under s. HFS 163.11 (2).

(6) COURSE MATERIALS. All course materials, including copies of all of the following:

(a) *Agenda.* An agenda with scheduled times for each day of training, major topics with times allocated, hands-on training segments with times allocated and all break and lunch periods.

(b) *Student materials.* The student course manual, course materials and handouts used in the course.

(c) *Instructor materials.* The instructor course manual, which shall include all of the following:

1. Student learning goals and objectives.
2. Training outlines for each topic.
3. Time frames for each topic.
4. Teaching methods for each topic.
5. Audio-visual materials used for each topic, including copies of handouts and overheads, and titles and descriptions of video, film or slide programs.
6. Interactive training exercises, including instructions and descriptions or samples of materials.
7. Hands-on training exercises, if used, including instructions and descriptions or samples of materials.

(d) *Analysis worksheet.* The department's analysis worksheet, on which the applicant enters the location of specific information in the student course manual and materials.

(e) *Course test and key.* The course test and answer key for each course test.

(f) *Course test blueprint.* The course test blueprint that shows how the course test was developed to reflect the course content and student learning goals and objectives.

(g) *Score report and test policy.* A form for notifying a student of the student's course test score and any policy for retaking the course test.

(h) *Evaluation form.* A course and instructor evaluation form.

(i) *Training certificate.* A sample training certificate under s. HFS 163.20 (9) that is issued by the training manager to students who successfully complete all course requirements. To assist the department in identifying original training certificates, the sample training certificate shall be printed on the same paper and in the same color as the actual certificate.

(j) *Advertising.* Samples of any proposed advertising materials for promoting the course.

(k) *Other approval letter.* A copy of the EPA, tribal or other state approval letter if EPA, an EPA-authorized tribal program or another state previously approved the course.

(7) **NAMES OF COURSE PERSONNEL.** (a) Except as provided in par. (b), the names of the approved training manager and the designated principal instructor in charge of the course as well as the names of any additional principal instructors and guest instructors.

(b) The names of the instructors do not need to be submitted with the application, but the names of approved principal instructors and guest instructors shall be submitted before the course is held. If an application for approval of an instructor is made at the time of application for training course accreditation, the materials submitted to the department for training course accreditation shall include completed instructor approval application forms and all other materials required under s. HFS 163.24 for approval of instructors.

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

(8) **INDEX OF SUBMITTED MATERIALS.** A written index of all information and materials submitted with the application for accreditation to facilitate review for compliance.

(9) **ACCREDITATION FEES.** The appropriate application fee under par. (a) and accreditation fee under par. (b) as follows:

(a) *Application fee.* A nonrefundable application fee of \$500 for an initial course and \$125 for a refresher course shall accompany each application for contingent course accreditation.

(b) *Accreditation fee.* An accreditation fee of \$500 for 2 years or \$1,000 for 4 years for an initial course and \$250 for 2 years or \$500 for 4 years for a refresher course shall accompany each application for course accreditation. The department shall refund the accreditation fee if accreditation is denied, the training provider does not owe the department other fees and the denial is not appealed or the denial is appealed and upheld.

(c) *Other fees.* The department may impose other fees as necessary to cover costs of administering this chapter.

(10) **QUALITY CONTROL PLAN.** A copy of the written quality control plan developed under s. HFS 163.25 (9).

HFS 163.22 Accreditation procedures. (1) **DETERMINATION OF ELIGIBILITY FOR CONTINGENT ACCREDITATION.** The department shall review all information and materials submitted under s. HFS 163.21 for compliance with this subchapter. Within 60 days after the department receives all required application information and materials, the department shall either grant contingent accreditation or deny the application. If contingent accreditation is granted, the department shall send the training manager a contingent accreditation certificate under sub. (5). If the application for accreditation is denied, the department shall notify the training manager in writing. The notification shall include the reason for the denial and shall inform the training manager of the right to appeal that determination under s. HFS 163.33.

(2) **CONDUCTING A COURSE WITH CONTINGENT ACCREDITATION.** The training course may be conducted once the training manager has received the contingent accreditation certificate for the course and confirmation that the principal instructor is approved under s. HFS 163.24 (4), and has notified the department under s. HFS 163.25 (3) that the course is to begin.

(3) **LENGTH OF CONTINGENT ACCREDITATION.** Contingent accreditation is a temporary approval to conduct training. When the department grants contingent accreditation, the expiration date on the contingent accreditation certificate under sub. (5) shall be 2 years after the date the certificate is issued. Contingent accreditation may be renewed for a maximum of an additional 2 years at the discretion of the department.

(4) **DETERMINATION OF ELIGIBILITY FOR FULL ACCREDITATION.** The department shall conduct an accreditation audit under sub. (6) of a training course with contingent accreditation to determine eligibility for full accreditation. After notifying the training manager of the audit results, and based on those results, the department shall take one of the following actions:

(a) *Grant full accreditation.* The department may grant full accreditation. If full accreditation is granted, the department shall send the training manager an accreditation certificate under sub. (5). Full accreditation may be granted for 2 years or 4 years from the date of issuance, depending on the amount of the fee paid under s. HFS 163.21 (9) (b). A training course may renew accreditation under the provisions of s. HFS 163.23.

(b) *Renew contingent accreditation.* The department may renew contingent accreditation for an additional 2 years, may require changes to the course in order to obtain full accreditation and may conduct additional on-site audits. If the department continues contingent accreditation, the department shall notify the training manager in writing. The notice shall include the reason for continuing contingent accreditation, recommendations for achieving full accreditation and the right to appeal the action under s. HFS 163.33.

(c) *Suspend or revoke contingent accreditation.* The department may suspend or revoke contingent accreditation at any time or take another enforcement action under s. HFS 163.32. If the department suspends or revokes contingent accreditation, the department shall notify the training manager in writing. The notice shall include the reason for the suspension or revocation and shall inform the training manager of the right to appeal that action under s. HFS 163.33.

(5) **CERTIFICATE OF ACCREDITATION.** The department shall send a certificate of accreditation to the training manager when a training course has been granted contingent or full accreditation. The training manager shall maintain the certificate of accreditation at the address listed on the application or later changed with notice to the department under s. HFS 163.25 (7) (a) and shall make the certificate available for review upon request by the department or the public. Only the most recent certificate of accreditation for a training course is valid. The training manager shall not allow another person to copy the certificate of accreditation for fraudulent or misleading purposes or to use the certificate.

(6) **ACCREDITATION AUDITS.** (a) *On-site audits.* Department staff may conduct on-site accreditation audits of a training course to review for compliance with this chapter. A training manager, instructor or other staff for an accredited training course may not deny department staff entry to conduct an audit. An audit may include a review of all the following:

1. Records.
2. Facilities.
3. Instructional curriculum.
4. Course test administration and security procedures.
5. Classroom instruction.
6. Audio-visual materials.

7. Course content and learning objectives, including whether classroom instruction is based on the learning goals and objectives submitted to the department under s. HFS 163.21 (6) (c), as demonstrated by using learning objectives to introduce topics, focusing topics on the learning objectives, reviewing learning objectives in topic reviews and testing for student comprehension of the learning objectives through class discussions, class activities and the course test.

(b) *Records audits.* The department may conduct audits of training course records, including records required under s. HFS 163.25 (10), and may require a training provider to submit records to the department for purposes of determining compliance.

(c) *Notification of audit results.* Within 60 days after completing an accreditation audit, the department shall notify the training manager in writing of the audit results.

HFS 163.23 Renewal of course accreditation. (1) **REQUIREMENT FOR RENEWAL OF ACCREDITATION.** A training course may not be conducted after its accreditation expires until the training manager applies for and receives renewal of accreditation for the training course. When accreditation of a training course has been expired for less than one year, the department may reinstate accreditation if the training manager applies to the department for renewal of accreditation under this section. When accreditation of a training course has been expired for one year or longer, the training manager shall submit a new application under s. HFS 163.21 for contingent accreditation.

(2) **CONDITIONS FOR RENEWAL OF ACCREDITATION.** The department may renew accreditation of a training course that complies with the provisions of this chapter.

(3) **APPLICATION FOR RENEWAL OF ACCREDITATION.** To apply for renewal of accreditation, the training manager for a training course shall submit an application that includes all of the following:

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

(b) *Description of changes.* A description of any changes to the training course since the last application was approved that were not previously reported to the department, including changes to resources or course materials.

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

(d) *Accreditation fee.* Each application for renewal of course accreditation shall be accompanied by an accreditation fee of \$500 for 2 years or \$1,000 for 4 years for an initial course and \$250 for 2 years or \$500 for 4 years for a refresher course. The department shall refund the accreditation fee if renewal of accreditation is denied, the training provider does not owe the department other fees and the denial is not appealed or the denial is appealed and upheld.

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

(4) **AUDIT.** To determine compliance with the requirements of this chapter and eligibility for renewal of accreditation, the department may conduct audits under s. HFS 163.22 (6) of the training course.

(5) **RENEWAL OF ACCREDITATION.** After reviewing a training course for compliance with the conditions for renewal of accreditation, the department shall take one of the following actions:

(a) *Grant renewal of accreditation.* If accreditation is renewed, the department shall send the training manager a certificate of accreditation under s. HFS 163.22 (5) to extend accreditation for 2 years or 4 years, depending on the fee amount under subd. (3) (d) paid.

(b) *Deny renewal of accreditation.* If the department denies renewal of accreditation, the department shall notify the training manager in writing. The notice shall include the reason for the denial and shall inform the training manager of the right to appeal that action under s. HFS 163.33.

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

(2) **TRAINING MANAGER.** (a) *Qualifications.* A training manager shall have demonstrated experience, education or training in the construction industry, which may include lead or asbestos abatement, painting, carpentry, renovation, remodeling, occupational safety and health or industrial hygiene and shall have one of the following:

1. At least 2 years of experience, education or training in teaching workers or adults.
2. A bachelor's or graduate degree in building construction technology, engineering, industrial hygiene, safety, public health, education, business administration, program management or a related field.
3. Two years of experience in managing a training program specializing in environmental hazards.

(b) *Application requirements.* An applicant for approval as a training manager shall submit to the department all of the following:

1. A fully and accurately completed application on a form obtained from the department. The application shall include the applicant's social security number.
2. Documentation to establish that the applicant meets the qualifications in par. (a). Documentation may include official academic transcripts or a diploma as evidence of meeting education requirements, and letters of reference or documentation of previous work as evidence of meeting experience requirements.

Note: For a copy of the Department's application form for approval of a training manager, write or phone the Bureau of Occupational Health, Room 137, 1 W. Wilson St., P.O. Box 2659, Madison, WI 53701-2659; ph. 608-261-6876; or fax 608-266-9711. Return the completed application to the same office.

(c) *Approval procedures.* 1. Within 10 work days after the submission of all required application information, including documentation of training, education and experience, the department shall either grant or deny approval for an applicant to be a training manager.

2. If approval is granted, the department shall send the applicant written notification of approval.

3. If approval is denied, the department shall give the applicant reasons in writing why the application was denied and shall notify the applicant of the right to appeal the determination under s. HFS 163.33.

(d) *Length of approval.* Training manager approval is valid until the training manager surrenders the certificate of approval to the department or until the department suspends or revokes approval.

(3) **PRINCIPAL INSTRUCTOR.** (a) *Qualifications.* 1. Training. A principal instructor shall have successfully completed all of the following training:

a. A teaching methods course which covers, at a minimum, principles of adult learning, training course design, non-lecture instructional methods, use of audio-visual and other instructional resources, teaching methods, learning objectives, guided discovery and learning styles and maintaining classroom control for a learning environment. The course shall consist of at least 16 training hours of instruction and shall include a practice teaching component involving critique and evaluation of the applicant's teaching skills. Any degree with an education emphasis that includes educational coursework covering the topics required in this subdivision paragraph satisfies this requirement.

Note: To obtain assistance in developing learning goals and objectives for a teaching methods course, write or phone the Bureau of Occupational Health, Room 137, 1 W. Wilson St., P.O. Box 2659, Madison, WI 53701-2659; ph. 608-261-6876; or fax 608-266-9711.

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

2. Certification. A principal instructor shall be currently certified based on payment of a 2-year certification fee. Certification shall be held as follows:

a. As a lead risk assessor for lead investigation instructor approval to teach initial 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 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 project designer for project design instructor approval to teach lead project designer and project design courses.

3. Experience. During the 5 years preceding application to the department for principal instructor approval, an applicant shall have one year of direct responsibility for one of the following areas:

a. For approval to teach courses for lead hazard reduction disciplines or project designers, direct responsibility for activities involving lead hazard reduction, lead health effects, lead regulations, industrial hygiene activities involving lead, construction of homes or other buildings, painting, weatherization, rehabilitation or home improvement, lead worker protection or abatement relating to other hazardous materials.

b. For approval to teach courses for lead identification discipline, direct responsibility for activities involving lead health effects, public or occupational health care, lead regulations,

enforcement of environmental regulations, environmental investigations, building inspections, industrial hygiene activities involving lead, weatherization, rehabilitation or home improvement and lead management activities relating to other hazardous materials.

c. Have one year of experience instructing adults in lead-related topics as part of a course or curriculum recognized by a federal or state governmental agency in the 5 years preceding the date the initial application for approval is received by the department. The department shall evaluate qualifications in relation to the topic or topics that the applicant will teach.

(b) *Application requirements.* An applicant for approval as a principal instructor shall submit to the department all of the following:

1. Completed application form. A fully and accurately completed application on a form obtained from the department. The application shall include the applicant's social security number.

2. Resume. A current resume, including dates and description of related experience and education.

3. References. A minimum of 3 professional references or letters of recommendation, but no more than one from the applicant's current employer.

4. XRF training certificate. A copy of the XRF manufacturer training certificate for a person applying for lead investigation instructor approval.

5. Teaching methods certificate. A teaching methods course certificate or transcript and a course description or agenda which documents that the course meets the requirements under par. (a) 1. a. or documentation of equivalent education.

6. Copy of certification card. A copy of the appropriate state lead certification card, labeled "copy," or an application for certification in the appropriate discipline under par. (a) 2.

7. Fee. A nonrefundable principal instructor application and approval fee as follows:

a. \$100 for a lead investigation instructor application.

b. \$100 a lead hazard reduction instructor application.

c. \$50 for a lead project design instructor application.

d. The department may impose other fees as necessary to cover costs of administering this chapter.

Note: For a copy of the Department's application form for approval of a principal instructor, write or phone the Bureau of Occupational Health, Room 137, 1 W. Wilson St., P.O. Box 2659, Madison, WI 53701-2659; ph. 608-261-6876; or fax 608-266-9711. Return the completed application to the same office.

(c) *Approval procedures.* 1. Within 10 work days after the submission of all required application information, including acceptable documentation of training, education and experience, the department shall either grant or deny approval for an applicant to be a principal instructor.

2. If approval is granted, the department shall send the applicant written notification of approval.

3. If approval is denied, the department shall give the applicant reasons in writing why the application was denied and shall notify the applicant of the right to appeal the determination under s. HFS 163.33.

(d) *Length of approval.* The department may grant principal instructor approval which shall be valid until the expiration of the instructor's qualifying lead certification.

(e) *Renewal of approval.* 1. Application. Before approval and the qualifying certification expire, the principal instructor shall apply for renewal of approval by submitting to the department both of the following:

a. A completed application for renewal of approval. The application shall include the applicant's social security number.

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

2. Qualifications. For renewal of approval as a principal instructor, the individual shall apply for a 2-year recertification in the required discipline under par. (a) 2., shall receive a 2-year recertification, and shall be in compliance with this chapter.

3. Decision. a. Within 10 work days after the submission of all required application information, the department shall either grant or deny approval.

b. If renewal of approval is granted, the department shall send the applicant written notification of approval.

c. If renewal of approval is denied, the department shall give the applicant reasons in writing why the application was denied and shall notify the applicant of the right to appeal the determination under s. HFS 163.33.

4. Duration. Renewal of principal instructor approval shall be valid until the expiration of the instructor's qualifying lead certification.

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

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

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

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

(5) **EQUIVALENT TRAINING AND EXPERIENCE.** The department may approve training, education and experience qualifications other than those in this section if the department, following consideration and evaluation of them on a case-by-case basis, finds that the qualifications are substantially equivalent to and as protective of human health and the environment as the requirements of this section.

HFS 163.25 Administrative responsibilities of training managers. (1) **ADVERTISING.** The training manager for an accredited training course shall ensure that any advertisement for the course includes the same name and address of the course provider as appears on the application for accreditation or as later changed by notice to the department under sub. (7).

(2) **CESSATION OF TRAINING.** The training manager shall notify the department when the training provider for an accredited training course closes or when the course will no longer be offered and shall provide the department an opportunity to take possession of any relevant training records. Notification shall be made a minimum of 10 work days before the cessation of training.

(3) **COURSE SCHEDULE NOTIFICATION.** (a) *Requirement for notification.* A training manager shall notify the department in writing on a form obtained from or approved by the department whenever an accredited training course has been scheduled.

Note: To obtain a course schedule notification form, write or phone the Bureau of Occupational Health, Room 137, 1 W. Wilson St., P.O. Box 2659, Madison, WI 53701-2659; ph. 608-261-6876; or fax 608-266-9711.

(b) *Notification content.* The notice shall include all of the following:

1. The name of the training provider.
2. The discipline and whether it is an initial or refresher course.
3. The date and location of the course.
4. The name of the principal instructor.
5. The name of any guest instructors.
6. The topics each guest instructor listed will teach or the areas in which the guest instructor will assist.

(c) *Timing of notification.* 1. The notice shall be submitted to the department a minimum of 10 work days prior to the course starting date.

2. In an emergency, the training manager shall notify the department of a scheduled training course by telephone or fax a minimum of one work day prior to the start of the course.

(d) *Revised notification.* The training manager shall notify the department by telephone or fax a minimum of one work day prior to the scheduled start date of a course when the course is canceled or when the date or location of the course has changed. The department may restrict the use of advance notification submitted in the form of lists of intended courses and may require individual course-by-course notification when a training manager fails to notify the department of revisions in a timely manner.

Note: To notify the Department about a course scheduled on an emergency basis or to revise a notification, phone 608-261-6876 or fax 608-266-9711.

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

(5) **DESIGNATION OF PRINCIPAL INSTRUCTORS.** The training manager shall designate a principal instructor for each accredited course. The principal instructor shall be approved under s. HFS 163.24 (3).

(6) **NONDISCRIMINATION IN TRAINING.** Access to an accredited training course may not be denied solely due to age, sex, race, color, creed, national origin, ancestry, sexual orientation or disability.

(7) **NOTIFICATION OF CHANGES.** The training manager shall notify the department in writing a minimum of 5 work days before the following changes:

(a) *Change of address.* A change of address of the training provider or the location of records required under sub. (10).

(b) *Change of name.* A change in the name of the training provider.

(c) *Change of ownership.* A change in the ownership of the training provider. The accreditation of a training course under this subchapter is not transferable to a new owner. Upon a change of ownership, all training courses associated with the original owner are no longer accredited.

(d) *Change in a course.* A change in the training course description under s. HFS 163.21 (2), the training resources under s. HFS 163.21 (3), the course registration plan under s. HFS 163.21 (5) or course materials under s. HFS 163.21 (6), a minimum of 10 work days prior to the start of the course. In addition to the notification of a change in course materials under s. HFS 163.21 (6), the training manager shall submit a draft of the revised document. After reviewing the draft revision, the department may allow a trial period of 3 class sessions of a training course before requiring submittal of a final revision.

(e) *Change of training manager.* A change in training manager, a minimum of 5 work days before the change takes effect for an approved training manager and a minimum of 15 work days for a new training manager for whom approval is being sought under s. HFS 163.24 (2). When a training course does not have an approved training manager, the course may not be offered.

Note: To notify the Department of changes, contact the Bureau of Occupational Health, Room 137, 1 W. Wilson St., P.O. Box 2659, Madison, WI 53701-2659; ph. 608-261-6876; or fax changes to 608-266-9711.

(f) *Change of instructor.* A change in instructor, a minimum of 5 work days before the start of the course for an approved principal and a minimum of 20 work days before the start of the course for a new principal instructor for whom approval is being sought under s. HFS 163.24 (3) and a minimum of 10 work days before the start of the course for a new guest instructor designated under s. HFS 163.25 (4). When a designated instructor becomes unavailable due to an emergency, such as illness, death or other family crisis, the training manager shall notify the department of a change in instructor by telephone or fax before the start of the course.

(8) **PERMISSION TO AUDIT.** The training manager shall permit department representatives to attend, evaluate and monitor any accredited training course and have access to records associated with any accredited training course at any reasonable time without charge or hindrance to the department for the purpose of an accreditation audit or any other evaluation of compliance with this chapter and any other applicable statute or regulation.

(9) **QUALITY CONTROL.** The training manager shall be responsible for developing and implementing a quality control plan with measures that include all of the following:

(a) *Compliance.* Ensuring that the training course and course personnel comply with all provisions of this chapter.

(b) *Instructor review.* Annually reviewing instructor competency and taking measures to improve competency when necessary.

(c) *Material review.* Annually reviewing and revising training materials and course tests to reflect innovations and changes in the field.

(d) *Training and meetings.* Attending training and meetings to which the training manager has been invited by the department as a means of improving the quality of training offered.

(e) *Validity of course test.* Maintaining the validity and integrity of the course test under sub. s. HFS 163.20 (8) (g).

(f) *Validity of skills assessment.* Maintaining the validity and integrity of the hands-on skills assessment under s. HFS 163.20 (8) (h) to ensure that it accurately evaluates the trainees' performance of the work practices and procedures associated with the student learning objectives.

(10) **RECORDS.** (a) *Requirement to retain records.* The training manager shall ensure that the provider offering an accredited training course retains the records in par. (b) at its principal place of business in Wisconsin. If no office is maintained in Wisconsin, records shall be retained at the office location closest to Wisconsin. Records shall be retained for a minimum of 3 years 6 months and shall be given to the department upon request.

(b) *Records to be retained.* The following records shall be retained:

1. A copy of each instructor and student manual, course test, course test blueprint, all printed materials used in the course, other training material and any document reflecting changes made to any material.

2. The scored course test for all students who passed or failed.

3. A copy of each student's training certificate.

4. Documentation of training manager, principal instructor and guest instructor qualifications, including copies of principal instructor approvals under s. HFS 163.24 (4) and guest instructor designations under sub. (2).

5. Class rosters and student attendance records.

6. The quality control plan, including documentation of activities performed in compliance with the quality control plan.

7. Information regarding how the hands-on assessment is conducted, including, but not limited to, all of the following:

a. Who conducts the assessment.

b. How the skills are graded.

c. What facilities are used.

d. The pass and fail rate.

8. Results of the students' hands-on skills assessments.

9. Any other material submitted to the department as part of the application for accreditation or later at the request of the department to provide a basis for granting accreditation.

(11) SUBMISSION OF STUDENT DATA. (a) After an accredited lead training course is held, the training manager shall submit student data to the department in an electronic format provided by or approved by the department or in another format approved by the department.

(b) The student data submitted shall include all of the following information for each student:

1. Name of the course and if it was an initial or refresher course.

2. The course dates.

3. For each training certificate issued, the date the training certificate was issued.

4. The student's full legal name and address. If a training certificate was issued, the name and address submitted shall be the same as it appears on the training certificate.

5. For each training certificate issued, the unique training certificate number as it appears on the training certificate.

6. The student's course test score.

7. A clearly identifiable picture of the student's face clearly labeled with the student's full legal name.

8. The student's social security number, if known.

Subchapter IV - Enforcement

HFS 163.30 General provisions. (1) **DEPARTMENTAL ACTION.** The department may initiate an action in the name of this state against any person to require compliance with this chapter or for failure to comply.

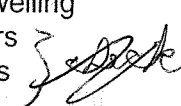
(2) **OTHER AGENCY ACTION.** Any other state agency in the course of the performance of its duties may determine that an individual, lead company or training provider has violated or is violating one or more requirements of this chapter. If that agency determines that there is a potential violation of this chapter, the agency may notify the department of that potential violation. The department may delegate all or part of its enforcement authority to any other state or federal agency through a memorandum of understanding.

(3) **AUTHORITY TO INVESTIGATE.** (a) Whenever the department is advised or has reason to believe that any person is violating or has violated any provision of this chapter, the department may make an investigation to determine the facts. For purposes of this investigation, the department shall have authority to inspect the premises where the violation is alleged to be occurring or to have occurred.

(b) An authorized representative of the department may enter a dwelling, child-occupied facility or real property where an activity regulated under this chapter is being conducted or where a person regulated under this chapter conducts business. The representative may conduct tests, take samples, review work practices, review and copy records and perform other activities necessary to determine compliance with this chapter. No person may refuse to establish or maintain records under s. HFS 163.13 (3), refuse to provide or copy records, or refuse to permit entry or access to an authorized representative of the department if that representative presents a valid identification issued to the representative by the department and if that representative is complying with par. (a). No person may obstruct, hamper or interfere with the actions of that representative under this paragraph.

(c) An authorized representative of the department may conduct an audit under s. HFS 163.22 (6) to ascertain whether an accredited training course continues to meet requirements for accreditation.

(d) An authorized representative of the department entering a premises under this subsection shall present identification and any authorization issued by the department and shall comply with applicable health and safety procedures established by law.

(4) **REFERRAL TO DISTRICT ATTORNEY.** The department may report any violation of this chapter or orders issued under this chapter to the district attorney of the county in which the dwelling is located. Pursuant to s. 254.30, Stats., the district attorney shall enforce this chapter or orders issued under this chapter upon receiving a report from the department or from the department's designee under s. 254.152, Stats. 

HFS 163.31 Reasons for enforcement actions. (1) **EXECUTION OF A CONSENT AGREEMENT.** In addition to an administrative or judicial finding of violation, execution of a consent agreement in settlement of an enforcement action constitutes, for purposes of this section, conclusive evidence of a failure to comply with relevant statutes or rules.

(2) **REASONS FOR ACCREDITATION ENFORCEMENT ACTIONS.** The department may take an action under s. HFS 163.32 against a person offering or conducting a training course that is required to be accredited under this chapter if the person has violated any provision of this chapter. Reasons for accreditation enforcement actions may include one of the following violations:

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

(b) The person deceptively issued or used training certificates.

(c) The person misrepresented a training course or the contents of a training course to the department, EPA, another EPA-authorized state, an EPA-authorized tribe or the student population.

(d) The person made false or misleading statements to the department in its application for accreditation or reaccreditation, and the department relied upon those statements in approving the application.

(e) The person falsified accreditation records, instructor qualifications or other accreditation-related information or documentation.

(f) The person offered or conducted a course that failed to meet a requirement of this chapter.

(g) The person failed to comply with the accreditation standards and requirements under this chapter.

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

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

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

(k) The person failed or refused to permit a department representative entry to a training course without charge or hindrance to attend, evaluate or monitor the course.

(3) REASONS FOR APPROVAL ENFORCEMENT ACTIONS. The department may take an action under s. HFS 163.32 against a person required to be approved as a training manager, principal instructor or guest instructor under this chapter if the person has violated any provision of this chapter. The reason for an approval enforcement action may include one of the following violations:

(a) The training manager, principal instructor or guest instructor has violated a provision of this chapter or any related state, federal or local statute, ordinance, rule or regulation.

(b) The training manager, principal instructor or guest instructor has misrepresented his or her credentials or documentation of qualifications submitted to the department as the basis for approval.

(4) REASONS FOR CERTIFICATION ENFORCEMENT ACTIONS. The department may take an action under s. HFS 163.32 against a person required to be certified under this chapter, whether an individual or a lead company, if the person has violated any provision of this chapter. Reasons for certification enforcement actions may include one of the following violations:

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

(b) The person used a training certificate that was issued by a training manager without attending an appropriate course or an entire course or without passing an approved course test.

(c) The person obtained training documentation through fraudulent means.

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

(e) The person misrepresented facts or made false or misleading statements in applying for certification.

(f) The person obtained certification through misrepresentation of certification requirements or related documents dealing with education, training, professional registration or experience.

(g) The person permitted the duplication, without labeling the duplicate a "copy," when labeling is required or permitted the use of one person's training certificate, certification card or other certification document by another.

(h) The person withheld or confiscated an employee's valid training certificate or valid certification card.

(i) The person performed work requiring certification at a job site without having proof onsite of certification.

(j) The person performed, advertised, claimed to provide or offered to perform or supervise work for which certification is required but for which appropriate certification had not been received.

(k) The person performed work using individuals who were not certified when certification was required.

(l) The person failed or refused to establish, maintain, provide, copy or permit access to records or reports by an authorized representative of the department.

(m) The person failed or refused to permit entry or inspection by an authorized representative of the department.

(n) The person failed or refused to comply with or to ensure that employed or contracted staff comply with the work practice standards established in s. HFS 163.14.

(o) The person displayed conduct relating to a lead-based paint activity that in the department's judgment constitutes unreasonable risk to the health of any person.

(p) The person displayed a pattern of conduct that in the department's judgment constitutes unreasonable risk to the health and safety of persons or the environment.

(q) The person failed the mandatory certification examination 3 times in a 6-month period certified as an inspector, risk assessor or supervisor.

(r) The person failed to comply with any federal, state or local government lead-based paint statute, ordinance, rule or regulation.

(5) **REASONS FOR DENIAL.** In addition to reasons for enforcement actions under subs. (1) to (4), the department may deny an application for certification, recertification, accreditation, renewal of accreditation or approval under this chapter to any of the following persons:

(a) A person who has had a certification, recertification, accreditation, renewal of accreditation or approval under this chapter revoked within the previous 5 years.

(b) A person who the department has determined is not fit and qualified. In determining whether a person is fit and qualified, the department shall consider the person's qualifications and any history of civil or criminal violation of statutes, regulations or ordinances of the United States, this state, any other state or any local government substantially related to lead-based paint activities or other environmental remediation.

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

(a) A person has committed a substantial violation of this chapter or an order under this section, as determined by the department. A substantial violation may include one of the following:

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

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

3. Failure or refusal to comply with the work practice standards under s. HFS 163.14, or to ensure that employed or contracted staff comply with those work practice standards.

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

HFS 163.32 Enforcement actions. In addition to issuing letters of inquiry and noncompliance statements, which are not appealable, the department may take one of the following appealable actions against a certified individual or lead company, an approved training manager or instructor, a person offering an accredited training course or a person required to comply with a provision of this chapter for any reason stated under s. HFS 163.31:

(1) **ORDER.** If the department provides written notice of the grounds for an order and an explanation of the process for appealing an order imposed under this subsection, the department may order any of the following when a person violates a provision under this chapter or continues to violate or resumes violation of a provision for which notice was previously issued:

(a) That the person stop performing, supervising, advertising, claiming to provide or offering activities for which certification is required under this chapter when the person is not certified under this chapter.

(b) That the person advertising or conducting a training course that is represented as qualifying persons for certification under this chapter stop advertising or conducting the course when the course or training provider is not accredited or approved under this chapter.

(c) That the person not function as a principal instructor or training manager of a lead training course when the person is not approved under this chapter.

(d) That the person stop violating any other provision of this chapter.

(e) That the person submit a plan of correction for violation of any provision under this chapter.

(f) That the person implement and comply with a plan of correction provided by the department or previously submitted by the person and approved by the department.

(g) That the person stop performing or supervising activities for which certification is required under this chapter until all violations are corrected. The order may require all activities on the premises that are regulated under this chapter to cease until the violation is corrected.

(h) That the person stop advertising or conducting a training course accredited or approved under this chapter until all violations are corrected.

(2) DENIAL. If the department provides an applicant with a written notice of its decision to deny the application, including the reason for the denial and an explanation of the process under s. HFS 163.33 for appealing the denial, the department may deny an application for certification, recertification, accreditation, renewal of accreditation or approval for a reason under s. HFS 163.31 (5).

(3) CIVIL FORFEITURE. If the department provides written notice of the grounds for a forfeiture and an explanation of the process under s. HFS 163.33 for appealing a forfeiture, the department may impose a daily forfeiture of not less than \$100 nor more than \$1,000 for each violation against any person who violates a provision under this chapter, fails to respond to a letter of inquiry by the time specified in the order, continues to violate or resumes violation of a provision for which notice was previously issued or fails to comply with an order issued under sub. (1) by the time specified in the order. All of the following apply to a civil forfeiture:

(a) The department may directly assess a forfeiture by specifying the amount of the forfeiture in the notice provided under this subsection.

(b) A person against whom the department has assessed a forfeiture shall pay that forfeiture to the department within 10 days after receipt of notice of the assessment or, if that person contests that assessment under s. HFS 163.33, within 10 days after receipt of the final decision after exhaustion of administrative review or, if that person petitions for judicial review under ch. 227, Stats., within 10 days after receipt of the final decision after exhaustion of judicial review. The department shall remit all forfeitures paid under this subsection to the state treasurer for deposit in the school fund.

Note: The attorney general may bring an action in the name of the state to collect any forfeiture imposed under this subsection that has not been paid as provided in par. (b).

(4) SUSPENSION. If the department provides written notice of suspension, the grounds for suspension and an explanation of the process under s. HFS 163.33 for appealing a suspension not less than 30 days before the date of the suspension, and the violation on which the suspension is based remains substantially uncorrected at the end of the 30-day notice period, the department may suspend a certification, an accreditation or an approval issued under this chapter. Any suspension

of a certification, accreditation or approval shall remain in effect until the department determines the interests of the residents of the state are served.

(5) **SUMMARY SUSPENSION.** (a) Under the authority of s. 227.51 (3), Stats., the department may summarily suspend a certification when the department finds that this action is required to protect the health, safety or welfare of any person. A finding of a requirement for summary suspension may be based on but is not limited to one or more reasons under s. HFS 163.31 (6).

(b) An order by a representative of the department to summarily suspend certification of a person and therefore stop a lead-based paint activity may be a verbal or written order. Within 7 work days after the order takes effect, the department shall either permit the continuation of the lead-based paint activity or initiate proceedings to revoke the certification. Unless waived by the certified person, an informal hearing on the sole issue of whether certification shall remain suspended during revocation proceedings shall be conducted by a department designee within 15 work days after the date of suspension if the department has initiated revocation proceedings.

(6) **REVOCAION.** If the department provides written notice of revocation, the grounds for revocation and an explanation of the process under s. HFS 163.33 for appealing a revocation not less than 30 days before the date of the revocation, and the violation on which the revocation is based remains substantially uncorrected at the end of the 30-day notice period, the department may revoke a certification, an accreditation or an approval issued under this chapter.

Note: Pursuant to s. 254.30 (2) (b), any person who knowingly violates any provision of this chapter or an order issued under sub. (3) shall be fined not less than \$100 or more than \$5,000 per day for each violation. The court may also place the person on probation under s. 973.09, Stats., for a period not to exceed 2 years.

HFS 163.33 Appeal. (1) **RIGHT TO APPEAL.** An action taken by the department under s. HFS 163.32 (1) to (6) is subject to administrative review under ch. 227, Stats.

(2) **APPEALS PROCESS.** To request a hearing under ch. 227, the aggrieved person shall file, within 10 work days after the date of the department's action, a written request for a hearing under s. 227.44, Stats. A hearing request is considered filed when the division of hearings and appeals receives the request. A request by facsimile is complete upon transmission. If the request is filed by facsimile transmission and such transmission is completed between 5 PM and midnight, one day shall be added to the prescribed period.

Note: A hearing request should be addressed to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707. Hearing requests may be delivered in person to that office at 5005 University Avenue, Room 201, Madison, WI. Hearing requests may be faxed to 608-264-9885.

(3) **ADMINISTRATIVE HEARING.** The division of hearings and appeals shall hold an administrative hearing under s. 227.42, Stats., within 30 calendar days after receipt of the request for the administrative hearing, unless the aggrieved person consents to an extension of that time period. The division of hearings and appeals shall issue a decision no later than 45 calendar days after holding the hearing, unless both parties agree to a later date.

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

HFS 163.40 General provisions. (1) REQUIREMENTS AND RESTRICTIONS. (a) *Child with elevated blood lead level.* Under s. 254.171, Stats., a property owner shall do all of the following if the property owner receives a written notice from the department or a local health department that a child under 6 years of age who resides in the property owner's owner-occupied dwelling or owner-occupied dwelling unit, or who resides in the property owner's dwelling or dwelling unit under the terms of a rental agreement, has an elevated blood lead level:

1. Under s. 254.166, Stats., allow the department or the department's agent, including a local health department, to conduct a lead investigation and then comply with any order issued.

2. After August 31, 2001, obtain a certificate of lead-free status or a certificate of lead-safe status of not less than 12 months in duration. The certificate shall be obtained within 12 months. If the property owner makes a good faith effort to obtain the certificate within 12 months but is unable to due to circumstances beyond the property owner's control, the property owner may ask the department for an extension. The department may grant an extension for circumstances such as poor weather conditions for conducting exterior lead hazard reduction, the unavailability of certified persons to conduct the lead hazard reduction, and the unavailability of certified persons to conduct the lead investigation and issue a certificate.

(b) *Lead-free or lead-safe property.* For a dwelling, dwelling unit or premises built before 1978, only a dwelling, dwelling unit or premises with a valid certificate of lead-free status in effect may claim to be lead-free or free of lead-based paint after August 31, 2001. For a dwelling, dwelling unit or premises built before 1978, only a dwelling, dwelling unit or premises with a valid certificate of lead-safe status in effect may claim to be lead-safe or free of lead-based paint hazards after August 31, 2001.

(c) *Sampling or testing.* Sampling or testing of a dwelling, dwelling unit or premise for the presence of lead-based paint or a lead-based paint hazard is not required if the presence of lead-based paint or a lead-based paint hazard is assumed. For purposes of obtaining a certificate of lead-free status or a certificate of lead-safe status, all paint is assumed to be lead-based paint until proven otherwise. To prove that paint is not lead-based paint, an independent person certified to perform lead investigations shall conduct paint testing or sampling using documented methodologies and compare the results against the levels in the definition of lead-based paint.

(2) **ELIGIBLE PROPERTIES.** (a) *Lead-free property.* A dwelling, dwelling unit, child-occupied facility or other premises meeting the lead-free property standards under s. HFS 163.41, as determined by a lead-free inspection under s. HFS 163.14 (4) conducted by an independent lead inspector or risk assessor from an independent lead company, is eligible for a certificate of lead-free status. Certificates may be issued to take effect after August 31, 2001, and may not be issued after August 31, 2008.

(b) *Lead-safe property.* A dwelling, dwelling unit, child-occupied facility or other premises meeting the lead-safe property standards under s. HFS 163.42, as determined by a lead-safe investigation under s. HFS 163.14 (8) conducted after the effective date of this chapter by an independent lead hazard investigator or risk assessor from an independent lead company, is eligible for a certificate of lead-safe status. Certificates may be issued to take effect after August 31, 2001, and may not be issued after August 31, 2008.

(3) **TRANSFER OF CERTIFICATE OWNERSHIP.** (a) *Requirement to transfer.* As a condition for a certificate of lead-free status or lead-safe status to remain valid upon transfer of property ownership, the new property owner submit written notice of the change in ownership to the department within 60 days after the date the new property owner obtains both equitable title and

legal possession of a lead-free property or lead-safe property. In the written notice, the new property owner shall provide the names of all property owners and shall agree to comply with all conditions for maintaining the certificate.

(b) *Amended certificate.* A new property owner may submit a request to the department for an amended certificate showing the new ownership information. A request for an amended certificate shall include the appropriate fee under s. HFS 163.42 (2) (f) or 163.43 (2) (f).

HFS 163.41 Immunity. (1) IMMUNITY FROM LIABILITY. (a) *Effective date.* This subsection applies to a lead poisoning or lead exposure that occurs after August 31, 2001, and before September 1, 2008.

Note: 1999 Wisconsin Act 113 was published on May 22, 2000. Under Section 35 of 1999 Wisconsin Act 113, immunity from liability for lead poisoning does not take effect until the first day of the 16th month beginning after publication, which is September 1, 2001, and ends on the first day of the 100th month beginning after publication, which is September 1, 2008.

(b) *Effect of valid certificate.* Under s. 254.173, Stats., an owner of a dwelling or dwelling unit and the property owner's employees and agents are immune from civil or criminal liability and may not be subject to an agency proceeding under ch. 227, other than for the enforcement of rules promulgated by the department under ch. 254, subch. II, Stats., for their acts or omissions related to lead poisoning or lead exposure of a person who resides in or has visited the dwelling or dwelling unit if, at the time that the lead poisoning or lead exposure occurred, a certificate of lead-free status or a certificate of lead-safe status was in effect for the dwelling or dwelling unit and the certificate was not rendered invalid under par. (c).

(c) *Effect of invalid certificate.* A certificate of lead-free status or lead-safe status is rendered invalid and par. (b) does not apply if it is shown by clear and convincing evidence that one of the following has occurred:

1. The property owner or the property owner's employee or agent obtained the certificate by fraud.

2. The property owner or the property owner's employee or agent violated a condition of the certificate.

3. During a lead-based paint construction activity, such as renovation, remodeling, maintenance or repair, and after receiving a certificate of lead-free status or lead-safe status, the property owner or the property owner's agent or employee created a lead-based paint hazard that was present in the dwelling or dwelling unit at the time that the lead poisoning or lead exposure occurred.

4. The property owner or the property owner's employee or agent failed to respond in a timely manner, as required under s. 163.43 (3), to notification by a tenant, by the department, or by a local health department that a lead-based paint hazard might be present.

5. The lead poisoning or lead exposure was caused by a source of lead in the dwelling or dwelling unit other than lead-based paint.

(2) TEMPORARY IMMUNITY. (a) *Effective date.* This subsection applies to a lead poisoning or lead exposure that occurs after August 31, 2001, and before September 1, 2005.

Note: 1999 Wisconsin Act 113 was published on May 22, 2000. Under Section 35 of 1999 Wisconsin Act 113, temporary immunity from liability for lead poisoning does not take effect until the first day of the 16th month beginning after publication, which is September 1, 2001, and ends on the first day of the 64th month beginning after publication, which is September 1, 2005.

(b) *Effect of temporary immunity.* Under s. 254.173 (3), Stats., an owner of a dwelling or unit of a dwelling and his or her employees and agents are immune from civil and criminal liability and may not be subject to an agency proceeding under ch. 227, other than for the enforcement of rules promulgated by the department under ch. 254, subch. II, Stats., for their acts or omissions related to lead poisoning or lead exposure that occur during the first 60 days after the owner acquires the dwelling or unit, except that s. 254.173 (3), Stats., does not apply to lead poisoning or lead exposure that results from a lead-based paint hazard created by the owner or his or her employee or agent.

(c) *Requirements for temporary immunity.* Temporary immunity under s. 254.173 (3), Stats., applies only if all of the following conditions are met:

1. The property owner obtains a certificate of lead-free status or a certificate of lead-safe status for the dwelling or dwelling unit.

2. The property owner shows by clear and convincing evidence that the property was in compliance with the standard to obtain a certificate of lead-free status or a certificate of lead-safe status by the end of the 60-day period and that the owner obtained the certificate within 60 days following the property owner's acts to achieve compliance. If the property owner makes a good faith effort to obtain the certificate within 60 days but is unable to do so due to circumstances beyond the property owner's control, the property owner may ask the department for an extension. The department may grant 30-day extensions for circumstances such as the unavailability of certified persons to conduct the lead investigation and issue a certificate.

3. The property owner complies with any order received under s. 254.166 (2) (d), Stats.

4. The property owner or the property owner's agent or employee ensures that the following interim control activities are conducted in any dwelling or unit that is vacant during the 60-day period under sub. (2) (a):

a. Potential dust-lead shall be removed using documented methodologies.

b. If deteriorated paint is present, the deteriorated paint shall be stabilized using documented methodologies and clearance conducted under s. HFS 163.14 (1) before occupancy.

HFS 163.42 Certificate of lead-free status. (1) LEAD-FREE PROPERTY STANDARDS. Excluding par. (c), a lead-free property shall meet all of the following standards:

(a) *Painted components.* Painted components shall be free of lead-based paint, as determined by a lead-free inspection under s. HFS 163.14 (4).

(b) *Dust from removal of paint or components.* Property shall be free of a dust-lead hazard created by removal of lead-based paint or lead-based paint components, as determined by a lead-free inspection under s. HFS 163.14 (4).

(c) *Exclusions from standards.* The property is not required to be free of lead in soil or water, lead that does not involve building components, or lead involving building components when the lead does not come from lead-based paint.

(2) **ISSUANCE OF LEAD-FREE CERTIFICATE.** All of the following apply to issuing a certificate of lead-free status:

(a) *Lead-free inspection.* A lead-free inspection shall be conducted using the protocol under s. HFS 163.14 (4).

(b) *Submission of report.* Following instructions provided by the department, a lead company shall complete and submit the lead-free inspection report to the department within 10 work days of completing the lead-free inspection or receiving any laboratory results, whichever is later. The report shall be submitted using an electronic format provided by the department or an alternative method approved by the department.

(c) *Verification of qualification.* If the department verifies that the property meets the lead-free property standards under sub. (1) and the property owner requests that a certificate of lead-free status be issued, the lead company shall follow the instructions provided by the department to issue the certificate of lead-free status to the property owner within 10 days after receiving verification from the department.

(d) *Effective date.* 1. Except that a certificate of lead-free status may not be issued to take effect before September 1, 2001, or after August 31, 2008, if a certified lead company conducts a lead-free inspection and submits the report to the department under par. (b) within 10 work days after completion of the lead-free inspection, including receipt of any laboratory results, and if the department determines the property meets the lead-free standards, the certificate shall be valid on the date the on-site sampling was completed.

2. Except that a certificate of lead-free status may not be issued to take effect before September 1, 2001, or after August 31, 2008, if a lead company fails to submit the lead-free inspection report within 10 work days under par. (b), the certificate shall be valid as follows:

a. On the date the on-site sampling was completed if the property owner demonstrates to the department by clear and convincing evidence that the property met the applicable standard on that date.

b. On the subsequent date that the property owner demonstrates to the department by clear and convincing evidence that the property met the applicable standard.

(e) *Expiration date.* A certificate of lead-free status is valid until revoked.

Note: 1999 Wisconsin Act 113 was published on May 22, 2000. Under Section 35 of 1999 Wisconsin Act 113, immunity from liability for lead poisoning ends on the first day of the 100th month beginning after publication, which is September 1, 2008.

(f) *Fees.* 1. The property owner shall pay a fee of \$50 to the lead company issuing a lead-free certificate and the lead company shall forward payment to the department within 30 days after issuance of a certificate.

2. In addition to the fee under subd. 1, a lead company that submits a lead-free report using an acceptable alternative under (2) (b) shall pay a handling fee of \$25.

3. If a property owner requests the department to issue a duplicate or an amended certificate of lead-free status, the property owner shall submit a fee of \$50, payable to the department of health and family services.

(3) **REVOCACTION.** A certificate of lead-free status may be revoked for the following reasons:

(a) The dwelling, dwelling unit, child-occupied facility or other premises is not free of lead-based paint, as determined by sampling conducted using documented methodologies.

(b) The certificate was issued in error.

(c) The lead-free inspection protocol under s. HFS 163.14 (4) was not followed in determining that the property met the lead-free standards.

HFS 163.43 Certificate of lead-safe status. (1) LEAD-SAFE PROPERTY STANDARDS.

Under the standards in this subsection, all paint is assumed to be lead-based paint unless the paint is sampled, analyzed by a recognized laboratory and determined not to contain lead-based paint. Excluding pars. (i) and (j), a property shall meet all of the following standards, as determined by a lead-safe investigation under s. HFS 163.14 (8):

(a) *Interior painted building components.* Interior painted building components shall be free of deteriorated lead-based paint.

(b) *Exterior painted building components below 5 feet.* Exterior painted building components at a height from ground or floor level to 5 feet above ground or floor level shall be free of deteriorated lead-based paint.

(c) *Exterior painted building components above 5 feet.* Exterior painted building components at a height more than 5 feet above ground or floor level shall have a total of no more than 5 square feet of deteriorated paint for all surfaces combined.

(d) *Paint chips.* Floors, windowsills, window wells or troughs and soil shall be free of visible lead-based paint chips.

(e) *Substrate.* All substrates coated with lead-based paint shall be solid and in good condition, and free of visible defect, damage, decay and deterioration. Unkeyed plaster may not be present.

(f) *Dust-lead hazards.* Property shall be free of dust-lead hazards. A dust-lead hazard is present when at least one of the following applies:

1. Using the limited dust sampling protocol, the following results are obtained:

a. The arithmetic mean for all dust samples collected from floors is equal to or greater than 25 micrograms per square foot.

b. The arithmetic mean for all dust samples collected from interior windowsills is equal to or greater than 125 micrograms per square foot.

c. The laboratory result for a dust sample collected from a window trough is equal to or greater than 800 micrograms per square foot.

2. Using the standard dust sampling protocol, the following results are obtained:

a. The arithmetic mean for dust samples collected from all floors is equal to or greater than 40 micrograms per square foot.

b. The arithmetic mean for dust samples collected from all interior windowsills is equal to or greater than 250 micrograms per square foot.

c. The laboratory result for a dust sample collected from a window trough is equal to or greater than 800 micrograms per square foot.

(g) *Moisture or water damage.* 1. For property with visible signs of mold, mildew, moisture or water damage on lead-based painted components, a short-term certificate of lead-safe status may be issued if there is no evidence that an active water leak is present. Before a long-term certificate of lead-safe status may be issued, moisture or water damage on lead-based painted components shall be eliminated.

2. The roof of the property may not have evidence of active leaks.

3. If gutters or downspouts are not present, there shall be no evidence of damage to a lead-based painted surface due to a lack of gutters or downspouts.

4. If gutters or downspouts are present, the gutters and downspouts shall be free of deteriorated paint and shall function normally.

(h) *Painted friction and impact surfaces.* Elimination of lead-based paint friction and impact surfaces is necessary for a long-term certificate of lead-safe status. A short-term certificate of lead-safe status may be issued when lead-based paint is present on friction or impact surfaces if standards under pars. (a) to (g) and the following component-specific standards are met:

1. Built-in cabinets. a. The opening or shutting of a door or drawer shall not be allowed to cause damage to a lead-based paint surface.

b. Built-up paint shall not be present where it might be crushed to create dust-lead or debris, such as built-up paint on the hinge side of the door or on the faceplate of a drawer.

c. Painted cabinet doors and drawers shall function normally. Evidence of friction involving a lead-based paint surface that is caused by sticking or binding doors or drawers shall not be present.

2. Doors. a. The opening of a door shall not be allowed to cause damage to a lead-based paint surface, except that the impact of a lead-based paint doorstop on the latch jamb is allowed if built-up paint is not present.

b. Built-up paint shall not be present where it might be crushed to create dust-lead or debris, such as built-up paint on the hinge side of the door.

c. A painted door shall function normally. Evidence of friction involving a lead-based paint surface that is caused by sticking or binding doors shall not be present.

3. Floors. Painted interior and exterior floors shall have an intact protective topcoat that does not contain lead-based paint, as determined by a lead-safe investigation under s. HFS 163.14 (8) being conducted with no visible wear pattern or excessive scuffing detected.

4. Stairs. a. For painted interior stairs between occupied floors, the traffic area of the tread shall be covered with a durable covering or coating that will prevent underlying lead-based paint from being scuffed off.

b. For painted exterior stairs and interior stairs that are not between occupied floors, painted stairs shall have an intact protective topcoat that does not contain lead-based paint, as determined by a lead-safe investigation under s. HFS 163.14 (8) being conducted with no visible wear pattern or excessive scuffing detected.

5. Window systems, including storm and screen windows.

a. Weep holes shall be present and open in double-hung and single-hung windows and any other window system designed to have weep holes.

b. Window well or trough shall be smooth and cleanable.

c. Built-up paint shall not be present where it might be crushed to create dust-lead or debris.

d. Window shall function normally.

e. Glazing shall not have gaps.

f. Operable storm windows shall be present and installed seasonally unless windows are double-paned.

(i) *Soil option.* Soil testing to determine if soil-lead hazards are present is not required in the lead-safe standards. If a property owner chooses to include soil-lead hazards, an assessment of soil-lead hazards must be conducted under s. HFS 163.14 (8) (i) with one of the following findings:

1. No bare soil was present.

2. Bare soil was sampled, analyzed by a recognized laboratory and determined not to be a soil-lead hazard under s. HFS 163.15 (2).

(j) *Exclusions from standard.* The property is not required to be free of lead hazards in soil or water, lead hazards that do not involve building components, or lead hazards involving building components when the lead does not come from lead-based paint.

(2) **ISSUANCE OF CERTIFICATE OF LEAD-SAFE.** Except that a certificate of lead-safe status may not be issued to take effect prior to September 1, 2001, all of the following apply to issuing a certificate of lead-safe status:

(a) *Lead-safe investigation.* A lead-safe investigation shall be conducted using the protocol under s. HFS 163.14 (8).

(b) *Submission of report.* Following instructions provided by the department, a lead company shall complete and submit the lead-safe investigation report to the department within 10 work days of completing the lead-safe investigation or receiving any laboratory results, whichever is later. The report shall be submitted using an electronic format provided by the department or an alternative method approved by the department.

(c) *Verification of data.* If the department verifies that the property meets the lead-safe property standards under sub. (1) and the property owner requests that a certificate of lead-safe status be issued, the lead company shall follow the instructions provided by the department to issue the certificate of lead-safe status to the property owner within 10 days after receiving verification from the department.

(d) *Effective date.* 1. Except that a certificate of lead-safe status may not be issued to take effect before September 1, 2001, or after August 31, 2008, if a certified lead company conducts a lead-safe investigation and submits the report to the department under par. (b) within 10 work days after completion of the lead-safe investigation, including receipt of any laboratory results, and if the department determines the property meets the lead-safe standards, the certificate shall be valid on the date the on-site sampling was completed.

2. Except that a certificate of lead-safe status may not be issued to take effect before September 1, 2001, or after August 31, 2008, if a lead company fails to submit a lead-safe investigation report within 10 work days under (b), the certificate shall be valid as follows:

a. On the date the on-site sampling was completed if the property owner demonstrates to the department by clear and convincing evidence that the property met the applicable standard on that date.

b. On the subsequent date that the property owner demonstrates to the department by clear and convincing evidence that the property met the applicable standard.

(e) *Expiration date.* Except that a certificate of lead-safe status shall not be issued to expire after August 31, 2008, a certificate of lead-safe status shall be given an expiration date based on the component that is most likely to cause or become a lead-based paint hazard before any other component. A component that has been enclosed or encapsulated according to documented methodologies shall be excluded from consideration under subds. 1 to 4. To determine the expiration date, select the shortest duration under subds. 1. to 5. based on the building components present:

1. Nine months. The presence of lead-based paint on a friction surface of a window, such as a window channel, shall result in a certificate of lead-safe status being issued for no more than nine months.

Note: The 9-month certificate is intended to provide liability protection while more permanent lead hazard reduction is continues. Under sub. (4), no more than 2 applications for a 9-month certificate may be submitted unless the property owner provides the department with a reason why an additional 9-month certificate is necessary.

2. One year. The presence of any of the following shall result in a certificate of lead-safe status being issued for no more than one year.

a. Other than a friction surface of a window eligible for a 9-month certificate under subd. 1. or a shelf eligible for a 5-year certificate under subd. 4., lead-based paint on an interior friction surface, such as a floor and a drawer of a built-in cabinet.

b. Lead-based paint on an exterior windowsill, window trough or well, or the non-friction surfaces of a window sash.

c. Lead-based paint on an exterior stair tread when the traffic portion of the tread is not covered with a durable material.

d. Lead-based paint on an exterior floor, such as a porch floor, when carpet or a durable material does not cover the floor.

e. Less than a total of 5 square feet of deteriorated lead-based paint on the exterior at a height above 5 feet from ground or floor level.

f. Lead-based paint on a component showing evidence of mold, mildew, moisture or water damage, but with no evidence of an active leak.

3. Three years. The presence of any of the following shall result in a certificate of lead-safe status being issued for no more than three years.

a. Other than a window component eligible for a 9-month certificate under subd. 1 or a 1-year certificate under subd. 2. b., lead-based paint on a window component, such as an interior sill or stool, casing, head, jamb, glazing, caulk or putty.

b. Other than an uncovered exterior stair tread eligible for a 1-year certificate under subd. 2. c., lead-based paint on an interior or exterior stair system, such as a stair riser, stair stringer, balustrade, handrail, newel post, railing cap and stair tread when the traffic area of the tread is covered with carpet or a durable material.

c. Other than an exterior floor, lead-based paint on an exterior or 3-season porch, such as a porch wall, screen framework, railing and railing cap.

d. Exterior painted floor with outdoor carpeting fastened over the entire painted surface.

e. Lead-based paint on an exterior or interior impact surface, such as a face of a built-in cabinet, baseboard, chair rail, doorstop and door.

4. Five years. The presence of any of the following shall result in a certificate of lead-safe status being issued for no more than five years.

a. Lead-based paint on an interior component that is not described under subds. 1. to 3., such as a ceiling, wall, crown molding, door trim, fireplace, radiator or other heating unit, shelf, shelf support, door trim other than a doorstop, column and beam.

b. Lead-based paint on an exterior component not described under subds. 1. to 3., such as siding, porch ceiling, other exterior ceiling, roofing, chimney, flashing, gutter, downspout, soffit, fascia, rake board, cornerboard, bulkhead, door trim, fence, joist, lattice work, column, post and parking area.

5. Seven years. When all lead-based paint present has been fully enclosed with durable material that does not allow lead-based paint dust or debris to escape into the environment, a certificate of lead-safe status shall be issued for no more than seven years.

(f) Fees. 1. The property owner shall pay a fee of \$25 to the lead company issuing a lead-safe certificate and the lead company shall forward payment to the department within 30 days after issuance of a certificate.

c. Lead-based paint on an exterior stair tread when the traffic portion of the tread is not covered with a durable material.

d. Lead-based paint on an exterior floor, such as a porch floor, when carpet or a durable material does not cover the floor.

e. Less than a total of 5 square feet of deteriorated lead-based paint on the exterior at a height above 5 feet from ground or floor level.

f. Lead-based paint on a component showing evidence of mold, mildew, moisture or water damage, but with no evidence of an active leak.

3. Three years. The presence of any of the following shall result in a certificate of lead-safe status being issued for no more than three years.

a. Other than a window component eligible for a 9-month certificate under subd. 1 or a 1-year certificate under subd. 2. b., lead-based paint on a window component, such as an interior sill or stool, casing, head, jamb, glazing, caulk or putty.

b. Other than an uncovered exterior stair tread eligible for a 1-year certificate under subd. 2. c., lead-based paint on an interior or exterior stair system, such as a stair riser, stair stringer, balustrade, handrail, newel post, railing cap and stair tread when the traffic area of the tread is covered with carpet or a durable material.

c. Other than an exterior floor, lead-based paint on an exterior or 3-season porch, such as a porch wall, screen framework, railing and railing cap.

d. Exterior painted floor with outdoor carpeting fastened over the entire painted surface.

e. Lead-based paint on an exterior or interior impact surface, such as a face of a built-in cabinet, baseboard, chair rail, doorstop and door.

4. Five years. The presence of any of the following shall result in a certificate of lead-safe status being issued for no more than five years.

a. Lead-based paint on an interior component that is not described under subds. 1. to 3., such as a ceiling, wall, crown molding, door trim, fireplace, radiator or other heating unit, shelf, shelf support, door trim other than a doorstop, column and beam.

b. Lead-based paint on an exterior component not described under subds. 1. to 3., such as siding, porch ceiling, other exterior ceiling, roofing, chimney, flashing, gutter, downspout, soffit, fascia, rake board, cornerboard, bulkhead, door trim, fence, joist, lattice work, column, post and parking area.

5. Seven years. When all lead-based paint present has been fully enclosed with durable material that does not allow lead-based paint dust or debris to escape into the environment, a certificate of lead-safe status shall be issued for no more than seven years.

(f) Fees. 1. The property owner shall pay a fee of \$25 to the lead company issuing a lead-safe certificate and the lead company shall forward payment to the department within 30 days after issuance of a certificate.

2. In addition to the fee under subd. 1, a lead company that submits a lead-safe report using an alternative under. (2) (a) shall pay a \$25 handling fee.

3. If a property owner requests the department to issue a duplicate or an amended certificate of lead-safe status, the property owner shall submit a fee of \$25, payable to the department of health and family services.

(3) **CONDITIONS FOR MAINTAINING A CERTIFICATE OF LEAD-SAFE STATUS.** All of the following conditions apply for maintaining a certificate of lead-safe status:

(a) *Be knowledgeable about applicable lead regulations.* Within 30 days after receipt of a certificate of lead-safe status, the property owner or the property owner's authorized representative shall submit to the department one of the following as proof of knowledge about applicable lead regulations:

1. A copy of a course completion certification issued by an approved training manager for a course accredited by the department under s. HFS 163.20 (8) (a) or (b).

2. A copy of a certification card issued by the department, labeled "copy".

3. A completed worksheet on lead regulations that apply to lead-safe property and work that disturbs lead-based paint. The worksheet shall be based on information provided by the department. The lead company conducting the lead-safe investigation shall provide the lead regulations worksheet and information to the property owner or the property owner's agent or employee when the lead-safe investigation is conducted.

(b) *Post a sign.* Within 30 days after receipt of a certificate of lead-safe status, the property owner or the property owner's agent or employee shall post a sign on the property that explains the certificate of lead-safe status and how to contact the department with questions or complaints.

(c) *Provide materials before occupancy.* Before an individual who is not a member of the property owner's immediate family takes occupancy of a lead-safe dwelling unit, the property owner or the property owner's agent or employee shall provide all of the following to the individual:

1. Notice required under 24 CFR Part 35, Subpart H and 40 CFR Part 745 Subpart F.

2. Material designated by the department to inform the occupant about the certificate of lead-safe status and lead hazards.

3. A form for an occupant to report deteriorated lead-based paint to the property owner or the property owner's agent or employee. The occupant shall be instructed to submit the form to the property owner or the property owner's agent or employee when deteriorated paint is detected. When a form is submitted, the property owner or the property owner's agent or employee shall sign and date the form to indicate receipt and give a copy of the form to the occupant. The form shall ask the occupant for all of the following information:

a. The location of the dwelling unit.

b. The name and contact information for an adult occupant of the dwelling unit.

c. The location of the deteriorated paint.

d. The date the notice is delivered to the property owner or the property owner's agent or employee.

(d) *Conduct visual assessment.* The property owner or the property owner's agent or employee shall ensure that all lead-safe property is visually examined annually for the presence of deteriorated lead-based paint as follows:

1. The visual examination shall be completed within the 30 days prior to the anniversary of the day the certificate of lead-safe status was issued.

2. Documentation shall be kept of the date of the visual assessment, the name and contact telephone number of the person who conducted the visual assessment, and the result of the visual assessment. When requested by the department, documentation of the visual assessment shall be submitted to the department within 10 work days.

3. If deteriorated lead-based paint is detected during the visual assessment, the paint shall be repaired according to the timeframe under par. (e).

(e) *Remove lead-based paint hazards.* Upon notification by the occupant or by a federal, state or local housing agency or public health agency or upon observation of a potential lead-based paint hazard, the property owner or the property owner's agent or employee shall remove any lead-based paint hazard as follows:

1. Within 5 work days for interior lead-based paint hazard when a child under the age of 6 occupies the unit.

2. Within 30 work days for interior lead-based paint hazards when a child under the age of 6 does not occupy the unit.

3. Within 30 work days for exterior lead-based paint hazards, except that exterior lead-based paint hazards identified between October 1 and May 1 shall be removed by June 1.

(f) *Verify certification.* Before a lead hazard reduction or lead-based paint construction activity is performed, the property owner or the property owner's agent or employee shall ensure that persons conducting the activity are certified under ss. HFS 163.10 and 163.12 unless exempted from certification under s. HFS 163.10 (1) (d) 2.

(g) *Notify occupants.* Before a lead hazard reduction or lead-based paint construction activity is performed, the property owner or the property owner's agent or employee shall ensure that the certified lead low-risk supervisor or contractor supervisor conducting the activity does the following:

1. Discusses the occupant protection plan for the activity with an adult occupant of each unit effected by the activity, as required under s. HFS 13.14 (3) and (5).

2. Provides notice to occupants when required under 40 CFR 745 Subpart E.

(h) *Notify the department.* Before a lead abatement or high-risk lead-based paint construction activity is performed, the property owner or the property owner's agent or employee shall ensure that the certified lead contractor supervisor conducting the activity provides notice to the department under s. HFS 163.14 (3) and (5).

(i) *Follow work practice standards.* The property owner or the property owner's agent or employee shall ensure that all lead-based paint activities and lead-based paint construction activities are conducted according to the work practice standards under s. HFS 163.14.

(j) *Conduct clearance.* After a lead hazard reduction or lead-based paint construction activity is conducted, the property owner or the property owner's agent or employee shall ensure that clearance is conducted under s. HFS 163.14 (1). Clearance involving lead hazard reduction or high-risk lead-based paint activities shall be conducted by a certified hazard investigator, inspector, risk assessor or sampling technician from a certified lead company. Persons performing clearance shall be independent of the property owner.

(k) *Dispose of debris.* After a lead hazard reduction or lead-based paint construction activity is conducted, the property owner or the property owner's agent or employee shall ensure that lead-based paint debris is promptly disposed of according to the waste management requirements under Chapters NR 500 – 538 and 600-685.

(L) *Maintain documentation.* The property owner or the property owner's agent or employee shall maintain documentation for 5 years of all lead hazard reduction and lead-based paint construction activities involving lead-safe property as follows:

1. The specific location of the activity.
2. The date or dates of the activity.
3. The name and certification or registration number of the persons who conducted the activity.
4. A brief description of the activity.
5. The clearance report for the activity.

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

(4) **APPLICATIONS FOR CERTIFICATES OF LESS THAN 12 MONTHS.** Except that a certificate of lead-safe status may not be issued to take effect prior to September 1, 2001, a person may only apply for certificates of lead-safe status of less than 12 months for the identical premises as follows:

(a) A person may apply for no more than 2 successive certificates of lead-safe status that have a duration of less than 12 months and, if again applying for a certificate of lead-safe status, shall apply for a certificate that has a duration of 12 months or more.

(b) A person under par. (a) shall, if applying for a certificate of lead-safe status that is in addition to the certificates specified in par. (a) and that has a duration of less than 12 months, provide the department with the reason why a certificate of less than 12 months' duration is needed.

(c) A person under pars. (a) and (b) shall, if applying for a certificate of lead-safe status that is in addition to the certificates specified in pars. (a) and (b) and that has a duration of less than 12 months, provide the department with clear and convincing evidence of why a certificate of less than 12 months' duration is needed.

(5) REVOCATION. A certificate of lead-safe status may be revoked for any of the following reasons:

(a) The property owner or property owner's employee or agent obtained the certificate by fraud.

(b) The dwelling, dwelling unit, child-occupied facility or other premises is not free of lead-based paint hazards, as determined by sampling conducted using documented methodologies.

(c) The certificate was issued in error.

(d) The property owner or property owner's employee or agent violated a condition under sub. (3) for maintaining the certificate of lead-safe status.

(e) The property owner or property owner's employee or agent created a lead-based paint hazard.

(f) The property owner or property owner's employee or agent violated another state, local or federal regulation or ordinance relating to lead-based paint.

(g) The lead-safe investigation protocol under s. HFS 163.14 (8) was not followed in determining that the property met the lead-safe standards.

The rules contained in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22 (2), Stats.

Wisconsin Department of Health and
Family Services

Dated:

By:

Joe Leean
Secretary

SEAL:

APPENDIX A

High-Risk Lead-Based Paint Activities Identified in OSHA Regulations

Note: High-risk lead-based paint activities identified under the following lead-in-construction regulations issued the U.S. Occupational Safety and Health Administration are highlighted by bold print.

OSHA 1926.62 (d) (2) "Protection of employees during assessment of exposure".

(i) With respect to the lead related tasks listed in this paragraph (d) (2) (i) of this section, where lead is present, until the employer performs an employee exposure assessment as required in paragraph (d) of this section and documents that the employee performing any of the listed tasks is not exposed above the PEL, the employer shall treat the employee as if the employee were exposed above the PEL, and not in excess of ten (10) times the PEL, and shall implement employee protective measures prescribed in paragraph (d) (2) (v) of this section. The tasks covered by this requirement are:

(A) Where lead containing coatings or paint are present: Manual demolition of structures (e.g, dry wall), manual scraping, manual sanding, heat gun applications, and power tool cleaning with dust collection systems;

(B) Spray painting with lead paint.

(ii) In addition, with regard to tasks not listed in paragraph (d) (2) (i), where the employer has any reason to believe that an employee performing the task may be exposed to lead in excess of the PEL, until the employer performs an employee exposure assessment as required by paragraph (d) of this section and documents that the employee's lead exposure is not above the PEL the employer shall treat the employee as if the employee were exposed above the PEL and shall implement employee protective measures as prescribed in paragraph (d) (2) (v) of this section.

(iii) With respect to the tasks listed in this paragraph (d) (2) (iii) of this section, where lead is present, until the employer performs an employee exposure assessment as required in paragraph (d) of this section, and documents that the employee performing any of the listed tasks is not exposed in excess of 500 ug/m³, the employer shall treat the employee as if the employee were exposed to lead in excess of 500 ug/m³ and shall implement employee protective measures as prescribed in paragraph (d) (2) (v) of this section. Where the employer does establish that the employee is exposed to levels of lead below 500 ug/m³, the employer may provide the exposed employee with the appropriate respirator prescribed for such use at such lower exposures, in accordance with Table 1 of this section. The tasks covered by this requirement are:

(A) Using lead containing mortar; lead burning,

(B) Where lead containing coatings or paint are present: rivet busting; power tool cleaning without dust collection systems; cleanup activities where dry expendable abrasives are used; and abrasive blasting enclosure movement and removal.

(iv) With respect to the tasks listed in this paragraph (d) (2) (iv) of this section, where lead is present, until the employer performs an employee exposure assessment as required in paragraph (d) of this section and documents that the employee performing any of the listed tasks is not exposed to lead in excess of 2,500 ug/m³ (50 x PEL), the employer shall treat the employee as if the employee were exposed to lead in excess of 2,500 ug/m³ and shall implement employee

protective measures as prescribed in paragraph (d) (2) (v) of this section. Where the employer does establish that the employee is exposed to levels of lead below 2,500 ug/m(3), the employer may provide the exposed employee with the appropriate respirator prescribed for use at such lower exposures, in accordance with Table I of this section. Interim protection as described in this paragraph is required where lead containing coatings or paint are present on structures when performing:

(A) **Abrasive blasting,**

(B) **Welding,**

(C) **Cutting, and**

(D) **Torch burning.**

(v) Until the employer performs an employee exposure assessment as required under paragraph (d) of this section and determines actual employee exposure, the employer shall provide to employees performing the tasks described in paragraphs (d) (2) (i), (d) (2) (ii), (d) (2) (iii) and (d) (2) (iv) of this section with interim protection as follows:

(A) Appropriate respiratory protection in accordance with paragraph (f) of this section.

(B) Appropriate personal protective clothing and equipment in accordance with paragraph (g) of this section.

(C) Change areas in accordance with paragraph (i) (2) of this section.

(D) Hand washing facilities in accordance with paragraph (i) (5) of this section.

(E) Biological monitoring in accordance with paragraph (j) (1) (i) of this section, to consist of blood sampling and analysis for lead and zinc protoporphyrin levels, and

(F) Training as required under paragraph (l)(1)(i) of this section regarding 29 CFR 1926.59, Hazard Communication; training as required under paragraph (l) (2) (ii) (C) of this section, regarding use of respirators; and training in accordance with 29 CFR 1926.21, Safety training and education.

APPENDIX B

Number of Units To Be Tested In Multi-Family Housing Using Random Selection

Number of units in building or group of buildings with similar floor plans, construction and paint history	Number of units to be tested
0-20	all units
21-26	20
27	21
28	22
29-30	23
31	24
32	25
33-34	26
35	27
36	28
37	29
38-39	30
40-50	31
51	32
52-53	33
54	34
55-56	35
57-58	36
59	37
60-73	38
74-75	39
76-77	40
78-79	41
80-95	42
96-97	43
98-99	44
100-117	45
118-119	46
120-138	47
139-157	48
158-177	49
178-197	50
198-218	51
219-258	52
259-299	53
300-379	54
380-499	55
500-776	56
777-1004	57
1005-1022	58
1023-1039	59
1,040 or more units	5.8% of units, rounded to nearest unit