

CR 93-154

CERTIFICATE

STATE OF WISCONSIN)
) SS
DEPARTMENT OF HEALTH AND SOCIAL SERVICES)

I, Gerald Whitburn, Secretary of the Department of Health and Social Services and custodian of the official records of the Department, do hereby certify that the annexed rules relating to certification for lead abatement and other lead hazard reduction activities and accreditation of training courses were duly approved and adopted by this Department on April 6, 1994.

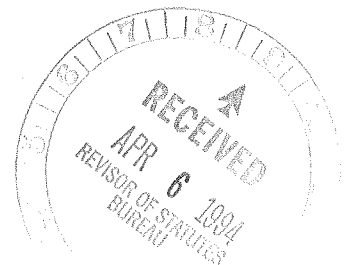
I further certify that this copy has been compared by me with the original on file in the Department and that this copy is a true copy of the original, and of the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at the State Office Building, 1 W. Wilson Street, in the city of Madison, this 6th day of April, 1994.



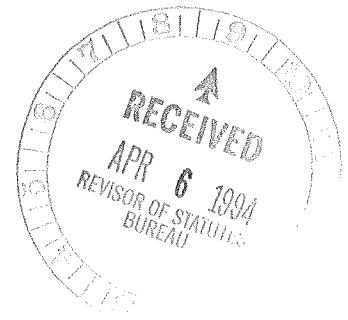
SEAL:

Gerald Whitburn, Secretary
Department of Health and Social Services



6-1-94

ORDER OF THE
DEPARTMENT OF HEALTH AND SOCIAL SERVICES
CREATING RULES



To create chapter HSS 163, relating to certification of workers and supervisors to perform lead abatement activities and U.S. department of urban development lead hazard reduction activities, and accreditation of training courses in lead hazard reduction work.

Analysis Prepared by the Department of Health and Social Services

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

A residential dwelling or other building built before 1978 may contain lead-based paint. When lead-based paint on surfaces like walls, ceilings, windows, woodwork and floors is broken, sanded or scraped down to dust and chips, the living environment can become a source of poisoning for occupants. When it becomes necessary and possible to reduce lead hazards, it is imperative that persons who perform the hazard reduction activities be trained to ensure a lead-safe environment for building occupants, especially children younger than 6 years who are the most vulnerable population affected by lead-based paint, dust or soil.

The U.S. Department of Housing and Urban Development (HUD) recently awarded Wisconsin a grant to fund lead-based paint hazard reduction activities in low and moderate income housing where children under the age of 6 are found to have lead in their blood at a level higher than what can be considered safe. The grant is contingent upon establishment of a Wisconsin training and certification program for workers and supervisors engaged in lead-based paint abatement or HUD-funded lead hazard reduction activities.

These rules consist of standards and procedures for the accreditation by the Department of lead (Pb) hazard reduction training courses conducted in Wisconsin, approval of instructors for these courses and certification by the Department of persons to undertake lead-based paint abatement or HUD-funded lead hazard reduction activities after having successfully completed required

training. The rules include annual fees for worker and supervisor certification.

The scope of the rules covers not only buildings eligible for HUD reimbursement for lead hazard reduction activities but all residential dwellings or buildings occupied by children younger than 6 years of age where lead-based paint abatement takes place. This widened scope reflects the Department's determination to prevent lead poisoning of at-risk children by using the certification, training course accreditation and instructor approval processes to ensure that all lead-based paint abatement and HUD-funded lead hazard reduction activities are conducted safely.

The rules allow the Department to grant certification to lead (Pb) workers and supervisors on the basis of successful completion of a Department accredited or other Department approved lead (Pb) hazard reduction training course. The U.S. Environmental Protection Agency (EPA), under s.402(a)(1) of Title IV of the Toxic Substances Control Act, 15 USC 2601 et seq., expects to publish lead certification and training accreditation standards in April 1994 which will require additional training and experience prequalifications for lead (Pb) supervisor certification, as well as identify additional lead (Pb) classifications requiring certification, such as inspector. These EPA standards may also require prequalifications, training and certification for lead (Pb) inspector technicians, risk assessors, project designers and workers and supervisors abating lead hazards in or on bridges, water towers and other EPA-designated superstructures. All additional prequalification, training and certification requirements will be addressed by the Department through rulemaking at a later date.

The U.S. Occupational Safety and Health Administration (OSHA) has recently promulgated its lead (Pb) in construction standard, 29 CFR 1926.62, which requires training of persons employed in lead (Pb) related occupations or industries.

The Department's authority to adopt these rules is found in s. 140.05(3), Stats., and in s. 151.12(2) to (4), Stats., as created by 1993 Wisconsin Act 16. The rules interpret s. 140.05(1), Stats., and ss. 151.03(3) and (4) and 151.09(8) and (9), Stats., as created by 1993 Wisconsin Act 16.

SECTION 1. Chapter HSS 163 is created to read:

CHAPTER HSS 163
 CERTIFICATION FOR LEAD ABATEMENT
 AND OTHER LEAD HAZARD REDUCTION ACTIVITIES
 AND ACCREDITATION OF TRAINING COURSES

Subchapter I - General Provisions

- HSS 163.01 Authority and purpose
- HSS 163.02 Scope
- HSS 163.03 Definitions
- HSS 163.04 Penalty
- HSS 163.05 Appeal

Subchapter II - Certification of Persons to Perform Lead Abatement or Other Lead Hazard Reduction Activities

- HSS 163.10 Certification of workers and supervisors
- HSS 163.11 Recertification
- HSS 163.12 Reciprocity and recognition of equivalent training
- HSS 163.13 Lead abatement notification
- HSS 163.14 Enforcement

Subchapter III - Accreditation of Lead Training Courses and Approval of Instructors

- HSS 163.20 General requirements
- HSS 163.21 Accreditation procedure
- HSS 163.22 Instructor and guest lecturer approval
- HSS 163.23 Training notification
- HSS 163.24 Changes that affect approval
- HSS 163.25 Periodic evaluation
- HSS 163.26 Enforcement

Appendix A Wisconsin Model Accreditation Plan for Lead Abatement and Other Lead Hazard Reduction Training Courses

SUBCHAPTER I - GENERAL PROVISIONS

HSS 163.01 AUTHORITY AND PURPOSE. This chapter is promulgated under the authority of s. 151.12(2) to (4), Stats., to ensure that persons who perform lead abatement or HUD-funded lead hazard reduction activities do so safely to prevent exposure of building occupants to hazardous levels of lead. This is accomplished by requiring that before a person engages in a lead abatement or a HUD-funded lead hazard reduction activity, he or she is to successfully complete a training course that meets the requirements of this chapter and have a certification card issued by the department which is evidence of successful completion of that training. This chapter also requires that lead hazard reduction training courses for certification of workers and supervisors be accredited by the department and, to ensure that

training is conducted by professionally competent instructors, that instructors be separately approved as part of the training course accreditation process.

HSS 163.02 SCOPE. (1) **APPLICABILITY.** (a) 1. This subchapter and subch. II apply to any person performing or supervising a lead abatement or HUD-funded lead hazard reduction activity in or on a privately or publicly owned residential dwelling, child care facility or other building occupied by a child younger than 6 years or upon the real property on which the child-occupied building stands, except as provided in s. HSS 163.10(2).

2. The applicability date of this subchapter and subch. II for any person performing lead abatement or HUD-funded lead hazard reduction activity as a lead (Pb) worker or lead (Pb) supervisor shall be the first day of the month following publication of this chapter [revisor to insert date].

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

2. The applicability date of this subchapter, subch. III and Appendix A for any person or organization that offers, conducts or teaches lead (Pb) worker or lead (Pb) supervisor training courses shall be the first day of the month following publication of this chapter [revisor to insert date].

(2) **APPROVED COMPARABLE COMPLIANCE.** The department may approve an alternative to any requirement in this chapter that is not a statutory requirement when the department is provided with satisfactory written proof that the alternative will achieve results which are closely equivalent to the results of a literal application of the requirement.

HSS 163.03 DEFINITIONS. In this chapter:

(1) "Abatement" means any set of measures designed to permanently eliminate lead-based paint hazards, such as the on-site removal of lead-based paint and lead-contaminated dust, the permanent enclosure or encapsulation of lead-based paint, the replacement of lead-painted surfaces or fixtures and the removal or covering of lead contaminated soil, and all preparation, cleanup, disposal and post-abatement clearance testing activities associated with those measures.

(2) "Child care facility" means a facility licensed or certified by the department to provide day care services or any public or private school or preschool attended by children

younger than 6 years of age including state-operated residential treatment centers.

(3) "Department" means the Wisconsin department of health and social services.

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

(5) "Guest lecturer" means a person who teaches one topical area of an accredited lead training course and is a recognized professional in that topical field.

(6) "HUD-funded" means funded from the U.S. Department of Housing and Urban Development (HUD) grant awarded to the state of Wisconsin to fund lead-based paint hazard reduction activities in low and moderate income housing where children under the age of 6 are found to have lead in their blood at a level higher than what can be considered safe.

(7) "Imminent lead hazard" means a situation determined by the department, another state or federal agency or a local public health agency as one where there is exposure to lead which, if allowed to continue, will place persons at risk of developing lead poisoning.

(8) "Instructor" means a person who is trained in the principles and methods of adult learning, has training and experience in the topics he or she will teach and teaches more than one topical area in an accredited lead training course.

(9) "Interim control activity" means any activity designed to temporarily reduce human exposure or likely exposure to lead-based paint hazards, including specialized cleaning, repair, maintenance, painting, temporary containment, or ongoing monitoring of lead-based paint hazards or potential hazards.

(10) "Lead-based paint" means paint or any other surface coating material containing more than 0.06% lead by weight, calculated as lead metal, in the total nonvolatile content of liquid paint or more than 1.0 mg/cm² by X-ray fluorescent spectroscopy in the dried film of applied paint.

(11) "Lead hazard reduction activity" means any action designed to permanently or temporarily reduce human exposure to lead-based paint hazards through abatement or interim control activities involving lead-based paint, lead-contaminated dust or soil or clearance activities that determine whether or not an environment is lead-safe.

(12) "Lead (Pb) supervisor" means a person who supervises lead (Pb) workers or performs on-site lead abatement or HUD-

funded lead hazard reduction activities and has the authority to require changes in performance practices or to halt the project or is an employer of lead (Pb) supervisors or workers performing lead abatement or HUD-funded lead hazard reduction activities.

(13) "Lead (Pb) worker" means a person who performs on-site lead abatement or HUD-funded lead hazard reduction activities, including but not limited to preparation, cleanup and disposal.

(14) "Model accreditation plan" or "MAP" means the lead hazard reduction training accreditation requirements in Appendix A.

(15) "Occupied" means being in a residential dwelling or in a facility subject to ch. ILHR 56 or ILHR 60.

Note: Chapter ILHR 56 applies to schools and ch. ILHR 60 applies to day care facilities for 9 or more children.

(16) "Pb" means lead, the metal.

Note: Pb is the symbol for the metallic element, lead, in the table of chemical elements.

(17) "Real property" means all continuous land property under the same ownership upon which the building stands.

(18) "Regional lead (Pb) training center" means an institution or a consortium of institutions approved by the EPA to develop and conduct lead (Pb) training courses.

(19) "Residential dwelling" means any single housing unit or multiple housing units, including attached structures, used or intended to be used for living, sleeping, cooking or eating, but not a housing unit or housing units occupied for a limited term, such as a motel, hotel, homeless shelter, restaurant or summer cottage.

(20) "Training provider" means any individual, partnership, corporation, institution or other organization or agency, including an agency of state government or a local government, that applies for or receives accreditation under this chapter to offer training courses for lead (Pb) supervisors or workers.

HSS 163.04 PENALTY. As provided by s. 151.13(2), Stats., any person who violates this chapter may be required to forfeit not more than \$1,000. Each day of continued violation constitutes a separate offense. A forfeiture under this section may be in addition to the suspension or revocation of supervisor or worker certification or training course accreditation or instructor approval.

HSS 163.05 APPEAL. (1) Any denial of an application for certification, training course accreditation or instructor

approval under this chapter or any suspension or revocation of a certification card, a training course accreditation or an instructor approval is subject to administrative review under ch. 227, Stats.

(2) An appeal shall be in writing and shall take the form of a request for a hearing. The request for a hearing shall be filed with the department's office of administrative hearings no later than 20 calendar days after the date of the denial, suspension or revocation and is considered filed when received by that office.

Note: The mailing address of the Department's Office of Administrative Hearings is P.O. Box 7875, Madison, WI 53707.

SUBCHAPTER II - CERTIFICATION OF PERSONS TO PERFORM LEAD ABATEMENT OR OTHER LEAD HAZARD REDUCTION ACTIVITIES

HSS 163.10 CERTIFICATION OF WORKERS AND SUPERVISORS. (1) **REQUIREMENT.** Except as provided in sub. (2); no person may engage in a lead abatement or HUD-funded lead hazard reduction activity without having been certified by the department.

(2) **REQUIREMENT NOT APPLICABLE.** No certification is required for lead abatement or other lead hazard reduction activities conducted by a homeowner in or on his or her own non-rental residential dwelling or real property unless ordered by the department or another local or state agency to use certified lead (Pb) workers and supervisors.

Note: The definition of abatement does not include and, therefore, no certification of workers or supervisors is required when repainting over or covering lead-based paint with nonlead-based paint; cleaning activities designed to maintain a no-lead hazard or reduced lead-hazard condition; or disturbing lead-based paint surfaces incidental to the performance of remodeling, renovation, or repair activities where the intent of the project is not to reduce the hazard or potential hazard of lead exposure.

(3) **CONDITIONS FOR CERTIFICATION.** A person wanting to be certified under this subchapter shall complete a department-accredited course in the particular job classification in which certification is sought under sub. (4) and pass an examination approved by the department.

(4) **JOB CLASSIFICATIONS.** Certification shall be specific to one of the following job classifications:

- (a) Lead (Pb) supervisor; or
- (b) Lead (Pb) worker.

(5) **APPLICATION.** An applicant for certification shall complete a form provided by the department and shall submit that form to the department along with a recent identifying photograph, proof of birth date, a notarized copy of the original certificate showing successful completion of a department-accredited training course not more than 24 months before the

date of the application in the job classification in which certification is being sought, and the appropriate certification fee under sub.(8).

Note: For a copy of the application form, write or phone the Bureau of Public Health, 1414 E. Washington, Madison, WI 53703, telephone (608) 266-9382.

(6) CERTIFICATION CARD ISSUANCE. (a) Within 14 days after receipt of a completed application for certification, the department shall grant or deny certification. If the certification is granted, the department shall issue or arrange for the issuance of a certification card for a specific job classification under sub. (4). Issuance of the card means the person has met certification requirements for that job classification. If certification is not granted, the department shall give the applicant reasons in writing why the application was denied and shall notify the applicant of the right to appeal that decision under s. HSS 163.05.

(b) The person to whom a course certificate and a certification card are issued is responsible for that certificate and card. They are not the property of that person's employer. The employer may not confiscate an employe's training certificate or certification card.

(c) Certification shall remain valid for one year from the date of issuance of the certification card unless sooner revoked or suspended.

(7) SUSPENSION OR REVOCATION OF CERTIFICATION. The department may suspend or revoke certification by written notification to a person who was issued a certification card if the department determines that:

(a) The person has been issued a training certificate without attending an appropriate course or an entire course or without passing an approved examination;

(b) The person has displayed conduct relating to lead abatement or other lead hazard reduction activities which in the department's judgment constitutes unreasonable risk to the health of persons;

(c) False information was provided as part of the certification application or course enrollment process;

(d) The check tendered to make payment to the state under this subsection is not paid by the bank on which it is drawn; or

(e) The person has been or is violating any other provision of this subchapter.

(8) FEES. (a) An applicant for certification or recertification under this subchapter, except an employee of a local government, shall pay a fee as follows:

1. For certification as a lead (Pb) supervisor, a fee of \$100.00;

2. For certification as a lead (Pb) worker, a fee of \$50.00.

(b) If a certification card is lost, stolen or damaged, the person who was issued the card shall request the department to issue a replacement card and shall include with the request the payment of a fee of \$8.00 and a recent identifying photograph.

(9) EMPLOYER RESPONSIBILITY. (a) The employer of persons conducting lead abatement or HUD-funded lead hazard reduction activities shall verify the certification status of persons performing or supervising those activities before the start of each project and may not make use of non-certified lead (Pb) workers or supervisors in lead abatement or HUD-funded hazard reduction activities for which certified lead workers and supervisors are required.

(b) The responsible employer shall be certified as a lead (Pb) supervisor for purposes of ensuring the safe performance of lead abatement or HUD-funded hazard reduction activities, notification under s. HSS 163.13 and fixing responsibility for verification of employe certification and compliance with this chapter.

HSS 163.11 RECERTIFICATION. (1) No person may perform lead abatement or other lead hazard reduction activities for which certified lead workers and supervisors are required after the expiration date on that person's certification card. To continue to perform those activities after that date, the person shall in advance of the expiration date take a refresher course if it has been more than 15 months since the person took a training course or a refresher training course in the job classification specified on the card, apply to the department for recertification, pay the fee under s. HSS 163.10(8) and be recertified by the department.

(2) A person who was certified and whose certification has expired may take a refresher course up to a year after the expiration of his or her certification. The applicant shall retake the initial training course if the time period between expiration date of the card and the refresher class is one year or more. In the interim, no lead abatement or other lead hazard reduction activity for which certified lead workers and supervisors are required may be performed.

(3) As a condition of recertification, the department may require a person to pass an examination when:

(a) It has reason to believe that there may be a problem with the certificate issued by the training provider; or

(b) The applicant for recertification has had no applicable training in more than 24 months.

HSS 163.12 RECIPROCITY AND RECOGNITION OF EQUIVALENT TRAINING. (1) EQUIVALENT TRAINING. A person may be considered to have substantially satisfied the training requirement of s. HSS 163.10 (3) if he or she has one of the following training certificates:

(a) A valid unexpired training certificate issued not more than 24 months prior to the date of the application from an EPA-sponsored regional lead (Pb) training center or an approved member of the center's consortium, with the training certificate issued based on successful completion of an EPA-sponsored training course including an examination; or

(b) For a person residing in another state, a valid unexpired training certificate issued not more than 24 months prior to the date of the application from a training provider accredited or approved by the EPA or another state with a lead (Pb) training accreditation program at least as stringent as the model accreditation plan in Appendix A.

(2) EQUIVALENT TRAINING CERTIFICATION ISSUANCE. (a) In order to be eligible for certification under this section, a person shall present to the department a completed application form, a notarized photocopy of the original training certificate issued by the training provider under sub. (1) (a) or (b), a recent identifying photograph, proof of birth date, and the appropriate certification fee under s. HSS 163.10(8). If the department approves the application, the department shall issue a certification card pursuant to s. HSS 163.10 (6).

(b) The department may require additional training and experience or an examination before granting certification under this section if the department has reason to believe that there may be a problem with the training provided by the out of state training provider or with the certificate issued by that provider or that the applicant has had no applicable training in more than 24 months.

(3) EXPIRATION DATE. The expiration date of a certification card issued under sub. (1) (a) or (b) shall be one year from the date of issuance unless sooner revoked or suspended.

HSS 163.13 LEAD ABATEMENT OR OTHER LEAD HAZARD REDUCTION NOTIFICATION.

(1) The certified lead (Pb) supervisor under s. HSS 163.10 (9) (b) who intends to perform a lead abatement or HUD-funded hazard reduction activity for which certified workers are required shall notify the department by telephone to be followed by written notification not less than 48 hours before the start of the activity on a form provided by the department.

Note: For a copy of the notification form, write or phone the Bureau of Public Health, 1414 E. Washington, Madison, WI 53703, telephone (608) 266-9382.

(2) The date of postmark by U.S. mail shall be the official date of the written notification. The department's date of receipt stamp shall be the official date of notification by means other than the U.S. mail. A revised notice, which may be by telephone, shall be received by the department prior to the starting date if the lead abatement or HUD-funded lead hazard reduction activity cannot begin on the date in the notice. A written revised notice shall be received prior to the original starting date and at least 48 hours before the new start of the activity.

(3) In an emergency where a health risk warrants immediate remedial action, a notification of the lead abatement or HUD-funded lead hazard reduction activity shall be made to the department by telephone before the start of the activity followed by a written notice sent to the department within 48 hours after the notification by telephone.

Note: To give emergency notification to the Department, phone 608-266-9382; send the follow-up written notice to Bureau of Public Health, 1414 E. Washington Ave., Madison, WI 53703.

HSS 163.14 ENFORCEMENT. (1) The department or a person designated by the department may enter, at any reasonable time, the property or place in which a person required to have a certification card is engaged in a lead abatement or HUD-funded lead hazard reduction activity to determine if that person has a valid certification card.

(2) No person at the site of a lead abatement or HUD-funded lead hazard reduction activity for which notice under s. HSS 163.13 is required may refuse entry to any representative of the department authorized by the department to act under this chapter if that representative requests entry for purposes of determining compliance with this chapter. The department's representative shall present identification or authorization issued by the department and comply with all necessary health and safety procedures established for persons engaged in lead abatement or HUD-funded lead hazard reduction activities.

(3) The department may revoke, suspend or deny certification at any time if it determines that any provision of

this chapter has been or is being violated. The revocation, suspension or denial decision may be appealed under s. HSS 163.05. Any suspension or revocation shall remain effective until a determination by the department states otherwise.

(4) Only a Wisconsin lead (Pb) certification card is valid in this state for lead abatement or HUD-funded lead hazard reduction activities. A valid certification card for each person engaged in lead abatement or HUD-funded lead hazard reduction activities for which certification is required shall be on the job site during work periods.

(5) A lead (Pb) supervisor certified by the department shall be at the lead abatement or HUD-funded lead hazard reduction activity site at all times that work requiring certification is being done.

(6) Any authorized representative of the department, any health or building inspector employed by the state or by a local government or any other person designated by the department may issue an immediate cease-work order to any person who violates the terms or conditions of a certification issued under this chapter if, in the best judgment of the enforcement representative or inspector, the violation presents a clear and significant health risk to any occupant or other person at the lead abatement or HUD-funded lead hazard reduction activity site. The cease-work order shall remain in effect until the violation is corrected.

SUBCHAPTER III - ACCREDITATION OF LEAD TRAINING COURSES AND APPROVAL OF INSTRUCTORS

HSS 163.20 GENERAL REQUIREMENTS. (1) No person may advertise or conduct a lead (Pb) training course in lead hazard reduction in this state that is represented as qualifying persons for certification or preparing persons to carry out lead abatement or HUD-funded lead hazard reduction activities if that training course has not received accreditation from the department.

(2) To obtain accreditation for a training course, a training provider shall submit a request for accreditation to the department on forms provided by the department and shall comply with subch. I, this subchapter and the model accreditation plan in Appendix A.

(3) The department may accept applications for training course accreditation from training providers who desire to conduct training courses in Wisconsin or from EPA-sponsored regional training centers.

(4) No training provider may deny training to any person solely on account of sex, race, color, creed, national origin, ancestry, sexual orientation or disability.

HSS 163.21 ACCREDITATION PROCEDURE. (1) **SUBMISSION.** Any person seeking accreditation of a lead (Pb) training course for lead abatement and lead hazard reduction under this subchapter shall apply to the department on forms provided by the department and shall submit with the application the information and materials specified in the model accreditation plan, the qualifications of persons seeking instructor approval or approval as a guest lecturer, the examination to be administered at the conclusion of the course and any other pertinent information and materials requested by the department.

Note: For a copy of the application form, write or phone the Bureau of Public Health, 1414 E. Washington Ave., Madison, WI 53703, telephone (608) 266-9382.

(2) **COURSE APPROVAL.** (a) **Contingent approval.** 1. The department shall review all information and materials submitted under sub. (1) for compliance with the model accreditation plan and this subchapter. If the department determines that the information, materials and instructor or guest lecturer qualifications appear to be acceptable, the department shall grant contingent approval for the training course and notify the training provider in writing within 60 days after receiving all required information and materials. The training provider may begin conducting the course upon receiving contingent approval, approval of instructors and guest lecturers under s. HSS 163.22 and the model accreditation plan and after notifying the department under s. HSS 163.23 (1) when a course is to begin.

2. A training provider who has received contingent approval under subd. 1 to offer a training course shall conduct the contingently approved courses in Wisconsin for the purpose of permitting the department to conduct an on-site evaluation of the course under par. (b).

3. Contingent approval is temporary approval which expires 24 months after the date of notice of contingent approval under subd. 1 or when final approval is granted by the department, whichever occurs first. A contingent approval may be renewable at the discretion of the department.

(b) **Full approval.** 1. After the department grants contingent approval for a training course, a department representative shall evaluate the course on-site to ascertain whether or not full approval should be granted. The department shall notify the training provider in writing of full approval, the need for re-evaluation or of disapproval within 60 days after evaluating the course. If full approval is denied, the department shall give the training provider reasons in writing

for the denial and shall inform the training provider of the right to appeal that decision under s. HSS 163.05.

2. The department may re-evaluate a training course before granting full approval when it determines, following the initial evaluation, that the training course does not meet requirements of the model accreditation plan and this subchapter, or instructor performance fails to meet reasonable educational standards.

(c) Only training courses. 1. Department accreditation is only for a specific training course designed for persons seeking certification or recertification in the job classification, not for a training institution or a training program.

2. A training provider may only advertise a training course as department-accredited or EPA-accredited if the course is accredited and related to lead abatement or lead hazard reduction certification or recertification.

HSS 163.22 INSTRUCTOR AND GUEST LECTURER APPROVAL. (1) REQUIREMENT. No person may function as an instructor of a contingently approved or fully approved training course or as a guest lecturer in a contingently approved or fully approved training course without being approved by the department under this section.

(2) INSTRUCTOR QUALIFICATIONS. (a) Training. A person seeking approval as an instructor shall have completed a two-day train-the-trainer course or an equivalent teaching methods course that meets the requirement of the model accreditation plan and shall also successfully complete a lead training course for lead (Pb) supervisors approved by the EPA or accredited by the department under s. HSS 163.21.

(b) Experience. A person seeking approval as an instructor shall produce verifiable documentation as described in the model accreditation plan that demonstrates that the person has relevant experience in the topic or topics he or she will teach in an accredited training course.

(3) INSTRUCTOR APPROVAL PROCEDURE. The training provider shall submit documentation to the department of the training and experience of each person seeking instructor approval and shall obtain department approval before any instruction is conducted by the proposed instructor in a contingently approved or fully approved training course.

(4) GUEST LECTURER APPROVAL PROCEDURE. The training provider shall submit to the department as part of the course accreditation process verifiable documentation that describes the professional training and experience of a guest lecturer in the

topic he or she will teach, and references for him or her. The training provider shall submit that documentation at least 2 weeks before the start of a contingently approved or fully approved training course in which the guest lecturer is to participate.

Note: Submit the documentation to Bureau of Public Health, 1414 E. Washington Ave., Madison WI 53703.

(5) DEPARTMENT APPROVAL. The department shall notify the training provider in writing of approval or disapproval of the instructor and any guest lecturer as part of the contingent approval of a training course under s. HSS 163.21 (2) (a) or within 10 working days after the submission of acceptable documentation of the training and experience of a proposed instructor or guest lecturer.

HSS 163.23 TRAINING NOTIFICATION. (1) A training provider shall notify the department in writing whenever the training provider has scheduled a training course. Notification shall consist of the kind of course and the dates and location or locations of the training. Notification shall be at least 2 weeks in advance of the starting date. In an emergency, the training provider shall notify the department by telephone of a scheduled training course or any change in the dates or location of the training at least 24 hours before the start of the course. The training provider shall notify the department as soon as possible prior to the scheduled start of a course if the course is canceled.

Note: To notify the department about a change in the schedule, phone (608)266-9382.

(2) The training provider shall permit department representatives to attend, evaluate and monitor any training course and have access to records of a training course at any reasonable time without charge or hindrance to the department.

HSS 163.24 CHANGES THAT AFFECT APPROVAL. (1) INSTRUCTORS OR GUEST LECTURERS. The training provider shall notify the department and obtain approval before an unevaluated instructor or guest lecturer not previously approved may teach in a training course. Notification to the department shall be at least 2 weeks before the start of the course.

(2) TRAINING COURSE. After accreditation of a training course under s. HSS 163.21, the training course remains subject to the requirements of this subchapter and the model accreditation plan. The training provider shall notify the department whenever a significant change in teaching staff, curriculum, training materials or content takes place, at least 2 weeks before conducting the training course. If the department finds that there is a substantial change in a course, the

department may require reapplication for course accreditation or on-site reevaluation of the course.

HSS 163.25 PERIODIC EVALUATION. An authorized representative of the department may audit a training course on-site on a periodic and unannounced basis for the purpose of ascertaining whether or not the training course continues to meet requirements for accreditation.

HSS 163.26 ENFORCEMENT. (1) The department may by written notification to a training provider deny, revoke or suspend accreditation of a training course offered by the training provider for any of the following reasons:

(a) The course or course alteration fails to meet requirements found in the model accreditation plan;

(b) The training provider has deceptively used training course certificates;

(c) The training provider has misrepresented the training course;

(d) The training provider has violated any provision of subch. I or II or this subchapter; or

(e) The check tendered to make payment to the state under this subsection is not paid by the bank on which it is drawn.

(2) The department may revoke or suspend the approval of an instructor or guest lecturer for any of the following reasons:

(a) The instructor or guest lecturer has violated a provision of subch. I or II or this subchapter;

(b) A local, state or federal agency has recommended revocation or suspension of the instructor or guest lecturer based on citations issued for a violation of that agency's lead-related regulations; or

(c) The instructor or guest lecturer has misrepresented his or her credentials or any other documentation of qualifications submitted to the department as the basis for approval.

(3) A training provider may not reapply for accreditation of a training course for a period of one year after the effective date of denial of the application for accreditation or of revocation of accreditation. The training provider may not conduct the training course while training accreditation is denied, revoked or suspended.

(4) A denial, revocation or suspension of accreditation may be appealed under s. HSS 163.05.

(5) Any suspension of accreditation of a training course or instructor shall remain effective until the department determines otherwise.

Appendix A

WISCONSIN MODEL ACCREDITATION PLAN
FOR LEAD ABATEMENT AND OTHER LEAD HAZARD REDUCTION TRAINING

The Model Accreditation Plan (MAP) for Lead (Pb) Abatement and Lead Hazard Reduction Training consists of accreditation requirements for lead (Pb) worker training courses and lead (Pb) supervisor training courses and approval qualifications for training course instructors. The MAP has nine (9) parts:

- (1) Submission of application materials;
 - (2) Instructor qualifications;
 - (3) Topics for initial training;
 - (4) Learning goals and objectives;
 - (5) Examinations;
 - (6) Refresher training courses;
 - (7) Other qualifications;
 - (8) Rescinding course accreditation or instructor approval;
- and
- (9) Reciprocity.

The MAP emphasizes hands-on guided practice for workers and supervisors that permits students to have actual experience performing tasks associated with lead hazard reduction activities while using non-hazardous substitute materials. To this end, training providers shall provide a sufficient quantity of equipment and materials to enable each student to perform hands-on learning activities.

Accreditation of a lead abatement and lead hazard reduction training course is based on evaluation of the training course materials and instruction manuals and the separate approval of instructors. The training provider needs approval of both course materials and instructors in order to conduct accredited training courses leading to the certification of lead (Pb) workers or supervisors.

I. SUBMISSION OF APPLICATION MATERIALS

In order to demonstrate compliance with this chapter, the training provider shall submit the following:

- A. A completed application form, including the training provider's name, address and phone number;

B. A letter that clearly indicates how the course meets the MAP for:

1. Length of training hours; and
2. The hands-on training and identification of equipment used, and the number of pieces of equipment.

C. An index of all the information and material submitted for accreditation to facilitate review for compliance;

D. The course curriculum indicating learning goals and objectives, duration of instruction and teaching styles to be used per session;

E. A copy of all course materials, including handouts;

F. A copy of the keyed examination and a detailed statement about the development of the examination;

G. The names and verifiable documentation of instructor and guest lecturer qualifications as outlined in s. HSS 163.22;

H. Copies or samples of all advertising materials published or to be published by the training provider to promote lead training courses;

I. A copy or sample of a training certificate issued or to be issued by the training provider to students who attend and pass the course and pass the examination. The certificate shall include a unique certificate number, the name of the student, discipline, dates of the course and expiration date; the name, address and telephone number of the training provider; and a statement that training complies with the MAP; and

J. A copy of the EPA or state approval letter if the course was previously approved by the EPA or a state.

II. INSTRUCTOR QUALIFICATIONS

A. Training

A person seeking approval as an instructor of a lead (Pb) supervisor or (Pb) worker training course shall have successfully completed:

1. A teaching methods course which covers at a minimum the following topics: principles of adult learning, training course design, non-lecture instructional methods, use of audio-visual and other instructional resources, teaching methods, such as, instructional objectives, guided discovery and learning styles, and maintaining classroom control for a learning environment.

The course shall consist of at least 16 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 which includes educational coursework that covers the topics required by this subdivision satisfies this requirement; and

2. A lead (Pb) supervisor training course conducted by an EPA-sponsored regional training center for lead training, a member of that region's consortium or a training provider whose lead (Pb) supervisor training course is accredited by the department or by a state whose model plan is at least as stringent as the Wisconsin MAP. The person seeking instructor approval shall pass the lead (Pb) supervisor examination.

B. Experience

A person seeking approval as an instructor of a lead (Pb) supervisor or worker training course shall be minimally qualified in the topics to be taught by having at least one year of experience in the 5 years preceding the effective date of this chapter in being directly responsible for tasks that are related to one or more of the following appropriate fields: lead hazard reduction activities, lead (Pb) health effects, lead (Pb) regulations, industrial hygiene activities involving lead, construction of homes or other buildings, painting, weatherization, rehabilitation or home improvement, lead (Pb) worker protection or abatement and management activities relating to other hazardous materials. One year teaching experience instructing adults in lead-related topics as part of a course or curriculum recognized by a federal or state governmental agency is also an acceptable qualification. The department shall evaluate qualifications in relation to the topic or topics that the applicant will teach.

C. Equivalent training and experience

The department may approve training and experience qualifications other than those in parts A and B if the department, following consideration and evaluation of them on a case-by-case basis, finds that they are substantially equivalent to the training and experience qualifications in parts A and B.

III. TOPICS FOR INITIAL TRAINING

A. Lead (Pb) Workers.

All persons seeking certification as lead (Pb) workers shall complete a minimum of 24 hours of training. The course shall include lectures, demonstrations and a minimum of 10 hours of hands-on practice, a course review and a written examination.

The training course shall adequately address the following topics:

1. Background information on lead. Identification of lead-based paint (LBP) and coatings, exposure measurements, examples and discussion of the uses of lead in buildings, such as in pipes, petroleum products and solder, locations of lead-based paint in buildings, sources of environmental lead contamination, such as paint, surface dust and soil, water, air and food, and association of deteriorated LBP and elevated blood lead levels and the need for objective testing.

2. Health effects of lead exposure. The nature of lead-related diseases, including the definition of lead poisoning in terms of symptoms and diagnosis.

3. Worker protection. Material Safety Data Sheets (MSDS) organization, respiratory protection program, basic lead (Pb) engineering controls, and personal protective equipment uses and limitations.

4. Personal protective equipment. Respiratory protection, respiratory equipment selection, air-purifying respirators, care and cleaning of respirators, filter use, respiratory program, protective clothing and equipment, hygiene practices and hands-on practice using personal protective equipment.

5. Lead hazard reduction methods. The federal and state statutory and regulatory requirements concerning lead-based paint abatement methods, soil and exterior dust abatement methods, engineering and work practices, cleaning methods, interior dust abatement methods and clean up, waste disposal and hands-on practice for lead hazard reduction work practices.

B. Lead (Pb) Supervisors.

All persons seeking certification as lead (Pb) supervisors shall complete a minimum of 32 hours of training. The course shall include lectures, demonstrations and a minimum of 10 hours of hands-on practice, a course review and written examination. The training course shall adequately address the following topics:

1. Background information on lead. Identification of lead-based paint (LBP) and coatings, exposure measurements, examples and discussion of the uses of lead in buildings, such as in pipes, petroleum products and solder, locations of lead-based paint in buildings, sources of environmental lead contamination, such as paint, surface dust and soil, water, air and food association of deteriorated LBP and elevated blood lead levels and the need for objective testing.

2. Health effects of lead exposure. The nature of lead-related diseases, including the definition of lead poisoning in terms of symptoms and diagnosis.

3. Employee information and training. Training requirements under the U.S. Department of Housing and Urban Development (HUD), 29 CFR 1910.1200 and 1910.1025, OSHA's Hazard Communication Standard, 29 CFR 1926.59, and any pertinent state government and local government requirements for training employees.

4. Regulatory review. An overview of the following: (a) Federal regulations: 29 CFR 1926.62 with Appendices A, B and C, Lead Exposure in Construction Interim Final Rule, Consumer Product Safety Commission Act of 1977 and Residential Lead-Based Paint Hazard Reduction Act of 1992 (Title X of the Housing and Community Development Act of 1992); (b) State regulations: applicable sections of Wisconsin statutes s. ch. 151 (Prevention of Lead Poisoning and Lead Exposure), s. 704.07 (landlord and tenant, repairs; untenability) and ch. 709 (Disclosures by Owners of Residential Real Estate); applicable sections of Wisconsin Administrative Codes ch. HSS 163 (certification for lead hazard reduction work and accreditation of lead training courses), ss. ILHR 32.15 and 32.50 (safety and health standards for public employees), ch. AG 110 (Home Improvement Trade Practices), ch. NR 500 (General Solid Waste Management), ch. NR 502 (Solid Waste Storage, Transportation, etc.), ch. NR 506 (Landfill Operational Criteria), s. NR 600.03 (95) (household waste defined), s. NR 605.08 (toxicity testing defined), s. NR 610.07 (very small quantity generators), s. NR 615.06 (large quantity generator standards) and ch. NR 620 (Transporter Standards and Licensing Requirements); (c) Federal guidelines: Lead-Based Paint Interim Guidelines for Hazard Identification and Abatement in Public and Indian Housing (HUD, Sept 1990), A Statement by the Centers for Disease Control, "Preventing Lead Poisoning in Young Children", (U.S. Department of Health and Human Services, Oct 1991), applicable EPA standards for lead abatement and lead hazard reduction activities; and (d) Local ordinances: s. 66-20, Subch. 2, Milwaukee ordinance (Toxic and Hazardous Substances, Lead Poisoning Prevention and Control), and other applicable local ordinances.

5. Personal protective equipment. Respiratory protection, respiratory equipment selection, air-purifying respirators, care and cleaning of respirators, filter use, respiratory program, protective clothing and equipment, hygiene practices, hands-on practice in use of personal protective equipment.

6. Lead hazard reduction methods. Lead-based paint abatement methods, soil and exterior dust abatement methods, engineering and work practices, cleaning methods, interior dust abatement methods and clean up, waste disposal, hands-on

practice in lead reduction work practices and advantages and disadvantages of each lead hazard reduction activity.

7. Construction terminology. Overview of the following: windows, siding and eaves, doors, stairways and porches.

8. Hazard recognition and control. Site characterization, exposure measurements, material identification, program implementation, safety and health care plan, medical surveillance and engineering and work practices.

9. Project management. Overview of abatement process, supervisory techniques, community relations, contract specifications, project recordkeeping and review of HUD guidelines.

10. Legal and insurance issues. An overview of contract liability, standard of reasonable care, property damage and personal injury, tort liability, vicarious liability, types of lead abatement insurance and workers' compensation insurance.

IV. LEARNING GOALS AND OBJECTIVES

The department may issue learning goals and objectives that shall be met by lead (Pb) training courses. Teaching to goals and objectives is one evaluation method used by the department to decide whether or not to accredit a training course and to approve an instructor.

V. EXAMINATIONS

A. Approval and administration

The department shall approve examinations administered by a training provider.

B. Content

An examination shall reflect the learning goals and objectives of the training course in content or job dimension, weighing or ranking these in importance, and the appropriate difficulty level. The examination key shall be provided to the department.

C. Passing score

The minimum passing score on an examination is 70% of the total number of multiple-choice questions.

VI. REFRESHER TRAINING COURSES

A refresher training course for recertification shall be at a minimum 6 hours in length. The refresher course shall be specific to each classification. For each classification, the refresher course shall review and discuss changes in federal and state regulations, developments in the state-of-the-art procedures and review of key aspects of the initial training course as approved by the department. After completing the refresher course, persons shall be eligible to have their certification extended an additional year. The department may require persons to pass a recertification examination at specific intervals.

VII. OTHER QUALIFICATIONS

In addition to training and an examination, the department may require whatever qualifications and experience that the department considers appropriate for certification in a classification.

VIII. RESCINDING COURSE ACCREDITATION OR INSTRUCTOR APPROVAL

Grounds for rescinding the approval of an instructor or a guest lecturer or the accreditation of a training course are found in s. HSS 163.26. The process for appealing that action is found in s. HSS 163.05.

IX. RECIPROCITY

Requirements for reciprocal acceptance of training certificates issued by states other than Wisconsin are found in s. HSS 163.12.

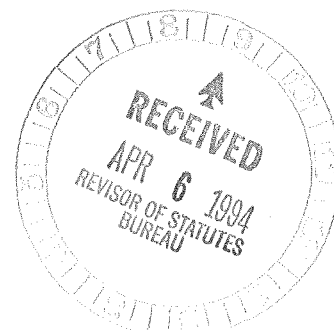
The rules contained in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22(2), Stats.

Wisconsin Department of Health
and Social Services

Dated: April 6, 1994

By: *Gerald Whitburn*
Gerald Whitburn
Secretary

SEAL:



Tommy G. Thompson
Governor
Gerald Whitburn
Secretary



Mailing Address
1 West Wilson Street
Post Office Box 7850
Madison, WI 53707-7850
Telephone (608) 266-9622

State of Wisconsin Department of Health and Social Services

April 6, 1994

Mr. Bruce E. Munson
Revisor of Statutes
131 W. Wilson St., Suite 800
Madison, WI 53703

Dear Mr. Munson:

As provided in s. 227.20, Stats., there is hereby submitted a certified copy of ch. HSS 163, administrative rules relating to certification for lead abatement and other lead hazard reduction activities and accreditation of training courses.

These rules are also being submitted to the Secretary of State as required by s. 227.20, Stats.

Sincerely,

A handwritten signature in cursive script, appearing to read "Gerald Whitburn".

Gerald Whitburn
Secretary

Enclosure

