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Chapter DHS 163

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

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Note: Chapter HFS 163 was created as an emergency rule effective February 18, 1997 and was created as a permanent rule Register, October, 1997, No. 502, effective November 1, 1997. Chapter HFS 163 was repealed and recreated by emergency rule effective August 29, 1998. Chapter HFS 163 as it existed on April 30, 1999 was repealed and a new chapter HFS 163 was created, Register, April, 1999, No. 520, effective May 1, 1999. Chapter HFS 163 as it existed on February 28, 2002 was repealed and a new chapter HFS 163 was created, Register February 2002 No. 554, effective March 1, 2002. Chapter HFS 163 was renumbered chapter DHS 163 under s. 13.92 (4) (b) 1., Stats., and corrections made under s. 13.92 (4) (b) 7., Stats., Register January 2009 No. 637.

Subchapter I — General Provisions

DHS 163.01 Authority and purpose. (1) GENERAL. This chapter is promulgated under the authority of ss. 250.04 (7), 250.041, 254.115, 254.15, 254.167, 254.172, 254.176 (1) and (3), 254.178 (2) and 254.179, Stats.

(2) ACTIVITIES INVOLVING TARGET HOUSING AND CHILD-OCCUPIED FACILITIES. This chapter is intended to ensure that persons who perform renovation, lead hazard reduction or lead investigation activities do so safely to prevent exposure of building occupants to hazardous levels of lead. This is accomplished by requiring an individual to be trained and certified under s. DHS 163.10 before the individual performs, supervises or offers to perform or supervise renovation, specified lead hazard reduction or lead investigation activities involving target housing or a child-occupied facility or the real property on which the target housing or child-occupied facility stands. In addition, the certified individual is required to be associated with a company certified by the department under s. DHS 163.12. Subchapter III requires that a training course that is represented as qualifying any person for certification to perform renovation, lead hazard reduction or lead investigation activities be accredited by the department before the training course is offered, advertised or conducted and that training managers and principal instructors be separately approved by the department.

(3) ACTIVITIES INVOLVING REGISTERED LEAD-FREE PROPERTY AND REGISTERED LEAD-SAFE PROPERTY. This chapter establishes standards for registered lead-free and registered lead-safe property, procedures for determining whether a property meets the standards, and procedures for issuing and maintaining certificates of lead-free status and lead-safe status.

History: CR 00-172: cr. Register February 2002 No. 554, eff. 3-1-02; EmR0928: emerg. am. (2) and (3), eff. 10-16-09; CR 09-085: am. (2) and (3) Register March 2010 No. 651, eff. 4-1-10.

DHS 163.02 Scope. (1) APPLICABILITY. (a) This subchapter, subchs. II and IV apply to a person performing, supervising

or offering to perform or supervise a renovation, lead hazard reduction activity or lead investigation activity involving target housing or a child-occupied facility or the real property on which the target housing or child-occupied facility stands. Persons conducting work regulated under this chapter are also required to conduct activities in a manner that does not increase the hazards from lead-based paint to building occupants.

(b) This subchapter, subchs. III and IV apply to a training course that is offered, advertised, conducted or taught leading to, or intended to lead to, certification under this chapter, and to the training manager and instructors for the training course.

(c) Subchapter V applies to real property for which a certificate of lead-free status or lead-safe status is sought or has been issued.

(2) APPROVED ALTERNATIVE TO AN ADMINISTRATIVE REQUIREMENT. The department may approve an alternative to any administrative requirement in this chapter that is not a statutory requirement when the department is provided with satisfactory written proof that the alternative is as protective of human health and the environment as the original requirement. A request for approval of an alternative shall be in writing, shall be sent to the department and shall include justification for the alternative. The department shall approve or deny the alternative or request additional information within 20 working days of receipt of the request for approval. If granted, the department shall send the applicant a written notice of approval that may include limits on the approval.

Note: Submit your request for approval of an alternative to a requirement to the Asbestos and Lead Section, Room 137, 1 W. Wilson St., P.O. Box 2659, Madison, WI 53701-2659; e-mail dhasbestoslead@wisconsin.gov; or fax 608-266-9711.

History: CR 00-172: cr. Register February 2002 No. 554, eff. 3-1-02; EmR0928: emerg. am. (1) and (2), eff. 10-16-09; CR 09-085: am. (1) and (2) Register March 2010 No. 651, eff. 4-1-10.

DHS 163.03 Definitions. In this chapter:

(1) "Abatement" means any measure or set of measures intended to permanently eliminate lead-based paint hazards. Abatement includes any of the following:

(a) Activities intended to permanently eliminate a lead-based paint hazard, as follows:

1. Removal of lead-based paint or dust-lead.
2. Enclosure or encapsulation of lead-based paint.
3. Removal of lead-based painted surfaces, components or fixtures.
4. Removal or covering of lead-contaminated soil.
5. All preparation associated with the activities in subds. 1. to 4.

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6. Cleanup associated with the activities in subsds. 1. to 4.
7. Preparation for disposal of waste from the activities in subsds. 1. to 4.

(b) The following projects:

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

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

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

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

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

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

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

(c) "Abatement" does not include measures and activities intended to temporarily, but not permanently, reduce lead-based paint hazards. Furthermore, "abatement" does not include activities that are intended solely to repair, restore or remodel a given structure or dwelling, even though these activities may incidentally result in a reduction or elimination of lead-based paint hazards.

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

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

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

(5) "Agent" means a person who is under a contract, or otherwise authorized by the owner, to manage or maintain real property.

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

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

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

(8) "Certificate of lead-free status" or "lead-free certificate" means a certificate issued under this chapter by a certified lead inspector or risk assessor, and registered with the department that documents a finding by the inspector or risk assessor that a premises, dwelling or unit of a dwelling is free of lead-bearing paint as of the date specified on the certificate.

(9) "Certificate of lead-safe status" or "lead-safe certificate" means a certificate issued under this chapter by a certified lead hazard investigator or risk assessor, and registered with the department that documents that the hazard investigator or risk assessor detected no lead-based paint hazards affecting the prem-

ises, dwelling or unit of the dwelling on the date specified on the certificate.

(10) "Certification" means an approval status granted by the department to a person meeting the conditions for certification under this chapter.

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

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

(13) "Child-occupied facility" means a building or portion of a building constructed prior to 1978, and including common areas, that meets any of the following:

(a) A facility licensed or certified to provide day care services.

(b) A public or private school or preschool attended by a registered child younger than 6 years of age, including a state-operated residential treatment center.

(c) A building or portion of a building, visited by the same child under 6 years of age, on at least 2 different days within any week, Sunday through Saturday, provided that each day's visit lasts at least 3 hours and the combined annual visits last at least 60 hours.

(13g) "Cleaning verification" means a protocol for use by certified lead-safe renovators after completion of renovation activities, and in lieu of clearance dust-wipe sampling, that ensures post-renovation cleaning has been successfully completed to the standard set under s. DHS 163.14 (11) (L).

(13r) "Cleaning verification card" means a card developed and distributed, or otherwise approved, by EPA for the purpose of determining, through comparison of wet and dry disposable cleaning cloths with the card, whether post-renovation cleaning has been successfully completed.

(14) "Clearance" means the actions taken after an abatement, interim control or renovation activity to make a final determination that the work was completed, final cleaning was conducted and dust-lead levels are below the clearance levels.

(15) "Clearance level" means the value under s. DHS 163.14 (5) (c) 8. that indicates the maximum amount of lead permitted in dust on a surface following completion of an abatement, interim control or renovation activity.

(16) "Common area" means a portion of a building, the land on which the building stands and other improvements on that land that are generally accessible to occupants of the building.

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

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

(18) "Containment" means the physical measures taken to isolate the work area in order to ensure that dust and debris created or released during activities are not spread, blown or tracked from inside to outside of the work area.

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Note: Containment is more than simply laying plastic on the floor. For interior work that creates large amounts of dust, appropriate containment would include hanging vertical plastic sheeting to create a temporary wall barrier between the work area and the rest of the house, with an airtight entryway. For additional information on appropriate containment, refer to Appendix H of this chapter, Chapter 8, Resident Protection and Worksite Preparation, of HUD's Guidelines for the Evaluation and Control for Lead-Based Paint Hazards in Housing.

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

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

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

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

(22m) "Demolition" means the removal of any load-supporting structural component of target housing or a child-occupied facility together with any related handling operations.

(23) "Department" means the Wisconsin department of health services.

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

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

(26) "Disturb" means to break up, burn, crush, cut into, dissolve, sand, scrape, abrade remove, demolish or otherwise manipulate a painted surface in a manner that generates dust, paint chips or debris.

Note: Washing or vacuuming painted surfaces does not, by itself, disturb paint unless the method used dislodges paint, such as by power washing. Although removal of a carpet does not disturb paint, the removal of a carpet contaminated with dust-lead or paint chips can create a lead hazard.

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

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

(29) "Documented methodologies" means written protocols, standards or methods that are generally used and accepted for conducting regulated activities.

Note: Examples of documented methodologies include the following: The U.S. Department of Housing and Urban Development (HUD) Guidelines for the Evaluation and Control for Lead-Based Paint Hazards in Housing; the EPA Guidance on Residential Lead-Based Paint Hazards in Housing; the EPA Guidance on Residential Lead-Based Paint, Lead-Contaminated Dust and Lead-Contaminated Soil; the EPA Residential Sampling for Lead: Protocols for Dust and Soil Sampling (EPA report number 7474-R-95-001); Wisconsin Childhood Lead Poisoning Prevention and Control Handbook; regulations, guidance, methods or protocols issued by States and Indian Tribes that have been authorized by EPA; and other equivalent methods and guidelines. For non-abatement lead-based paint activities, additional documented methodologies include; HUD's Lead Paint Safety, A Field Guide for Painting, Home Maintenance, and Renovation Work; EPA's Renovate Right pamphlet and Small Entity Compliance Guide to Renovate Right; EPA's Lead-Based Paint Renovation, Repair and Painting Program. Federal documents may be downloaded from the HUD website at www.hud.gov/offices/lead or from the EPA website at www.epa.gov/lead.

(30) "Door system" means all components associated with the operation or decoration of a door, including the frame, head, casing, latch jamb, transom, door stop, hinge jamb, door, threshold and door trim.

(31) "Dripline" means the area within 3 feet surrounding the exterior foundation of a building.

(31m) "Dry disposable cleaning cloth" means a commercially available dry, electrostatically charged, white disposable cloth designed to be used for cleaning hard surfaces such as uncarpeted floors or counter tops.

(32) "Durable material" means a construction product capable of withstanding use without significant deterioration, such as vinyl flooring, siding, paneling, aluminum coil stock, plaster-board or plywood.

(33) "Dust-lead" means dust that contains lead.

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

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

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

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

(38) " Dwelling unit" means that part of a structure that is designed, used or intended to be used for human habitation by one or more persons maintaining a common household.

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

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

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

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

(40m) "Emergency renovation" means renovation activities that were not planned but result from a sudden, unexpected event that, if not immediately attended to, presents a safety or public health hazard, or threatens equipment or property with significant damage.

(41) "Employee" means an individual who an employer can require or direct to engage in any employment, or to go to work or to be at any time in any place of employment, except that an employee does not include an individual whose sole relationship with the employer is contractual and limited to performing periodic services for which the individual, not the employer, controls the means and method of performing the services and the individual meets the criteria under s. 108.02 (12) (b) 1. and 2., Stats.

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

(43) "Encapsulation" means the process of creating a barrier between lead-based paint and the environment by the application of an encapsulant.

(44) "Enclosure" means the use of rigid, durable materials that are mechanically fastened to the substrate, component or building structure, with all edges, joints and seams sealed in order to act as a dust-tight barrier between lead-based paint and the environment.

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

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

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

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

(50) “Hands-on skills assessment” means an evaluation of a trainee’s ability to satisfactorily perform hands-on skills taught in a training course.

(51) “Hazardous waste” means a solid waste that fits the definition of hazardous waste in s. NR 661.03 and that is not excluded by the provisions of s. NR 661.04.

(52) “HEPA filter” means a high efficiency particulate air filter that captures particles of 0.3 microns or larger at 99.97 percent or greater efficiency.

(53) “HEPA vacuum” means a vacuum cleaner designed by the manufacturer to have a high-efficiency particulate air (HEPA) filter as the last filtration stage. The vacuum cleaner must be designed so that all the air drawn into the machine is expelled through the HEPA filter with none of the air leaking past it.

(54) “HUD” means the U.S. department of housing and urban development.

(55) “Immediate family” means any of the following:

- (a) Spouse.
- (b) Children, stepchildren, grandchildren, foster children.
- (c) Parents, stepparents, grandparents, foster parents.
- (d) Sons-in-law or daughters-in-law.
- (e) Brothers and their spouses.
- (f) Sisters and their spouses.
- (g) Aunts and uncles.

(56) “Impact surface” means an interior or exterior surface that is subject to damage by repeated force, such as doorframes, cabinet frames and walls subject to door actions, and baseboards and stair risers.

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

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

(58m) “Interim controls” means a set of measures designed to temporarily reduce human exposure or likely exposure to lead-based paint hazards, including specialized cleaning, repairs, maintenance, painting, temporary containment, ongoing monitoring of lead-based paint hazards or potential hazards, and the establishment and operation of management programs.

(59) “Interior windowsill” or “window stool” means the portion of the horizontal window ledge adjacent to the interior side of the window sash when the window is closed. On older homes, the interior windowsill frequently protrudes into the interior of the room.

(60) “Lead” means the metallic element known by the symbol “Pb” in the periodic table of chemical elements.

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

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

(63) “Lead-based paint hazard” means any condition that causes exposure to lead from dust-lead, soil-lead, deteriorated paint that is not proven to be lead-free, or lead-based paint that is present on friction surfaces, impact surfaces, or surfaces that are chewed or mouthed, as observed or evidenced by teeth marks and would result in adverse human health effects.

(64) “Lead abatement supervisor” means an individual who supervises or performs lead abatement or other lead hazard reduction activities.

(65) “Lead abatement worker” means an individual who performs lead abatement or other lead hazard reduction activities.

(66) “Lead company” means a company, partnership, corporation, sole proprietorship, association, governmental agency or other entity that performs, supervises, advertises, claims to provide or offers to perform or supervise a lead hazard reduction activity or lead investigation activity.

(67) “Lead exposure” means a level of lead in the blood of 10 or more micrograms per 100 milliliters of blood.

(68) “Lead-free inspection” means a lead investigation activity conducted to determine whether a dwelling, dwelling unit, child-occupied facility or other premises qualifies for a certificate of lead-free status.

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

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

(71) “Lead hazard reduction activity” means any action intended to permanently or temporarily reduce or eliminate human exposure to lead-based paint hazards, including abatement, interim controls, and paint stabilization.

(72) “Lead hazard reduction discipline” means a job category for which individuals are trained and become certified by the department to conduct specific lead hazard reduction activities. Lead hazard reduction disciplines are lead abatement supervisor, abatement worker and project designer.

(73) “Lead hazard screen” means a risk assessment activity to determine whether a structure in good condition is free of lead-based paint hazards or should have a full risk assessment. A lead hazard screen involves less paint or dust sampling or testing than in a full risk assessment.

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

(75) “Lead inspector” means an individual who conducts a lead-free inspection, or lead inspection and who may also conduct clearance activities.

(76) “Lead investigation activity” means any activity that determines whether lead-based paint or lead hazards are present. Lead investigation activities include clearance, dust-wipe sampling, elevated blood lead investigation, lead-free inspection, lead inspection, lead hazard screen, lead-safe investigation, paint chip sampling, risk assessment and soil sampling activities.

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

(78) “Lead project designer” means an individual who designs abatement projects and who may also write occupant protection plans or abatement reports.

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(79) “Lead risk assessor” means an individual who conducts lead investigation activities.

(80) “Lead sampling technician” means an individual who independently performs limited clearance activities or assists a lead hazard investigator, inspector or risk assessor in conducting other lead investigation activities, including collecting paint-chip, dust-wipe or soil samples.

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

(82) “Lead-safe company” means a company, partnership, corporation, sole proprietorship, association, governmental agency or other entity that performs, advertises, claims to provide or offers to perform renovation activities in target housing or child-occupied facilities.

(83) “Lead-safe renovator” means an individual who performs or directs workers who perform renovation activities in target housing or child-occupied facilities.

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

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

(85m) “Minor repair and maintenance activities” means activities, including minor heating, ventilation or air conditioning work, electrical work, and plumbing, that disrupt 6 square feet or less of painted surface per room for interior activities or 20 square feet or less of painted surface for exterior activities where none of the work practices prohibited or restricted by s. DHS 163.14 (11) (h) are used, and where the work does not involve window replacement or demolition. When removing painted components, or portions of painted components, the entire surface area removed is the amount of painted surface disturbed. Jobs, other than emergency renovations, performed in the same room within 30 consecutive days shall be considered the same job for the purpose of determining whether the job is a minor repair and maintenance activity.

Note: See definitions of ‘demolition’ and ‘renovation.’

(86) “Multi-family dwelling” means a single structure that contains more than one dwelling unit.

(87) “Occupant” means one of the following:

(a) A person, other than a guest, who leases or lawfully resides in a dwelling as the person’s home or residence.

(b) A person who leases or lawfully occupies a premises that is not a dwelling, such as a child-occupied facility.

(88) “Occupant protection plan” means a written plan developed prior to a lead hazard reduction activity that describes the measures that will be taken to protect the building occupants from exposure to lead-based paint hazards.

(88m) “Pamphlet” means the EPA pamphlet titled *Renovate Right: Important Lead Hazard Information for Families, Child Care Providers and Schools* or any other pamphlet approved by the department and EPA pursuant to 40 CFR 745.326 that is developed for the same purpose. This includes reproductions of the pamphlet when copied in full and without revision or deletion of material from the pamphlet, except for the addition of local sources of information.

(89) “Permanently covered soil” means soil that has been separated from human contact by the placement of a barrier consisting of solid, relatively impermeable materials, such as asphalt or concrete. Grass, mulch and other landscaping materials are not considered permanent coverings.

(90) “Person” means any individual or entity, including a sole proprietorship, corporation, limited liability corporation, partnership or association, Indian tribe, state or local agency or political subdivision of a state, interstate body, or department, agency or other instrumentality of the federal government.

(91) “Play area” means an area of frequent contact by children under age 6, as indicated by such factors as the use of the structure, observations of play patterns, information provided by parents or others, or the presence of play equipment, toys or other possessions of children.

(92) “Premises” means any of the following:

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

(b) Other buildings and facilities, including attached structures and real property upon which the buildings or facilities stand, that might contain lead-based paint or a lead-based paint hazard.

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

(94) “Property owner” means a person who has both equitable title and legal possession of a dwelling, child-occupied facility, premises, registered lead-free property or registered lead-safe property.

(95) “Real property” means the land, buildings and improvements, and all contiguous property under the same ownership.

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

Note: A list of recognized laboratories is available on the department website at www.dhs.wisconsin.gov/lead, or write Asbestos and Lead Section, Room 137, P.O. Box 2659, Madison, WI 53701-2659; e-mail dhasbestoslead@wisconsin.gov; ph. 608-261-6876; or fax 608-266-9711.

(96m) “Recognized test kit” means a commercially available kit recognized by the department as being capable of allowing a user to determine the presence of lead at levels equal to or in excess of 0.7 milligrams per square centimeter, or more than 0.06% lead by weight as defined under s. DHS 163.03 (61), in a paint chip, paint powder, or painted surface.

Note: A list of department-recognized test kits is available on the department website at www.dhs.wi.gov/lead; email dhasbestoslead@wisconsin.gov; ph. 608-261-6876; fax 608-266-9711; or Asbestos and Lead section, Room 137, 1 W. Wilson Street, P.O. Box 2659, Madison, WI 53701-2659.

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

(98) “Registered lead-free property” means those portions of real property that were included in a lead-free inspection and are described as covered property on a current, valid certificate of lead-free status issued under this chapter and registered with the department.

(99) “Registered lead-safe property” means those portions of real property that were included in a lead-safe investigation and are described as covered property on a current, valid certificate of lead-safe status issued under this chapter and registered with the department.

(100) “Regulated activity” means an activity to which work practice standards apply or for which accreditation, approval, training or certification is required under this chapter.

(100m) “Renovation” means a work activity that disturbs paint in or on target housing or a child-occupied facility. Renovation includes cutting, drilling, planing, sanding, sawing, scraping, stripping or removing painted surfaces or components during demolition, interim controls, maintenance, modification, painting, rehabilitation, remodeling, repair, residing, roofing or restoration activities. Renovation does not include abatement activi-

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ties as defined under s. DHS 163.03 (1), minor repair and maintenance activities as defined under s. DHS 163.03 (85m), or the razing of an entire building.

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

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

(103) “Soil-lead” means bare soil that contains lead.

Note: The Wisconsin Department of Natural Resources (DNR) standard for non-industrial lead in soil under s. NR 720.11, Table 2, is 50 parts per million.

(104) “Soil-lead hazard” means bare soil containing lead equal to or exceeding the applicable level under s. DHS 163.15 (2).

(105) “Substrate” means a surface on which paint, varnish or other coating has been or may be applied.

(106) “Target housing” means a dwelling constructed prior to 1978, except for any of the following:

(a) A dwelling for the elderly or persons with disabilities unless a child under 6 years of age resides or is expected to reside in the dwelling.

(b) A dwelling in which the living area is not separated from the sleeping area.

(107) “Tenancy” means occupancy, or a right to present occupancy under a rental agreement, and includes periodic tenancies and tenancies at will. The term does not include the occupancy of a dwelling unit without consent of the property owner after expiration of a lease or termination of tenancy under ch. 704, Stats.

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

(109) “Training hour” means 60 minutes of actual instruction, which shall include time devoted to learning activities, including lecture, small group activities, demonstrations, evaluations or hands-on activities.

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

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

(112) “Unkeyed plaster” means plaster whose mechanical bond with the supporting structure is broken and has not been repaired, causing the plaster to become loose or bowed.

(113) “Vacuum sampling” means collecting a sample of dust collected by vacuuming a representative surface of known area with a vacuum and using documented methodologies.

(114) “Visual inspection” means:

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

(am) For cleaning verification, visual examination following a renovation activity to determine whether scheduled work and clean up have been successfully completed, as indicated by the absence of visible residue, dust and debris.

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

(c) For conditions for maintaining a certificate of lead-safe status, visual examination to determine the existence of deteriorated lead-based paint, failure of an enclosure, encapsulant or covering, or the presence of other potential lead-based paint hazards.

rated lead-based paint, failure of an enclosure, encapsulant or covering, or the presence of other potential lead-based paint hazards.

(114g) “Wet disposable cleaning cloth” means a commercially available, pre-moistened white disposable cloth designed to be used for cleaning hard surfaces such as uncarpeted floors or counter tops.

(114r) “Wet mopping system” means a device with the following characteristics: a long handle, a mop head designed to be used with disposable absorbent cleaning pads, a reservoir for cleaning solution, and a built-in mechanism for distributing or spraying the cleaning solution onto a floor; or a method of equivalent efficacy.

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

(116) “Window system” means all components associated with the operation or decoration of a window, including the framing, casing, lower and upper sash, jamb, parting bead, inside stop, outside stop, channel guide or track, interior sill or stool, trough or well, exterior sill, apron, storm window, screen window, muntin, mullion and window trim.

(117) “Window trough” or “window well” means the portion of the windowsill between the interior windowsill or stool and the frame of the storm window. If there is no storm window, the window trough is the area that would receive upper and lower sashes if they were lowered.

(118) “Working day” means any day except Saturday, Sunday and holidays designated in s. 230.35 (4) (a), Stats., and federal holidays.

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

History: CR 00-172: cr. Register February 2002 No. 554, eff. 3-1-02; corrections in (23) and (51) made under s. 13.92 (4) (b) 6. and 7., Stats., Register January 2009 No. 637; EmR0928: emerg. am. (1) (a) 3., (b) 5., (5), (10), (13), (14), (15), (26), (27), (36), (46), (52), (56), (64), (65), (71), (76), (80), (88), (100) and (114) (a), cr. (13g), (13r), (22m), (31m), (40m), (58m), (85m), (88m), (96m), (100m), (114) (am), (114g) and (114r), r. (48) and (62), r. and recr. (53), (82) and (83), eff. 10-16-09; CR 09-085: am. (1) (a) 3., (b) 5., (5), (10), (13), (14), (15), (26), (27), (36), (46), (52), (56), (64), (65), (71), (76), (80), (88), (100) and (114) (a), cr. (13g), (13r), (22m), (31m), (40m), (58m), (85m), (88m), (96m), (100m), (114) (am), (114g) and (114r), r. (48) and (62), r. and recr. (53), (82) and (83) Register March 2010 No. 651, eff. 4-1-10.

Subchapter II — Certification of Persons to Perform Lead-Safe Renovation, Lead Hazard Reduction, or Lead Investigation Activities

DHS 163.10 Certification of an individual.

(1) REQUIREMENT. Except as provided under par. (d), an individual shall follow work practice requirements and meet all other responsibilities under this chapter and, except as provided under pars. (c) and (d), shall also be certified by the department under this subchapter and shall be associated with a certified lead company or lead-safe company through ownership, employment or contract to do any of the following:

(a) Perform, supervise or offer to perform or supervise a lead abatement activity or lead investigation activity involving one of the following:

1. A child-occupied facility or the real property on which the child-occupied facility stands.

2. Target housing or the real property on which the target housing stands when one of the following applies:

a. The individual performing the work does not own the target housing or real property.

b. An individual other than the property owner or the property owner’s immediate family rents or occupies the target housing or real property.

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c. A child residing in the target housing has been identified as having an elevated blood lead level.

(b) Perform or supervise a lead hazard reduction activity when certification is required under an order issued by a court, the department, another state agency or a local agency, under a contract, or as a condition for payment of services.

(bm) Perform, supervise or offer to perform or supervise a renovation activity for compensation in target housing or a child-occupied facility on or after April 22, 2010.

(c) A person is not required to be certified by the department under par. (bm), but is subject to all work practice requirements and other responsibilities under this chapter when any one of the following applies:

1. All regulated activities are within the scope of a license, certification or registration issued by the department of commerce under s. 101.178, Stats., or ch. 145, Stats., and the individual performing the regulated activities has completed lead-safe renovation training under s. DHS 163.11 (2) (c) as evidenced by possession of a current and valid course completion certificate at the worksite whenever performing regulated work.

Note: Section 101.178, Stats., relates to department of commerce certification of heating, ventilating and air conditioning installers and servicers. Chapter 145, Stats., relates to department of commerce licensure of master plumbers and journeyman plumbers, registration of apprentice plumbers, licensure of automatic fire sprinkler system installers, registration of automatic fire sprinkler system apprentices, and registration of automatic fire sprinkler fitters for maintaining an existing automatic fire sprinkler system.

2. The individual conducting the renovation activity has been trained by a certified lead-safe renovator under s. DHS 163.13 (7) on the lead-safe work practices to be used to perform assigned tasks and is under the supervision of a certified lead-safe renovator during the renovation activity as required under s. DHS 163.14 (11) (c).

(d) A person is not required to be certified under par. (bm), and is not subject to other provisions under this chapter, when any one of the following applies:

1. The paint involved in the renovation activity has been tested by a person certified as a lead inspector, hazard investigator or risk assessor, who has determined that the paint does not meet the definition of lead-based paint under s. DHS 163.03 (61).

2. The paint to be involved in the renovation activity has been tested by a certified lead-safe renovator using a department recognized test kit, as defined under s. DHS 163.03 (96m), and following the kit manufacturer's instructions, who has determined that the paint does not meet the definition of lead-based paint under s. DHS 163.03 (61).

3. The work is a minor repair and maintenance activity.

4. The work involves replacing only broken panes of glass in a window and no painted surface is disturbed.

5. The work is a renovation activity that is not performed for compensation and no other conditions requiring certification exist.

Note: For the requirement that a company be certified to perform, supervise or offer to perform or supervise a lead abatement investigation, or renovation activity, see s. DHS 163.12.

6. The work is a renovation activity performed by the homeowner in the homeowner's owner-occupied unit and no other dwelling unit or common area is affected.

(e) An individual who was certified or trained as a lead-safe worker before October 19, 2009 may not act as the certified lead-safe renovator for a renovation activity after April 22, 2010 unless the individual is certified by the department as a lead-safe renovator.

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

(a) *Lead hazard reduction disciplines.* 1. 'Lead abatement worker.' A certified lead abatement worker may perform any abatement activity, but must be supervised under s. DHS 163.14

(1) (c) when performing abatement. A lead abatement worker may not prepare an occupant protection plan for abatement, prepare an abatement report, conduct sampling for abatement or supervise abatement activities. A certified lead abatement worker who completes a lead-safe renovation initial or refresher course, or a lead abatement worker refresher course after October 19, 2009, is also qualified to conduct renovation activities.

2. 'Lead abatement supervisor.' A certified lead abatement supervisor may develop occupant protection plans, write abatement reports, and supervise or perform lead abatement activities. A certified lead abatement supervisor may take dust wipe samples before clearance is conducted to determine if cleanup is complete, but this activity does not meet the criteria for sampling under s. 901.055, Stats., or for clearance. A certified lead abatement supervisor who completes a lead-safe renovation initial or refresher course, or a lead abatement supervisor refresher course on or after October 19, 2009, is also qualified to conduct renovation activities.

3. 'Lead project designer.' A certified lead project designer may design lead hazard reduction projects, develop occupant protection plans and write abatement reports. A certified lead project designer may not perform or supervise abatement or non-abatement lead-based paint activities without certification in an appropriate lead hazard reduction discipline.

(b) *Lead investigation disciplines.* 1. 'Lead sampling technician.' When no abatement activity was performed, a certified lead sampling technician may conduct clearance following a renovation activity involving target housing or a child-occupied facility. A certified lead sampling technician may take dust wipe samples, and may take paint chip and soil samples when directly assisting a certified lead investigator, inspector or risk assessor to conduct other lead investigation activities. A certified lead sampling technician may not use an XRF, conduct clearance after an abatement activity or provide recommendations for reducing a lead hazard.

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

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

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

(c) *Lead-safe renovator discipline.* A certified lead-safe renovator may supervise or perform renovation activities, provide training on lead-safe work practices to uncertified workers, provide pre-renovation education materials to occupants and owners, conduct pre-renovation component testing using a department-recognized test kit, and conduct post-renovation cleaning verification.

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

2. An individual applying for initial certification in any discipline identified under sub. (2) shall be 18 years of age or older, shall meet applicable education and experience qualifications under par. (b), shall successfully complete certification training requirements under s. DHS 163.11 and, to be certified as a lead

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abatement supervisor, hazard investigator, inspector, or risk assessor, shall pass a certification examination under par. (c).

3. Before certification as a lead inspector or lead risk assessor may be granted, an individual applying for certification as a lead inspector or risk assessor shall have completed XRF manufacturer's training under par. (d).

4. To apply for certification under subs. 1. to 3., the applicant shall submit to the department an application under sub. (5) and include the applicable fee.

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

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

2. 'Abatement supervisor.' An applicant for lead abatement supervisor certification shall meet or exceed one of the following:

a. Have one year of experience as a certified lead worker or lead abatement supervisor.

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

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

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

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

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

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

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

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

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

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

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

a. Pass a certification examination administered by the department or by a person authorized by the department to administer the certification examination under the department's direction or with the department's approval, no earlier than 12 months prior to applying for initial certification and no later than 6 months after applying for initial certification. A training provider may not administer a certification examination, except that the department may be a training provider and also administer a certification examination.

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

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

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

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

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

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

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

Note: Application forms are available on the department website at www.dhs.wisconsin.gov/lead; or by email to dhasbestoslead@wisconsin.gov; ph. 608-261-6876; or at the Asbestos and Lead Section, 1 W. Wilson St., Room 137, P.O. Box 2659, Madison, WI 53701-2659. Return the completed application and fees to the same office.

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

(d) *XRF manufacturer's training for lead inspectors or risk assessors.* 1. 'Requirement for training.' For certification as a lead inspector or risk assessor, an individual shall complete manufacturer's training meeting the requirements under ch. DHS 157 for at least one make and model of XRF that the individual will be using and shall submit a completion certificate for the

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training before certification as a lead inspector or risk assessor may be issued. Documentation of any other training completed to operate other makes or models of XRF shall be retained by the applicant and submitted upon request by the department.

2. 'Certification pending training.' Pending completion of XRF manufacturer's training to use an XRF, an applicant for lead inspector certification who meets all other qualifications shall be issued certification as a lead sampling technician, and an applicant for lead risk assessor certification who meets all other qualifications shall be issued certification as a lead hazard investigator.

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

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

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

(b) *Photograph.* Except when a photograph was submitted to the department by a training provider after the applicant completed a required course, a clearly identifiable photograph of the applicant's face in a standard passport size of 2" x 2", taken within the previous 24 months.

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

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

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

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

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

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

- a. A resume describing the relevant experience.
- b. A letter describing the tasks performed by the individual and signed by the employer where the experience was obtained.
- c. Letters of reference from individuals with knowledge of the applicant's experience.
- d. Copies of inspection reports prepared by the applicant.
- e. Copies of certifications issued by other jurisdictions that allowed the individual to perform related work.

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

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

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

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

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

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

b. For certification as a lead abatement worker, a fee of \$75.

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

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

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

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

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

gm. For certification as a lead-safe renovator, a fee of \$50.

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

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

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

4. 'Other fees.' The department may assess other fees as necessary to cover costs of administering this chapter, such as walk-in service.

Note: Application and credit card payment forms are available on the department website at www.dhs.wisconsin.gov/lead; email dhsasbestoslead@wisconsin.gov; ph. 608-261-6876; fax 608-266-9711; or Asbestos and Lead Section, 1 W. Wilson Street, Room 137, P.O. Box 2659, Madison, WI 53701-2659.

Note: Submit application and fee to the Asbestos and Lead Section, Room 137, 1 W. Wilson Street, P.O. Box 2659, Madison, WI 53701-2659, or fax to 608-266-9711. For application submitted by fax, payment may be made only by credit or debit charge to a VISA or MasterCard.

(6) **ACTION BY THE DEPARTMENT.** (a) *Time limit.* Within 10 working days after receipt of a fully and accurately completed certification application, as specified in sub. (5), the department shall grant interim or initial certification or shall deny certification.

(b) *Grant interim certification.* Subject to provisions for lead inspector and risk assessor applicants under sub. (3) (d) 2., the department may grant interim certification to an individual who applies for lead abatement supervisor, hazard investigator, inspector or risk assessor certification, meets all of the certification examination prerequisites under sub. (3) (c) 3. and is registered for, but has not passed, the certification examination for the discipline. When interim certification is granted, the department shall issue or arrange for the issuance of an interim certification card for the appropriate specific discipline under sub. (2). An individual may be granted interim certification only once per discipline per lifetime.

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

(c) *Grant initial certification.* 1. 'Upon application.' If an individual applies for certification and meets all of the conditions for initial certification under sub. (3), the department may grant

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initial certification. When certification is granted, the department shall issue or arrange for the issuance of a certification card for the appropriate specific discipline under sub. (2).

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

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

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

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

2. For lead abatement worker, lead-safe renovator, or sampling technician, initial certification shall remain valid for 2 years after the completion date of the most recent training required under s. DHS 163.11.

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

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

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

1. Be in compliance with all requirements of this chapter.
2. Be current with the certification training requirements under s. DHS 163.11.
3. Submit an application for recertification to the department under par. (c).

4. Pass a certification examination under sub. (3) (c) when the department requires the individual to pass the certification examination because the department has reason to believe a training course or training certificate does not meet all requirements of this chapter.

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

1. 'Application form.' A fully and accurately completed application on a form obtained from the department. The applicant shall include on the form his or her social security number if it is not already shown on the form. The applicant shall personally sign the application affidavit verifying the accuracy of the information.

2. 'Photograph.' Except when a photograph was submitted to the department by a training provider after the applicant completed a required course, a recent, clearly identifiable photograph of the applicant's face in a standard passport size of 2" x 2", taken within the previous 24 months.

3. 'Training certificates.' Except when training information was submitted to the department by a training provider after the applicant completed a required course, a copy of any training certificate that was not previously submitted for training required under s. DHS 163.11.

4. 'Recertification fee.' A written request for a government certification fee exemption under subd. 4. gm. or a nonrefundable recertification fee as follows:

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

b. For recertification as a lead abatement worker, a 2-year fee of \$75.

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

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

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

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

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

gm. For recertification as a lead-safe renovator, a 2-year fee of \$50.

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

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

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

Note: Application and credit card payment forms are available on the department website at www.dhs.wisconsin.gov/lead; email dhsasbestoslead@wisconsin.gov; ph. 608-261-6876; fax 608-266-9711; or Asbestos and Lead Section, Room 137, 1 W. Wilson Street, P.O. Box 2659, Madison, WI 53701-2659.

Note: Submit application and fee to the Asbestos and Lead Section, Room 137, 1 W. Wilson Street, P.O. Box 2659, Madison, WI 53701-2659, or fax to 608-266-9711. For application submitted by fax, payment may be made only by credit or debit charge to a VISA or MasterCard.

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

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

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

(e) *Length of recertification.* 1. When the department recertifies a lead abatement supervisor, hazard investigator, inspector, project designer or risk assessor, the department shall extend the certification of the individual for 1 or 2 years from the expiration date, depending on whether a 1-year or 2-year fee is paid and the date by which refresher training must be completed.

2. When the department recertifies a lead abatement worker, lead-safe renovator, or sampling technician, the department shall extend the certification of the individual for 2 years from the expiration date.

History: CR 00-172: cr. Register February 2002 No. 554, eff. 3-1-02; correction in (3) (d) 1. made under s. 13.92 (4) (b) 7., Stats., Register January 2009 No. 637; **EmR0928: emerg. am. (1) (intro.), (b), (c) (intro.), 1., (2) (intro.), (a) 1., 2., (b) 1., (3) (a) 1., (c) 2. a., (5) (f) 2., (7) (b) 2. (intro.), (8) (b) 3., (c) 4. (intro.) and (e), cr. (1) (bm), (d) (intro.), 2. to 5., (2) (c), (5) (g) 1. gm. and (8) (c) 4. gm., r. and recr. (1) (c) 2., renum. (1) (c) 3. to be (1) (d) 1. and am., r. (7) (b) 2. a. and b., eff. 10-16-09; CR 09-085: am. (1) (intro.), (b), (c) (intro.), 1., (2) (intro.), (a) 1., 2., (b) 1., (3) (a) 1., (c) 2. a., (5) (f) 2., (7) (b) 2. (intro.), (8) (b) 3., (c) 4. (intro.) and (e), cr. (1) (bm), (d) (intro.), 2. to 6., (e), (2) (c), (5) (g) 1. gm. and (8) (c) 4. gm., r. and recr. (1) (c) 2., renum. (1) (c) 3. to be (1) (d) 1. and am., r. (7) (b) 2. a. and b. Register March 2010 No. 651, eff. 4-1-10.**

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

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

(a) Accredited by the department under this chapter.

(b) Accredited by EPA or an EPA-authorized state or tribal lead training and certification program if the department determines the course is comparable to a course or courses under s. DHS 163.20 (8) and the course was completed in another state where the accrediting program has authority.

(c) A course approved by the department under s. DHS 163.02 (2).

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

1. 'Lead abatement worker.' For certification as a lead abatement worker, an initial 1-day lead-safe renovation course followed by an initial 1-day lead abatement work course.

2. 'Lead abatement supervisor.' For certification as a lead abatement supervisor, lead abatement worker training under subd. 1. followed by an initial 2-day lead abatement supervision course.

3. 'Lead project designer.' For certification as a lead project designer, lead abatement supervisor training under subd. 2. followed by an initial 1-day lead project designer course.

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

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

2. 'Lead inspector.' For certification as a lead inspector, an initial 1-day lead sampling course followed by an initial 2-day lead inspection course.

3. 'Lead hazard investigator.' For certification as a lead hazard investigator, an initial 1-day lead sampling course followed by an initial 2-day lead hazard investigation course.

4. 'Lead risk assessor.' For certification as a lead risk assessor, an initial 1-day lead sampling course followed by an initial 2-day lead inspection course and an initial 2-day lead hazard investigation course.

(c) *Lead-safe renovator training.* 1. For certification as a lead-safe renovator, an individual shall successfully complete a department-approved initial 1-day lead-safe renovation course.

2. A person who completes training in Wisconsin after October 19, 2009, and is certified as a lead abatement worker or lead abatement supervisor may conduct renovator activities.

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

a. An individual issued initial certification or recertification as a lead abatement supervisor, lead abatement worker, sampling technician, hazard investigator, inspector, project designer or risk assessor shall complete a refresher training course under par. (b) every 2 years, as indicated by the training due date on the certification card.

b. An individual issued initial certification or recertification as a lead-safe renovator shall complete a refresher training course

under par. (b) every 4 years, as indicated by the training due date on the certification card.

2. As a condition for certification, an individual who is not certified shall meet one of the following refresher training requirements:

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

b. An individual whose certification has been expired for 12 months or longer shall complete initial training under sub. (2) (a), (b) or (c) if the last training was completed more than 3 years ago, or a refresher training course under par. (b) if the last training was completed within the past 3 years.

Note: Under s. DHS 163.10 (3) (a), an individual whose certification has been expired for 12 months or longer must apply for initial certification under s. DHS 163.10 (3) to (5), rather than recertification under s. DHS 163.10 (8).

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

a. For certification as a lead abatement worker, a 4-hour lead abatement worker refresher training course.

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

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

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

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

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

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

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

3. 'Refresher training for lead-safe renovator discipline.' For the lead-safe renovator discipline, an individual shall successfully complete a 4-hour lead-safe renovator refresher course approved by the department.

(3m) TRAINING REQUIRED FOR LEAD-SAFE WORKERS. An individual who was certified or trained as a lead-safe worker before October 19, 2009 shall meet the training requirement for certification as a lead-safe renovator by completing lead-safe renovator refresher training under s. DHS 163.11 (3) (b) 3. before April 22, 2011 or completing lead-safe renovation initial training under s. DHS 163.11 (2) (c) 1. after April 22, 2011.

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

History: CR 00-172: cr. Register February 2002 No. 554, eff. 3-1-02; EmR0928: emerg. am. (intro.), (2) (a) 1., (3) (a) 1., 2. b., (b) (title) and 2. a., r. (1) (c) and (d), cr. (2) (c) and (3) (b) 3., eff. 10-16-09; CR 09-085: am. (intro.), (2) (a) 1., (3) (a) 1., 2. b. and (b) (title), r. (1) (c) and (d), cr. (2) (c), (3) (b) 3. and (3m) Register March 2010 No. 651, eff. 4-1-10.

DHS 163.12 Certification of a company. (1) REQUIREMENT. (a) Except as provided under par. (b), a person shall be certified by the department as a lead company under this chapter and shall have appropriately certified staff or shall contract with an appropriately certified individual before it may perform, supervise, advertise, claim to provide or offer to perform or supervise

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a lead hazard reduction activity or a lead investigation activity for which certification is required under s. DHS 163.10 (1).

(am) On or after April 22, 2010, except as provided under par. (b), a person shall be certified by the department as a company under this chapter and shall have appropriately certified staff or shall contract with an appropriately certified individual before it may perform, supervise, advertise, claim to provide or offer to perform or supervise a renovation activity for which certification is required under s. DHS 163.10 (1).

(b) A person is not required to be certified as a company when the person is a homeowner who personally performs regulated activities only on the owner's owner-occupied dwelling unit and the owner-occupied dwelling unit is not occupied by an individual other than the property owner's immediate family.

(1m) COMPANY TYPES. Certification of companies shall be specific to one of the following:

(a) *Lead company.* A lead company as defined under s. DHS 163.03 (66).

(b) *Lead-safe company.* A lead-safe company as defined under s. DHS 163.03 (82).

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

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

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

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

(cm) *Maintain records.* Agree to maintain records as required under s. DHS 163.13 (3).

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

1. Being appropriately certified as a lead abatement supervisor, lead-safe renovator, lead sampling technician, lead hazard investigator, lead inspector, lead project designer or lead risk assessor.

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

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

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

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

am. Whether the application is for a lead company or lead-safe renovation company.

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

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

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

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

f. A statement signed by an owner or officer of the company attesting that the company will employ or contract with only appropriately certified persons when certification is required under this chapter.

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

2. 'Fee.' The application shall include all the following fees:

a. A nonrefundable initial certification fee of \$75.

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

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

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

2. A statement signed by an authorized representative of the agency attesting that the agency will employ or contract with only appropriately certified persons when certification is required under this chapter.

3. A statement signed by an authorized representative of the agency attesting that the agency, its employees and subcontractors will follow the work practice standards in s. DHS 163.14 when conducting activities covered by the work practice standards.

Note: Application and credit card payment forms are available on the department website at www.dhs.wisconsin.gov/lead; email dhsasbestoslead@wisconsin.gov; ph. 608-261-6876; fax 608-266-9711; or Asbestos and Lead Section, Room 137, 1 W. Wilson Street, P.O. Box 2659, Madison, WI 53701-2659.

Note: Submit application and fee, if applicable, to the Asbestos and Lead Section, Room 137, 1 W. Wilson Street, P.O. Box 2659, Madison, WI 53701-2659, or fax to 608-266-9711. For application submitted by fax, payment may be made only by credit or debit charge to a VISA or MasterCard.

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

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

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

(5) EXPIRATION OF COMPANY CERTIFICATION. A company's certification shall expire 2 years after the certification issue date.

(6) RENEWAL OF CERTIFICATION. (a) *Requirement.* No person may perform, supervise, advertise, claim to provide or offer to perform or supervise an activity for which company certification is required under this subchapter after the expiration date of that company's certification. A company shall submit all of the following to the department to apply for recertification before certification expires or within 12 months after certification expires:

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

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

Note: Application and credit card payment forms are available on the department website at www.dhs.wisconsin.gov/lead; email dhsasbestoslead@wisconsin.gov; ph. 608-261-6876; fax 608-266-9711; or Asbestos and Lead Section, Room 137, 1 W. Wilson Street, P.O. Box 2659, Madison, WI 53701-2659.

Note: Submit application and fee to the Asbestos and Lead Section, Room 137, 1 W. Wilson Street, P.O. Box 2659, Madison, WI 53701-2659, or fax to

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608–266–9711. For application submitted by fax, payment may be made only by credit or debit charge to a VISA or MasterCard.

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

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

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

(c) *Length of company renewal of certification.* When the department renews a company certification, the department shall extend the company’s certification 2 years from the date of expiration.

History: CR 00–172: cr. Register February 2002 No. 554, eff. 3–1–02; EmR0928: emerg. am. (title), (1) (b), (2) (intro.), (c), (d), (3) (a) (title), 1. (intro.) to d., f., g., (b) (intro.), (4) (b), (c), (5) (title), (intro.), (6) (a) 1., (b) and (c), cr. (1) (am), (1m), (2) (cm) and (3) (a) 1. am., r. (3) (a) 1. h., (5) (a) and (b), r. and recr. (6) (a) (intro.), eff. 10–16–09; CR 09–085: am. (title), (1) (b), (2) (intro.), (c), (d), (3) (a) (title), 1. (intro.) to d., f., g., (b) (intro.), (4) (b), (c), (5) (title), (intro.), (6) (a) 1., (b) and (c), cr. (1) (am), (1m), (2) (cm) and (3) (a) 1. am., r. (3) (a) 1. h., (5) (a) and (b), r. and recr. (6) (a) (intro.) Register March 2010 No. 651, eff. 4–1–10; correction in (3) (b) 3. made under s. 13.92 (4) (b) 7., Stats., Register March 2010 No. 651.

DHS 163.13 Responsibilities when conducting regulated activity. (1) **MAY NOT REFUSE ENTRY.** No person at a site where a lead company or lead–safe company conducts business or at the site of a current or previously conducted activity regulated under this chapter may refuse entry to any representative of the department acting under the authority of s. DHS 163.30 (3).

(2) **REQUIREMENT FOR VALID CARD ON SITE.** Only a Wisconsin lead certification card is valid in this state for performing an activity regulated under this chapter. Each individual performing or supervising an activity that requires certification under this chapter shall be in possession of a valid unexpired certification card at the job site.

(3) **REQUIREMENT FOR RECORDKEEPING.** (a) *Lead hazard reduction.* A company shall retain all documentation, reports or contracts required under this subchapter for a minimum of 3 years following completion of an activity regulated under this chapter. The company shall maintain the records at the address provided on the company application or as later changed under sub. (12). Records shall be made available for department inspection on site, by mail, or by other means as requested by the department. The company shall retain all of the following records as appropriate to the type of activities the company performs:

1. Any written contract for lead hazard reduction activities conducted by the company.

2. A copy of the final lead abatement report required under s. DHS 163.14 (1) (m) for each lead abatement activity conducted by the company, which shall include a copy of the written project notice, occupant protection plan, description of work activities conducted and final clearance report for the activity.

3. A lead company certificate of approval from the department.

(b) *Lead investigation activities.* A company shall retain all documentation, reports or contracts required under this subchapter for a minimum of 3 years following completion of an activity regulated under this chapter. The company shall maintain the records at the address provided on the company application or as later changed under sub. (12). Records shall be made available for department inspection on site, by mail, or by other means as requested by the department. The company shall retain all of the following records as appropriate to the type of activities the company performs:

1. Any written contract for lead investigation activities conducted by the company.

2. A report prepared under s. DHS 163.14 (5) for each clearance activity conducted by the company, including visual inspection results and dust sampling laboratory results.

3. A report prepared under s. DHS 163.14 (7) for each lead hazard screen conducted by the company, including any XRF testing results and any dust, paint and soil sampling results.

4. A report prepared under s. DHS 163.14 (8) for each lead inspection or partial inspection conducted by the company, including any XRF testing results and any paint or soil sampling laboratory results.

5. A report prepared under s. DHS 163.14 (9) for each lead risk assessment conducted by the company, including any XRF testing results and any dust, paint or soil sampling laboratory results.

6. A lead company certificate of approval from the department.

(c) *Renovation activities.* A company shall retain all documentation, reports or contracts required under this subchapter for a minimum of 3 years following completion of a renovation activity regulated under this chapter. Within 10 working days post–renovation, the company performing the renovation shall provide a copy of each document created for the renovation under this subsection to the persons contracting for, and to any occupants affected by, the renovation. The company shall maintain the records at the address provided on the company application or as later changed under sub. (12). Records shall be made available for department inspection on site, by mail, or by other means as requested by the department. The company shall retain all the following records:

1. Any written contract for renovation activities conducted by the company.

2. Any report from a certified lead inspector, hazard investigator or risk assessor certifying that lead–based paint is not present on components affected by the renovation activity.

3. A signed and dated acknowledgement of receipt of the pre–renovation education pamphlet under s. DHS 163.14 (10).

4. Written certification of delivery of the pre–renovation education pamphlet when the company has been unsuccessful in obtaining written acknowledgement from an adult occupant under s. DHS 163.14 (10).

5. A certificate of mailing when the pre–renovation education pamphlet is sent by U.S. mail under s. DHS 163.14 (10).

6. A signed and dated statement recording steps taken to notify occupants of upcoming paint disturbing activities in common areas under s. DHS 163.14 (10).

7. For each renovation activity conducted by the company, documentation of compliance with the requirements of s. DHS 163.14, including documentation that a certified lead–safe renovator was assigned to the project, that the certified renovator provided on–the–job training for uncertified workers used on the project, that the certified renovator performed or directed workers who performed the renovation work and that the certified lead–safe renovator either performed the visual inspection and cleaning verification after all paint disturbing work was completed or dust clearance sampling was performed as required under s. DHS 163.14 (5) by an appropriately certified individual. This documentation shall include a copy of the certified renovator’s training certificate and a certification signed by the certified renovator assigned to the project and attesting to all of the following:

a. Training was provided to workers, including topics covered for each worker.

b. Warning signs were posted at entrances to the work area.

c. Any interior work area was contained by removing or covering all objects, closing and covering all HVAC ducts, closing all windows, closing and sealing all doors or covering doors that were used for passage to prevent the spread of dust, covering floor surface, including installed carpet, with taped–down plastic sheet–

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ing or other impermeable material to 6 feet beyond the perimeter of surfaces undergoing renovation or a sufficient distance to contain dust, whichever is greater, and installing vertical containment, where necessary, to prevent migration of dust and debris to adjacent areas.

d. Any exterior work area was contained by removing or covering all objects, closing all windows in and within 20 feet of the work area and all windows below the work area, closing and sealing all doors in and within 20 feet of the work area including all doors below the work area, covering the ground with plastic sheeting, other disposable impermeable material or landscape fabric capable of collecting dust and debris anchored to the building extending 10 feet beyond the perimeter of surfaces undergoing renovation or a sufficient distance to collect falling paint debris, whichever is greater, unless the property line prevents 10 feet of such ground covering, weighted down by heavy objects, and installing vertical containment if necessary to prevent migration of dust and debris to adjacent property.

e. Waste was contained onsite and while being transported offsite.

f. The work area was properly cleaned after the renovation by picking up all visible chips and debris, misting protective sheeting, folding it dirty side inward and taping all seams for removal and for interiors, cleaning all work area surfaces and objects using a HEPA vacuum and damp cloths or mops.

g. A certified renovator performed post-renovation cleaning verification, including a brief description of the results and number of wet and dry cloths used.

8. For each employed or contracted worker who is not a certified lead-safe renovator, the company shall maintain documentation of the training provided, including the worker's name, specific topics taught to the worker, the name and department certification number of the instructor for each topic, and the training date for each topic.

9. For each emergency renovation activity conducted by the company for which the company was unable to comply with all of the requirements of this chapter due to emergency conditions, documentation of the nature of the emergency and the provisions of the rule that were not followed.

10. If a recognized test kit is used, the company shall maintain records of, and, within 10 working days of completing renovation activities, provide identifying information to, the person who contracted for the work as to the manufacturer and model of each test kit used, verification that the test kit is recognized by the department, a description of the components tested, including their specific locations, and the result for each location and test kit used.

11. For any renovation for which dust wipe clearance was conducted, the company shall maintain the written clearance report with laboratory results.

12. A company certificate of approval from the department.

(4) REQUIREMENT FOR SUPERVISION OF A WORKER. (a) *Lead hazard reduction activities.* Under s. DHS 163.14 (1) (c), a lead abatement worker shall be directly supervised by a certified lead abatement supervisor when performing abatement.

(b) *Renovation activities.* Under s. DHS 163.14 (11), a certified lead-safe renovator shall be assigned to each renovation and shall be physically present at the work site while warning signs are being posted, work area containment is being established, and work area cleaning is being performed. The certified lead-safe renovator shall ensure continuous maintenance of containment areas and use of lead-safe work practices by workers during renovation. When not on site, the certified lead-safe renovator shall be readily available by telephone and able to return to the worksite within a reasonable time, approximately 30 minutes.

(5) REQUIREMENT FOR WRITTEN CONTRACT. A company shall have a written contract for all regulated activities performed for compensation on property not owned or controlled by the company conducting the work. The contract shall specify the activi-

ties to be performed, comply with s. ATCP 110.05 and include the following:

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

(b) For a lead hazard reduction activity or when clearance sampling will be conducted after a renovation activity, a statement regarding who is responsible for paying additional cleanup and clearance costs if clearance is not met.

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

1. The extent of the investigation and any limitations.

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

a. Treat the paint as lead-based paint unless the paint is proven to be lead-free.

b. Take a paint chip sample for submission to a recognized laboratory for testing.

c. Test the paint with an XRF.

(e) For a lead-free inspection or a lead-safe investigation, what action will be taken if the property is found ineligible for the certificate being sought.

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

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

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

2. 'Responsibility for certification card.' a. The individual shall retain the certification card until the card expires, shall have it physically present when performing or supervising a regulated activity and shall make the certification card available for inspection upon request by the department or the public.

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

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

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

2. 'Responsibility for certificate of approval.' a. Each certified company performing, supervising or offering to perform or supervise an activity regulated under this chapter shall retain the certificate of approval for the duration of certification and shall make it available for inspection upon request by the department or the public.

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

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

(7) RESPONSIBILITY FOR TRAINING AND CERTIFICATION. (a) *Certification for regulated lead hazard reduction and lead investigation activities.* The company conducting a regulated lead hazard reduction or lead investigation activity shall be a certified lead company and shall verify the certification status of all individuals who will perform or supervise those activities before the start of the activity and may not use individuals who lack the required certification.

(b) *Training and certification for regulated renovation activities.* The company conducting a regulated renovation activity shall be a certified lead-safe company or certified lead company and shall verify that individuals who will perform renovation activities are either certified lead-safe renovators or have been properly trained by a certified lead-safe renovator in accordance with s. DHS 163.14 (11) on the work practices they will use to perform their assigned tasks. A certified lead abatement worker or lead abatement supervisor who completed department-approved lead-safe renovator, lead abatement worker or lead abatement supervisor refresher training after October 19, 2009 is also qualified to perform the duties of a certified lead-safe renovator.

(c) *Certified lead-safe renovator assigned.* The company conducting a regulated renovation activity shall assign a certified lead-safe renovator to each regulated activity who shall discharge all certified lead-safe renovator responsibilities identified in this chapter. A certified lead abatement worker or lead abatement supervisor who completed department-approved lead-safe renovator, lead abatement worker or lead abatement supervisor refresher training after October 19, 2009 is also qualified to perform the duties of a certified lead-safe renovator.

(8) SUMMARY OF LEAD INVESTIGATION ACTIVITIES. (a) *Requirement for summary.* Except when an elevated blood lead investigation is conducted or a certificate of lead-free status or lead-safe status is issued as the result of the lead investigation activity, persons certified to perform lead investigation activities shall submit to the department a summary of regulated lead investigation activities conducted on a form obtained from or approved by the department. If no regulated activities are conducted in a quarter, the report shall be filed to show no activity.

Note: Information about elevated blood lead investigations will be collected from reports submitted to the Wisconsin Childhood Lead Poisoning Prevention Program and information about lead-free inspections and lead-safe investigations will be collected through the registration of lead-free and lead-safe certificates.

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

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

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

1. Date the lead investigation activity was conducted.
2. Street address and city or fire address of the dwelling or child-occupied facility where the lead investigation was conducted.

3. Name and lead certification identification number of the individual or individuals conducting the lead investigation activity.

4. Type of lead investigation activity conducted.

5. The result of the lead investigation activity.

Note: Summary forms are available on the department website at www.dhs.wisconsin.gov/lead, email dhsasbestoslead@wisconsin.gov; ph. 608-261-6876; fax 608-266-9711; or Asbestos and Lead Section, Room 137, 1 W Wilson St, P.O. Box 2659, Madison WI 53701-2659. Return completed summary forms to the same office.

(9) WORK CONDUCT. Individuals and companies conducting activities regulated under this chapter, and all persons working under their supervision, shall conduct activities in a manner that does not increase the hazards from lead-based paint and shall comply with the work practice standards under s. DHS 163.14.

(10) ASSOCIATION WITH A CERTIFIED COMPANY. (a) An individual shall be associated with a certified lead company under s. DHS 163.12 by ownership, contract or employment before the individual may perform, supervise or offer to perform or supervise a lead hazard reduction or lead investigation activity regulated under this chapter.

(b) An individual shall be associated with a certified lead-safe company or lead company under s. DHS 163.12 by ownership, contract or employment before the individual may perform, supervise or offer to perform or supervise a renovation activity regulated under this chapter.

(11) PRE-RENOVATION EDUCATION. A company shall ensure that the pre-renovation education requirements under s. DHS 163.14 (10) are met before each renovation activity to be performed, except that the pre-renovation information distribution requirements do not apply to emergency renovations.

(12) NOTIFICATION OF COMPANY CHANGE. The company shall notify the department in writing at least 10 working days before any of the following:

- (a) The company name or address changes.
- (b) The company ownership changes.

History: CR 00-172: cr. Register February 2002 No. 554, eff. 3-1-02; EmR0928: emerg. am. (title), (1), (2), (5) (intro.), (a), (b), (6) (b) 1., 2. a. to c., (7) (title) and (9), renum. (3), (4) and (7) to be (3) (a) (intro.), (4) (a) and (7) (a) and am., cr. (3) (a) 1. to 3., (b), (c), (4) (b), (7) (b), (c), (10) to (12), r. (5) (c), eff. 10-16-09; CR 09-085: am. (title), (1), (2), (5) (intro.), (a), (b), (6) (b) 1., 2. a. to c., (7) (title) and (9), renum. (3), (4) and (7) to be (3) (a) (intro.), (4) (a) and (7) (a) and am., cr. (3) (a) 1. to 3., (b), (c), (4) (b), (7) (b), (c), (10) to (12), r. (5) (c) Register March 2010 No. 651, eff. 4-1-10.

DHS 163.14 Work practice standards. **(1) ABATEMENT ACTIVITIES.** (a) *Who may conduct.* When certification is required, an individual shall be certified as a lead abatement supervisor and associated with a certified lead company in order to supervise and perform abatement activities involving target housing or child-occupied facilities. A person who is certified as a lead abatement worker and associated with a certified lead company may perform abatement activities only under the supervision of a certified lead abatement supervisor.

(b) *Abatement protocol.* In supervising or performing abatement, certified persons shall use documented methodologies to conduct work in a lead-safe manner that does not create lead-based paint hazards to the occupants, including work practices that limit the creation of dust and prevent the spread of dust, debris and paint chips outside of the work area, and shall comply with all requirements under pars. (c) to (L).

(c) *Requirement for supervision.* When a lead abatement worker performs an abatement activity, a lead abatement supervisor shall provide direct onsite supervision.

(d) *Requirement for ensuring compliance.* A certified lead abatement supervisor and the certified lead company associated with that individual shall ensure that all abatement activities are conducted according to the requirements of this section and all applicable federal, state and local government requirements.

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Note: Refer to Appendix A for information on obtaining applicable federal, state and local government requirements.

(e) *Requirements to protect occupants.* Documented methodologies and the following work practice requirements shall be used to protect occupants when abatement is conducted:

1. 'Prevent distribution of dust and debris.' Measures shall be taken to prevent the distribution of dust and debris outside the abatement area, including demarcating the abatement area with signs, tape or plastic sheeting or conducting abatement in containment. For exterior abatement, landscape fabric capable of collecting dust-lead and debris may be used for a ground cover in lieu of plastic.

2. 'Protect personal property.' Measures shall be taken to protect all personal property in the work area from contamination by dust and debris.

3. 'Restrict access.' a. Except as provided under subd. 3. b. or c., uncertified persons shall be kept out of the abatement area until the area is cleaned, containment and abatement materials removed, and a visual inspection successfully completed. If access is granted before clearance has been successfully achieved, a notice shall be posted that states: "This worksite has not yet met clearance requirements. Lead-based paint hazards may be present."

b. After an abatement activity is conducted, a certified lead-safe worker may enter the abatement area to conduct a non-abatement lead-based paint activity, such as repainting, provided that the lead-safe worker follows documented methodology and maintains occupant protection.

c. When abatement involves activities subject to work practice restrictions under sub. (4) (a) or (b), uncertified persons and persons who are not certified as lead abatement workers or lead abatement supervisors shall be kept out of the abatement area until clearance is achieved.

4. 'Prepare an occupant protection plan.' Before starting an abatement project, a certified lead abatement supervisor or project designer shall prepare a written occupant protection plan on a form obtained from or approved by the department. The plan shall be specific to the abatement and to each dwelling or child-occupied facility involved. The plan shall describe the measures and management procedures that will be taken during the abatement project to protect the building occupants from exposure to lead-based paint hazards. The occupant protection plan shall be followed by all lead company staff and kept at the job site for viewing by interested persons.

5. 'Distribute occupant protection plan.' a. When abatement involves restricted work practices used in common areas, staff from the certified lead company shall deliver the occupant protection plan to each occupied dwelling unit no later than 2 working days before starting the activity and shall document delivery.

b. When abatement involves restricted work practices used in individual dwelling units, staff from the certified lead company shall deliver the occupant protection plan to each occupied dwelling unit involved in the activity no later than 2 working days before starting the activity and shall document delivery.

c. When the abatement is not performed by the property owner or the property owner's agent or employee, a copy of the occupant protection plan shall also be delivered to the property owner or the property owner's agent or employee.

d. When the occupant protection plan is delivered via mail, it shall be mailed at least 7 days before the start of the abatement and shall be documented by a certificate of mailing from the post office.

(f) *Requirement to follow work practice restrictions.* When abatement is conducted that involves a restricted work practice under sub. (4), the certified lead company and lead abatement supervisors involved in performing the activity shall ensure that restricted work practice standards are followed.

(g) *Requirements when soil abatement is conducted.* 1. If soil is removed, any replacement soil shall have a lead concentration of less than 400 parts per million and shall comply with ch. NR 720 as applicable. The soil that is removed shall not be used as topsoil at another dwelling or child-occupied facility.

2. If the soil abatement does not involve removal of soil-lead, the soil shall be permanently covered by a barrier consisting of solid, relatively impermeable materials, such as asphalt or concrete.

(h) *Requirement for notification to the department.* Before conducting abatement, a certified lead abatement supervisor shall provide notice to the department under sub. (2).

(i) *Requirement to clean up the work area.* Documented methodologies shall be followed to clean the work area and any other affected area of the property at the end of each day's work and when all work has been completed.

Note: For one documented methodology that may be followed to clean up the work area, refer to Appendix C for Chapter 14 of HUD's "Guidelines for the Evaluation and Control of Lead-Based Paint Hazards".

(j) *Requirement for a visual inspection.* Following cleanup of the work area, a certified lead abatement supervisor shall conduct a visual inspection to verify that any dust, debris or paint chips created by the activity have been removed and that the visual inspection is passed before access to the area is allowed.

(k) *Requirement for management of wastewater, air emissions and solid waste.* 1. Discharge of wastewater shall be managed in accordance with chs. NR 105, 106 and 200 to 299.

2. Air emissions shall be managed in accordance with chs. NR 404, 415, 429 and 445.

3. After a lead-based paint activity is conducted, all lead-based paint debris and waste shall be managed in accordance with chs. NR 500 to 538 and 660 to 679.

Note: Refer to Appendix D for guidance from the Department of Natural Resources on managing lead-based paint under their regulations.

(L) *Requirement for clearance.* The lead abatement supervisor shall arrange for final clearance under sub. (5) to be conducted as soon as possible following abatement. The abatement is not complete until a certified lead hazard investigator, inspector or risk assessor declares in writing that all clearance levels are met.

(m) *Requirement for written report.* Within 10 working days after receiving the clearance report, but no later than 20 working days following completion of abatement, a certified lead abatement supervisor or project designer shall submit a written report to the person who contracted for the abatement. The report shall include all of the following:

1. Start and end dates of the project if different from the dates on the notice to the department.

2. A copy of the written notice to the department under sub. (2).

3. Name, address, telephone number and certification number of each certified lead company involved in the project and the name and certification number of each lead abatement supervisor assigned to the project to the extent that information is not included on the written notification under sub. (2).

4. The occupant protection plan that was prepared prior to the project.

5. A copy of the clearance report under sub. (5) (c) 9.

6. A detailed written description of the lead abatement project, including the abatement activities conducted, locations of rooms or living areas and components where abatement occurred, reason for selecting the particular method used for each component and any suggested monitoring of encapsulants or enclosures.

Note: Rather than repeating information already located elsewhere, the abatement report may include other documents that contain required information, such as an order, contract or abatement notice. For example, to provide a detailed description of the abatement, orders issued by a public health agency may be attached and variances from the order described in the report.

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(2) ABATEMENT NOTIFICATION TO THE DEPARTMENT. (a) *Timing of notice.* The lead abatement supervisor shall submit notification for receipt by the department as follows:

1. For an original notice of abatement, written notification not less than 2 working days before the start of the activity.

2. In an emergency where a health risk warrants immediate action, written or verbal notification before the start of the activity.

3. To change the project start date on an existing notice, written or verbal revised notification not less than 2 working days before the activity begins if the new start date is earlier than the original start date or a minimum of one working day before the original start date if the new start date is later than the original start date.

4. To change the project end date on an existing nonemergency notice, written or verbal revised notification as soon as the change is determined, but no later than the original end date.

(b) *Written notification.* 1. 'Form for written notification.' Written notification shall be on the department's notification form or on a form approved by the department and shall include all of the following information:

a. Project details, including the start and end dates, work shifts or hours, project activities, quantity of lead-based paint materials in the project, and whether the project was ordered, affected by HUD requirements, or involved registered lead-safe property or property applying for a certificate of lead-free status or lead-safe status.

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

c. Lead company details, including name, certification number, address, contact person and telephone number.

d. Facility or dwelling details, including type, occupancy, location, including street address, contact person and contact person's telephone number and current owner and current owner's telephone number.

2. 'Acceptable methods for submitting written notification.' Written notification may be sent by U.S. mail, commercial carrier, fax, e-mail, or another method approved by the department.

3. 'Official date of written notification.' The official date of a written notification shall be the date on the department's date of receipt stamp. A notification received after 4:00 p.m. shall be dated as received the next working day.

4. 'Rejection of notification.' The department may reject a notification that is illegible or incomplete.

Note: Department notification forms are available on the department website at www.dhs.wisconsin.gov/lead; email dhsasbestoslead@wisconsin.gov; ph. 608-261-6876; fax 608-266-9711; or Asbestos and Lead Section, Room 137, 1 W. Wilson Street, P.O. Box 2659, Madison, WI 53701-2659. dhsasbestoslead@wisconsin.gov.

Note: Submit notifications to the Asbestos and Lead Section, Room 137, 1 W. Wilson Street, P.O. Box 2659, Madison, WI 53701-2659, fax 608-266-9711 or email dhsasbestoslead@wisconsin.gov.

(c) *Verbal notification.* 1. 'Acceptable methods for submitting verbal notification.' For emergency or revised notification, verbal notification may be made by telephone or in person and shall include all of the following information:

a. Start and end dates.

b. Name and certification number of the lead company conducting the activity.

c. Location, including street address, of the dwelling or facility where the activity will be conducted.

2. 'Official date of verbal notification.' The official date of a verbal notification shall be the date a department representative receives the verbal notification.

3. 'Written follow-up to verbal notification.' When verbal notification is given, the lead abatement supervisor shall also submit a written notification under par. (b) within 2 working days after the date of the verbal notification.

Note: To submit verbal notification, phone 608-261-6876 or deliver in person to Room 137, 1 W. Wilson Street in Madison, and send the follow-up written notice to the Asbestos and Lead Section, Bureau of Occupational Health, P.O. Box 2659, Madison, WI 53701-2659.

(3) ABATEMENT WORK PRACTICES THAT ARE PROHIBITED. All of the following work practices are prohibited when performing abatement:

(a) Uncontained abrasive blasting or uncontained sandblasting.

(b) Machine sanding, grinding or planing without a properly operating HEPA-filtered exhaust control.

(c) Manual dry scraping, sanding or planing of more than 2 square feet of paint.

(d) Using chemical paint strippers containing methylene chloride.

(e) Uncontained high-pressure water blasting or uncontained hydroblasting.

(f) Open-flame burning, torching or charring of paint.

(g) Operating a heat gun on paint at or above 1100° F.

(h) Using a vacuum that does not have a properly operating HEPA filter when cleaning up lead-contaminated dust, debris or paint chips.

(i) Dry sweeping when cleaning up lead-contaminated dust, debris or paint chips.

(4) ABATEMENT WORK PRACTICES THAT ARE RESTRICTED. A certified person conducting any of the following abatement activities shall comply with the specific work practice restrictions for the activity:

(a) *Abrasive blasting or sandblasting.* When a certified person conducts abrasive blasting of paint or sandblasting of paint, he or she shall do all of the following:

1. Prohibit access of uncertified persons to the abatement area until clearance is achieved.

2. Use containment to isolate abatement areas from the rest of the property.

(b) *Machine chipping, grinding, planing or sanding.* When a certified person conducts machine chipping, machine grinding, machine planing or machine sanding of paint, he or she shall do all of the following:

1. Prohibit access of uncertified persons to the abatement area until clearance is achieved.

2. Use engineering controls that contain the dust and debris and that include the use of a properly operating HEPA-filtered exhaust control, such as a shrouded power tool attached to a HEPA vacuum.

3. Use containment for interior work to isolate abatement areas from the rest of the property.

(c) *Paint stripping.* When a certified person conducts chemical paint stripping, he or she shall follow the manufacturer's directions and may not use chemical strippers that contain methylene chloride.

Note: Using a chemical paint stripper to remove lead-based paint from a component may force lead into the substrate. Lead-safe work practices should be used when abrading a component from which lead-based paint has been chemically stripped.

(d) *Power washing.* When a certified person conducts power washing of paint, he or she shall use a containment system to prevent the wastes generated from contaminating soils or surface waters or from becoming airborne and dispersing. The certified person shall separate paint chips and other solid residues from the water, and collect and properly manage the paint chips and other solid residues.

Note: Some local governments prohibit power washing. OSHA and DNR also have regulations that apply to power washing.

(e) *Removing a painted component.* When, in removing any painted component, excluding removal of painted trim that is not part of a window system or part of a door system, a certified person disturbs more than 2 square feet of lead-based paint, he or she

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shall use containment to isolate abatement areas from the rest of the property.

(f) *Using a heat gun.* When a certified person removes paint with a heat gun, he or she shall operate the heat gun at a temperature below 1100° F.

(5) **CLEARANCE.** (a) *Who may conduct.* 1. A certified lead hazard investigator, inspector or risk assessor may conduct clearance for any lead hazard reduction or renovation activity.

2. A lead sampling technician may conduct clearance for renovation or interim control activities.

3. The certified individual conducting clearance shall be associated with a certified lead company.

(b) *Prohibitions on who may conduct.* The person conducting clearance may not do any of the following:

1. Be the company or associated by employment, contract or other agreement with the company that performs or pre-cleans the lead hazard reduction or renovation activity being cleared.

2. Communicate to others the location where clearance dust wipes will be collected.

3. Be the property owner, an immediate family member, agent or employee of the property owner.

4. Be a company or associated with a company that is directly or beneficially owned, controlled or managed by the property owner, or by an immediate family member, agent or employee of the property owner.

5. Be a person hired by or under contract with, or authorized by, the property owner to manage or maintain the property owner's real property as directed by the property owner.

6. Be a person who has a financial interest in the laboratory results of the sampling.

(c) *Clearance protocol.* In performing clearance, the certified lead hazard investigator, inspector, risk assessor or sampling technician shall comply with all of the following in an unbiased, objective and impartial manner:

1. 'Visual inspection of work.' Perform a visual inspection to determine if work specified in any contract, work plans, orders or other specifications has been completed and if any visible amounts of dust, debris or residue are present. If work has not been completed or if visible amounts of dust, debris or residue are present, the person who performed the activity being cleared shall eliminate these conditions prior to the continuation of the clearance procedures.

2. 'Timing of sampling.' Following a successful visual inspection and a minimum of one hour after completion of final cleanup activities, conduct clearance sampling for dust-lead by collecting single-surface dust samples using documented methodologies that incorporate adequate quality control procedures.

3. 'Location of sampling for work conducted in containment.'

a. In at least 4 rooms, hallways, stairwells or other living areas within the containment area, collect one dust sample from one interior windowsill or one window trough, if available, and one dust sample from the floor. If there are fewer than 4 rooms, hallways, stairwells or other living areas within the containment area, collect samples from one interior windowsill or one window trough, if available, and one dust sample from the floors of all rooms, hallways, stairwells or other living areas within containment.

b. Collect one dust sample from the floor of a common area within containment for every 2,000 square feet of floor, and one dust sample from the floor of a common area outside containment. The dust sample taken outside containment shall be collected within 10 feet of the containment doorway.

4. 'Location of sampling for work conducted without containment.'

a. In at least 4 rooms, hallways, stairwells or other living areas in or near the work area, collect one dust sample from one interior windowsill or one window trough, if available, and

one dust sample from the floor. If there are fewer than 4 rooms, hallways, stairwells or other living areas within the residential dwelling or child-occupied facility, collect samples from one interior windowsill or one window trough, if available, and one dust sample from the floors of all rooms, hallways, stairwells or other living areas.

b. Collect one dust sample from the floor of a common area for every 2,000 square feet of floor.

5. 'Random sampling in multi-family dwellings.' Following an interior activity in a multi-family dwelling with similarly constructed and maintained dwelling units, conduct random sampling for purposes of clearance provided that:

a. The persons who perform the activities, including cleanup, do not know which dwelling units will be selected for the random sample.

b. A sufficient number of dwelling units are selected for dust sampling to provide a 95% level of confidence that at least 95% of all dwelling units would pass clearance if all dwelling units were sampled. In a housing complex with more than 1,000 dwelling units, no sampled dwelling unit may fail clearance and a sufficient number of dwelling units shall be selected for dust sampling to provide a 95% level of confidence that no more than 5% of all dwelling units or 50 dwelling units, whichever is smaller, would fail clearance if all dwelling units were sampled.

Note: For assistance in selecting the correct sample size, refer to Appendix E of this chapter.

c. The randomly selected dwelling units are sampled and evaluated for clearance according to the procedures found in par. (c).

6. 'Visual inspection of exterior work area.' Following an exterior activity, conduct a visual inspection. If visible dust or debris is present on horizontal surfaces in the outdoor common area closest to the work surface, such as a porch, patio, deck, sidewalk or stoop, the person who performed the activity being cleared shall eliminate these conditions before clearance may continue. In addition, conduct a visual inspection to determine the presence of paint chips on the dripline, next to the foundation, or any other surface below any exterior surface involved in the activity. If paint chips are present, the person who conducted the activity being cleared shall remove the paint chips from the site and properly dispose of them according to applicable federal, state and local government requirements.

7. 'Laboratory analysis.' Have collected samples analyzed by a recognized laboratory to determine the detectable levels of lead that can be quantified numerically.

8. 'Interpretation of laboratory results.' Compare the residual lead level from each dust sample, as determined by laboratory analysis, with the applicable clearance level for lead in dust on floors, interior windowsills and window troughs. If the residual lead level in a dust sample equals or exceeds the applicable clearance level, all of the components represented by the failed sample shall be recleaned or sealed by the person who conducted the activity being cleared and retested by the person conducting clearance until clearance levels are met. For dust wipe samples taken during clearance, clearance is achieved when the laboratory result for a sample is less than the following:

a. Forty micrograms per square foot (40 µg/ft²) on a floor.

b. Two hundred fifty micrograms per square foot (250 µg/ft²) on an interior windowsill.

c. Four hundred micrograms per square foot (400 µg/ft²) on window wells or troughs.

9. 'Preparation of report following clearance of activities involving abatement.' Within 10 working days after clearance of activities involving abatement or within 10 working days after receipt of any required laboratory results, whichever is later, prepare a written clearance report for submission to the person who conducted the activities being cleared and to the property owner

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or the person who contracted for the clearance. The report shall include all of the following information:

- a. Date and time of the clearance.
 - b. Address of the job site, including street address and unit number when applicable.
 - c. Name, address, telephone number and certification number of each individual and lead company conducting the clearance and signature of each certified lead hazard investigator, inspector, risk assessor or sampling technician.
 - d. The results of clearance testing, the specific locations on the property where clearance samples were taken and, if applicable, all soil analyses and the name, address and telephone number of each recognized laboratory that conducted the analyses.
 - e. The results of the visual inspection for the presence of visible dust, debris, residue or paint chips and, when applicable, the presence of deteriorated paint that is not proven to be lead-free.
10. 'Preparation of report following clearance of interim controls or renovation activities.' Within 10 working days after clearance of interim controls or renovation activities or within 10 working days after receipt of any required laboratory results, whichever is later, prepare a written clearance report for submission to the person who conducted the activities being cleared and to the property owner or the person who contracted for the clearance. The report shall include all of the following information:
- a. All information under subd. 9.
 - b. The start and completion dates of the non-abatement lead-based paint activity.
 - c. The name and address of each company conducting the interim controls or renovation activities.
 - d. The name and department certification number of the person in charge of the work.
 - e. A description of the interim controls or renovation activities.
11. 'Submission of clearance results involving registered lead-safe property.' Within 10 working days after receipt of clearance results involving a registered lead-safe property, the certified person who conducted the clearance shall submit all of the following clearance information to the department on a form obtained from the department:
- a. The registered lead-safe property identification number as shown on the lead-safe certificate.
 - b. The address of the property as shown on the lead-safe certificate.
 - c. The name and lead certification identification number of the primary person who conducted the clearance.
 - d. The name and department-issued lead identification number of the recognized laboratory that processed the clearance samples.
 - e. The clearance results as reported by the recognized laboratory.

Note: A list of recognized laboratories is available on the department website at www.dhs.wisconsin.gov/lead. Request a copy of the clearance form or submit a completed form to Asbestos and Lead Section, Room 137, 1 W Wilson St, P.O. Box 2659, Madison WI 53701-2659; email dhsasbestoslead@wisconsin.gov; ph. 608-261-6876 or fax 608-266-9711.

(6) ELEVATED BLOOD LEAD INVESTIGATION. (a) *Who may conduct.* Only a certified lead hazard investigator or risk assessor may perform an elevated blood lead investigation.

(b) *Elevated blood lead investigation protocol.* An elevated blood lead investigation in response to a child with lead poisoning shall be conducted according to documented methodologies consistent with funding criteria and guidance issued to public health agencies by the department.

(7) LEAD HAZARD SCREEN. (a) *Who may perform.* Only a certified lead hazard investigator or risk assessor associated with a certified lead company may perform a lead hazard screen involving target housing or a child-occupied facility. Under direct on-site

supervision of a certified lead hazard investigator or risk assessor, a certified lead inspector or sampling technician may assist with a lead hazard screen.

(b) *Lead hazard screen protocol.* In performing a lead hazard screen, the certified lead hazard investigator or risk assessor shall comply with all requirements under pars. (c) to (g).

(c) *Background information.* Collect background information on the physical characteristics of the residential dwelling or child-occupied facility and occupant use patterns that may cause lead-based paint exposure to a child under 6 years of age.

(d) *Deteriorated paint.* Conduct a visual inspection of the real property to determine if any deteriorated paint is present. Treat deteriorated paint as lead-based paint unless the paint is proven to be lead-free. If a contract under s. DHS 163.13 (5) (d) specifies that sampling for the presence of lead-based paint should be conducted, do all of the following:

1. Use documented methodologies that incorporate adequate quality control procedures to test each surface with deteriorated paint that the hazard investigator or risk assessor determines is in poor condition and has a distinct paint history.

2. Have all collected paint chip samples analyzed by a recognized laboratory to determine if they contain detectable levels of lead that can be quantified numerically.

3. Determine that lead-based paint is present if the laboratory results are equal to or greater than 0.06% lead by weight or that lead-based paint is not present if the laboratory results are less than 0.06% lead by weight.

Note: Refer to s. DHS 163.03 (29) for documented methodologies.

(e) *Dust-lead.* 1. Collect 4 dust samples from the floors and 4 dust samples from the windows, in rooms, hallways, stairwells or other living areas where a child under 6 years of age is most likely to come into contact with dust.

2. In multi-family dwellings and child-occupied facilities, collect dust samples from common areas where a child under 6 years of age is most likely to come into contact with dust in addition to samples collected under subd. 1.

3. Collect all dust samples by using documented methodologies that incorporate adequate quality control procedures.

4. Have all collected dust samples analyzed by a recognized laboratory to determine if they contain detectable levels of lead that can be quantified numerically.

(f) *Lead-based paint hazards.* Evaluate the results of the lead hazard screen against the lead-based paint hazard levels under s. DHS 163.15 to determine whether a lead-based paint hazard is present.

(g) *Written report.* Within 10 working days after a lead hazard screen or receipt of any required laboratory results, whichever is later, prepare a written lead hazard screen report for submission to the person who contracted for the lead hazard screen. The report shall include all of the following information:

1. Date of the lead hazard screen.
2. Address of each building screened.
3. Date of construction of buildings.
4. Apartment number of units screened, if applicable.
5. Name, address and telephone number of each current owner of each building.
6. Name, address, telephone number, certification number and signature of each certified individual participating in the lead hazard screen.
7. Name, address, telephone number and certification number of the certified lead company conducting the lead hazard screen.
8. Name, address and telephone number of each recognized laboratory conducting analysis of collected samples.
9. Background information collected under par. (c).
10. Results of the visual inspection.

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11. Description of testing method and sampling procedure used for paint analysis.

12. Specific locations of each painted component tested for the presence of lead.

13. All data collected from on-site testing, including quality control data and, if used, the serial number of any XRF.

14. All results of laboratory analysis on collected paint, soil and dust samples.

15. Any other sampling results.

16. Recommendations, if warranted, for a follow-up risk assessment and, as appropriate, any further actions.

(8) LEAD INSPECTION. (a) *Who may conduct.* Only a certified lead inspector or risk assessor associated with a certified lead company may perform an inspection involving target housing or a child-occupied facility. Under direct on-site supervision of a certified lead inspector or risk assessor, a certified lead hazard investigator or sampling technician may assist with an inspection, but may not use an XRF.

(b) *Inspection protocol.* In performing an inspection, the certified lead inspector or risk assessor shall comply with all requirements under pars. (c) to (f).

(c) *Locations to test for lead-based paint.* Select the following locations by using documented methodologies and test for the presence of lead-based paint:

1. In a dwelling or child-occupied facility, test each interior component with a distinct paint history and each exterior component with a distinct paint history.

2. In a multi-family dwelling or child-occupied facility, also test each component with a distinct paint history in every common area.

3. When a person requests a partial inspection for purposes of identifying lead-based paint in an area to be renovated or remodeled, select locations that fall within that area in accordance with subd. 1. or 2. The inspection shall be based on a written contract under s. DHS 163.13 (5) that specifies the limits of the partial inspection. A partial inspection may not be conducted when a certificate of lead-free status is being sought.

Note: Refer to s. DHS 163.03 (29) for documented methodologies.

(d) *Paint analysis.* Conduct paint analysis by using one or both of the following methods:

1. Analyze paint to determine the presence of lead by using documented methodologies that incorporate adequate quality control procedures.

2. Have all collected paint chip samples analyzed by a recognized laboratory to determine if they contain detectable levels of lead that can be quantified numerically.

(e) *XRF requirements.* When using an XRF, a certified lead inspector or risk assessor shall be trained to operate the specific model of XRF being used and shall do all of the following:

1. Comply with radiation protection requirements under ch. DHS 157.

2. Replace the radiation source of the XRF according to recommendations from the manufacturer.

3. Warm up the XRF according to recommendations from the manufacturer or documented methodologies.

4. Conduct calibration checks according to recommendations from the manufacturer or documented methodologies.

5. Conduct substrate corrections when required.

6. If the XRF provides an inconclusive reading according to the performance characteristics sheet for the make and model of XRF used, assume the painted surface with the inconclusive reading contains lead-based paint unless sampling is required by contract. If a contract under s. DHS 163.13 (5) (d) specifies that sampling for the presence of lead-based paint should be conducted, conduct further testing or sampling and determine that lead-based paint is present if the laboratory results are equal to or greater than

0.06% lead by weight or that lead-based paint is not present if the laboratory results are less than 0.06% lead by weight.

7. Except as specified under subd. 6., evaluate the results of each XRF reading as follows:

a. If the XRF reading is positive or equal to or in excess of 0.7 milligram per square centimeter, determine that lead-based paint is present.

b. If the XRF reading is negative, determine that lead-based paint is not present.

(f) *Written report.* Within 10 working days after an inspection or receipt of any required laboratory results, whichever is later, prepare a written inspection report for submission to the person who contracted for the inspection. The report shall include all of the following information:

1. Date of the inspection.

2. Address of building inspected.

3. Date of construction of the building.

4. Apartment numbers of units inspected, if applicable.

5. Name, address and telephone number of the current owner of each residential dwelling or child-occupied facility.

6. Name, address, telephone number, certification number and signature of each certified individual participating in the inspection.

7. Name, address, telephone number and certification number of the certified lead company conducting the inspection.

8. Each testing method and device and each sampling procedure used for paint analysis, including quality control data and, if used, the serial number of any XRF.

9. Specific locations of each painted component tested for the presence of lead-based paint.

10. The results of the inspection expressed in terms appropriate to the sampling method used.

(9) RISK ASSESSMENT. (a) *Who may conduct.* Only a certified lead hazard investigator or risk assessor associated with a certified lead company may perform a risk assessment involving target housing or a child-occupied facility. Under direct on-site supervision of a certified lead hazard investigator or risk assessor, a certified lead inspector or sampling technician may assist with a risk assessment.

(b) *Risk assessment protocol.* A certified lead hazard investigator or risk assessor shall perform a risk assessment according to all the requirements under pars. (c) to (k).

(c) *Presence of lead-based paint.* Treat all painted surfaces as lead-based paint unless the paint is proven to be lead-free. If a contract under s. DHS 163.13 (5) (d) specifies that sampling for the presence of lead-based paint should be conducted, select and test all of the following locations for the presence of lead-based paint by using documented methodologies:

1. Each surface with deteriorated paint that is determined to have a distinct paint history.

2. Each interior windowsill determined to have a distinct painting history.

3. Any other surface that is determined to be a potential lead-based paint hazard and to have a distinct paint history.

Note: Refer to s. DHS 163.03 (29) for documented methodologies.

(d) *Background information.* Collect background information on the physical characteristics of the residential dwelling or child-occupied facility and occupant use patterns that may cause lead-based paint exposure to a child under 6 years of age.

(e) *Visual inspection.* Conduct a visual inspection for risk assessment of the residential dwelling or child-occupied facility to locate the existence of deteriorated paint that is not proven to be lead-free, assess the extent and causes of the deterioration and identify other potential lead-based paint hazards.

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(f) *Dust sampling.* 1. 'Dwellings.' In dwellings, collect single-surface dust samples from the interior windowsill and floor in each of the following locations:

a. The floor where a child under 6 years of age is likely to come into contact with dust, including play areas within rooms, high-traffic walkways, room midpoints and areas underneath windows, in each room or area where a child under 6 years of age is likely to come into contact with dust.

b. The interior windowsill of the window that is most frequently operated or most frequently contacted by children under 6 years of age in each room or area where a child under 6 years of age is likely to come into contact with dust.

c. Common areas adjacent to the sampled residential dwelling.

d. Other common areas in the building where the hazard investigator or risk assessor determines that a child under 6 years of age is likely to come into contact with dust.

2. 'Child-occupied facilities.' For child-occupied facilities, collect single-surface dust samples from the interior windowsill and floor in each of the following locations:

a. Each room, hallway or stairwell used by a child under 6 years of age.

b. Common areas adjacent to the sampled child-occupied facility.

c. Other common areas in the child-occupied facility where the hazard investigator or risk assessor determines that a child under 6 years of age is likely to come into contact with dust.

(g) *Soil sampling.* Unless assessment of the lead concentration in soil is specifically excluded by a written contract, collect soil samples for analysis of lead concentrations in all of the following locations:

1. Exterior play areas where bare soil is present.
2. The rest of the yard where bare soil is present.
3. Dripline and foundation areas where bare soil is present.

(h) *Documented methodologies.* Conduct any paint, dust or soil sampling or testing using documented methodologies that incorporate adequate quality control procedures.

(i) *Analysis by recognized laboratory.* Have any collected paint chip, dust or soil samples analyzed by a recognized laboratory to determine if they contain detectable levels of lead that can be quantified numerically.

(j) *Presence of a lead-based paint hazard.* Determine whether a lead-based paint hazard is present under s. DHS 163.15.

(k) *Written report.* Within 10 working days after a risk assessment or receipt of any required laboratory results, whichever is later, prepare a written risk assessment report for submission to the person who contracted for the risk assessment. The report shall include all of the following information:

1. Date of the risk assessment.
2. Address of each building assessed.
3. Date of construction of buildings.
4. Apartment number of units assessed, if applicable.
5. Name, address and telephone number of each current owner of each building.
6. Name, address, telephone number, certification number and signature of each certified individual participating in the risk assessment.
7. Name, address, telephone number and certification number of the certified lead company conducting the risk assessment.
8. Name, address and telephone number of each recognized laboratory conducting analysis of collected samples.
9. Results of the visual inspection.
10. Description of testing method and sampling procedure used for paint analysis.

11. Specific locations of each painted component tested for the presence of lead.

12. All data collected from on-site testing, including quality control data and, if used, the serial number of any XRF.

13. All results of laboratory analysis on collected paint, soil and dust samples.

14. Any other sampling results.

15. Any background information collected under par. (d).

16. To the extent that they are used as part of the lead-based paint hazard determination, the results of any previous inspections or analyses for the presence of lead-based paint or other assessments of lead-based paint-related hazards.

17. A description of the location, type and severity of identified lead-based paint hazards and any other potential lead hazards.

18. A description of lead hazard reduction options for each identified lead-based paint hazard and a suggested prioritization for addressing each hazard. If the use of an encapsulant or enclosure is recommended, the report shall recommend a maintenance and monitoring schedule for the encapsulant or enclosure.

(10) INFORMATION DISTRIBUTION REQUIREMENTS FOR RENOVATION ACTIVITIES. Except for emergency renovations, for which the pre-renovation information distribution requirements do not apply, the requirements of this subsection shall be met as follows:

(a) *Renovation activities in owner-occupied dwelling units.* No more than 60 days before beginning renovation activities in any owner-occupied residential dwelling unit of target housing, the company performing the renovation activities shall provide the owner of the unit with the pamphlet, and comply with one of the following:

1. Obtain from the owner a written acknowledgment that the owner has received the pamphlet.
2. Obtain a certificate of mailing at least 7 days prior to the start of the renovation activities.

(b) *Renovation activities in non-owner-occupied dwelling units.* No more than 60 days before beginning renovation activities in any non-owner-occupied residential dwelling unit of target housing, the company performing the renovation activities shall provide an adult occupant of the unit with the pamphlet, and comply with one of the following:

1. Obtain from the adult occupant a written acknowledgment that the occupant has received the pamphlet; or certify in writing that a pamphlet has been delivered to the dwelling unit and that the company performing the renovation activity has been unsuccessful in obtaining a written acknowledgment from an adult occupant. Such certification must include the address of the unit undergoing renovation, the date and method of delivery of the pamphlet, names of the person delivering the pamphlet, reason for lack of acknowledgement, the signature of an authorized company representative of the company performing the work, and the date of signature.

Note: Possible reasons for failing to get written acknowledgement of receipt of the pamphlet include that the occupant refused to sign or that no adult occupant was available to sign the acknowledgement statement.

2. Obtain a certificate of mailing at least 7 days prior to the renovation.

(c) *Renovation activities in common areas of multi-family dwellings.* 1. No more than 60 days before beginning renovation activities in common areas of multi-family target housing, the company performing the renovation activities shall provide the owner with the pamphlet, and comply with one of the following:

- a. Obtain from the owner a written acknowledgment that the owner has received the pamphlet.
- b. Obtain a certificate of mailing at least 7 days prior to the start of the renovation activities.

2. Provide information to each affected unit by complying with one of the following:

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a. Notify in writing, or ensure written notification of, each affected unit and make the pamphlet available upon request prior to the start of renovation. Such notification shall be accomplished by distributing written notice to each affected unit. The notice shall describe the general nature and locations of the planned activities; the expected starting and ending dates; and a statement of how the occupant can obtain the pamphlet, at no charge, from the company performing the renovation activities.

b. While the renovation is ongoing, post informational signs describing the general nature and locations of the renovation activities and the anticipated completion date. These signs shall be posted in areas where they are likely to be seen by the occupants of all the affected units. The signs shall be accompanied by a posted copy of the pamphlet or information on how interested occupants can review a copy of the pamphlet or obtain a copy from the company performing the renovation activities at no cost to occupants.

3. Prepare, sign, and date a statement describing the steps performed to notify all occupants of the intended renovation activities and to provide the pamphlet.

4. If the scope, locations or expected starting and ending dates of the renovation activities change after the initial notification to occupants, and the company provided written initial notification to each affected unit, the company performing the renovation activities shall provide further written notification to the owners and occupants providing revised information on the ongoing or planned activities. This subsequent notification shall be provided before the company performing the renovation activities initiates work beyond that which was described in the initial notice.

(d) *Renovation activities in child-occupied facilities.* No more than 60 days before beginning renovation activities the company performing the renovation activities shall do all of the following:

1. In any child-occupied facility, provide the owner of the building with the pamphlet, and comply with one of the following:

a. Obtain from the owner a written acknowledgment that the owner has received the pamphlet.

b. Obtain a certificate of mailing at least 7 days prior to the start of the renovation activities.

2. If the child-occupied facility is not the owner of the building, provide an adult representative of the child-occupied facility with the pamphlet, and comply with one of the following:

a. Obtain, from the adult representative a written acknowledgment that the adult representative had received the pamphlet; or certify in writing that a pamphlet has been delivered to the facility and that the company performing the renovation activities has been unsuccessful in obtaining a written acknowledgment from an adult representative. Such certification shall include the address of the child-occupied facility undergoing renovation, the date and method of delivery of the pamphlet, names of the persons delivering the pamphlet, reason for lack of acknowledgement (e.g., representative refuses to sign), the signature of a representative of the company performing the renovation activities, and the date of signature.

b. Obtain a certificate of mailing at least 7 days prior to the start of renovation activities.

3. In any child-occupied facility, provide the parents and guardians of children using the child-occupied facility with the pamphlet and information describing the general nature and locations of the renovation activities and the anticipated completion date by complying with one of the following:

a. Mail or hand-deliver the pamphlet and the renovation activities information to each parent or guardian of a child using the child-occupied facility.

b. While the renovation activities are ongoing, post informational signs describing the general nature and locations of the renovation activities and the anticipated completion date. These signs shall be posted in areas where they can be seen by the parents

and guardians of the children frequenting the child-occupied facility. The signs shall be accompanied by a posted copy of the pamphlet or information on how interested parents or guardians can review a copy of the pamphlet or obtain a copy from the company performing the renovation activities at no cost to the parents or guardians.

4. Prepare, sign and date a statement describing the steps taken to notify all parents and guardians about the intended renovation activities and provide the pamphlet.

(e) *Written acknowledgment.* The written acknowledgments required under pars. (a) 1., (b) 1., (c) 1. a., (d) 1. a. and 2. a. of this subsection shall include all of the following:

1. A statement recording the owner's, occupant's or representative's name and acknowledging receipt of the pamphlet prior to the start of the renovation activities, the address of the unit undergoing renovation, the signature of the owner, occupant or representative, as applicable, and the date of signature.

2. Be either a separate sheet or part of a written contract or service agreement for the renovation.

3. Be written in the same language as the text of the contract or service agreement for the renovation activities, or, in the case of non-owner-occupied target housing, in the same language as the lease or rental agreement or the pamphlet.

(11) **RENOVATION ACTIVITIES.** (a) *Who may conduct.* Only the following persons may conduct renovation activities involving target housing or child-occupied facilities:

1. Certified lead-safe renovators who work for a certified lead-safe company or lead company.

2. Persons trained by and under the supervision of a certified lead-safe renovator who works for a certified lead-safe company or lead company.

3. Certified lead abatement supervisors or lead abatement workers who meet the training requirements under s. DHS 163.11 (2) (c) and work for a certified lead-safe company or lead company.

4. Persons licensed, certified or registered by the department of commerce under s. 101.178 or ch. 145, Stats., who meet all the requirements under s. DHS 163.10 (1) (d) 2.

(b) *Lead-safe work protocol.* When supervising or performing renovation activities, documented methodologies shall be used to conduct work in a lead-safe manner that does not create lead-based paint hazards, including work practices and engineering controls that limit the creation of dust and prevent the spread of dust, debris and paint chips outside the work area, and shall comply with all requirements under pars. (c) to (L).

(c) *Requirement for supervision.* The assigned certified lead-safe renovator or another person who meets the conditions of par. (a) 3. or 4., shall provide direct on-site supervision at all times during worksite setup, including while posting warning signs and establishing work area containments, and shall be onsite regularly during renovation activities to direct work performed by other individuals and to ensure that lead-safe work practices are being followed, that containment barriers are maintained and that dust and debris do not spread beyond the work area. The certified lead-safe renovator shall be readily available, either on site or by telephone, at all times while paint disturbing activities are being conducted and, when off site, shall be able to return to the worksite within a reasonable time, about 30 minutes, as needed.

(d) *Requirement for ensuring compliance.* The company shall ensure that all renovation activities are conducted according to the requirements of this section and all applicable federal, state and local government requirements are followed.

(e) *Occupant protection.* Documented methodologies and all of the following work practice requirements shall be used to protect occupants when renovation activities are performed:

1. 'Post signs.' Signs clearly defining the work area and warning occupants and other persons not involved in the renova-

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tion activities to remain outside the work area. To the extent practicable, these signs shall be in the primary language of the occupants. Signs shall be posted before beginning the work and shall remain in place and readable until the renovation activities and post-work cleaning verification have been completed.

2. 'Contain work areas.' Before starting renovation activities, the work area shall be isolated so that no dust or debris leaves the work area during the activity. Workers shall maintain the integrity of the containment throughout the renovation activities by ensuring that any plastic or other appropriate containment materials are not torn or displaced, and taking steps necessary to ensure that no dust or debris leaves the containment work area during the renovation. When the building is occupied, containment shall be installed in a manner that provides safe access to restrooms and exits for occupants. Containment may not be constructed in a manner that would interfere with worker egress in an emergency.

(f) *Interior lead-safe work practices.* The company shall ensure that documented methodologies are used for all interior renovation activities and that all personal property in the work area is protected from contamination by dust and debris, including all of the following:

1. Remove all objects from the work area, including furniture, rugs, and window coverings. Objects that can not be removed shall be covered with plastic sheeting or other impermeable material with all seams and edges taped or otherwise sealed.

2. Close and seal all duct openings in the work area with taped down plastic sheeting or other impermeable material.

3. Close windows and doors in the work area. Doors shall be covered with plastic sheeting or other impermeable material. Doorways used as the entrance to the work area shall be covered with plastic sheeting or other impermeable material in a manner that allows workers to pass through while confining dust and debris to the work area.

4. Cover floor surfaces in the work area, including installed carpet, with taped down plastic sheeting or other impermeable material at least 6 feet beyond the perimeter of surfaces undergoing renovation, or a sufficient distance to contain all dust, whichever is greater.

5. Use precautions to ensure that all personnel, tools, and other items, including the exteriors of containers of waste, are free of dust and debris before leaving the work area.

(g) *Exterior lead-safe work practices.* The company shall ensure that documented methodologies are used for all exterior renovation activities and that all personal property in the work area is protected from contamination by dust and debris, including all of the following:

1. Remove all objects from the work area, including furniture and play equipment. Objects that can not be removed shall be covered with plastic sheeting or other impermeable material with all seams and edges taped or otherwise sealed.

2. Close all doors and windows within 20 feet of the renovation work area. On multi-story buildings, close all doors and windows within 20 feet of the renovation work on the same floor as the renovation and all doors and windows on all floors below that are the same horizontal distance from the renovation work.

3. Ensure that doors within the work area that will be used while the job is being performed are covered with plastic sheeting or other impermeable material in a manner that allows workers to pass through while confining dust and debris to the work area.

4. Cover the ground with plastic sheeting, other impermeable disposable material, or landscape fabric capable of collecting dust and debris extending 10 feet beyond the perimeter of surfaces undergoing paint disturbance or a sufficient distance to collect falling paint debris, whichever is greater, unless the property line or neighboring structures prevent 10 feet of ground cover.

5. As a situation requires, the company shall take extra precautions to contain the work area to ensure that dust and debris

from renovation activities do not contaminate other buildings or areas of the property or migrate to adjacent properties.

(h) *Prohibited practices.* All of the following work practices shall be prohibited or restricted during a renovation activity:

1. Open-flame burning, torching or charring of paint.

2. Operating a heat gun on paint at or above 1100 degrees Fahrenheit.

3. Using a chemical paint stripper containing methylene chloride.

4. Using machines to remove paint through high speed operation such as abrasive blasting, sandblasting, needle gunning, or machine sanding, grinding or planing painted surfaces, unless the machine is operated with a properly fitted HEPA-filtered exhaust control in a fully contained work area.

5. High-pressure water blasting or hydroblasting unless it is conducted in a fully contained work area with HEPA-filtered exhaust control and water collection system.

6. Using an improperly operating HEPA vacuum to clean up worksite dust, debris and paint chips.

7. Dry sweeping dust, debris or paint chips in a renovation work area.

(i) *Waste handling.* All wastewater, air emissions and solid waste from renovation activities shall be handled as follows:

1. Contained in the work area to prevent the release of dust and debris before removal for storage and disposal. If a chute is used to remove waste from the work area it shall be covered.

2. Stored in a container or enclosure at the conclusion of each work day that prevents access to and release of dust and debris.

3. Contained to prevent release of dust and debris for final transport at the conclusion of renovation activities.

4. Discharge of wastewater shall be managed according to chs. NR 105, 106 and 200 to 299.

5. Air emissions shall be managed according to chs. NR 404, 415, 429, and 445.

6. Paint debris and waste shall be managed according to chs. NR 500 to 538 and 660 to 679.

Note: Refer to Appendix D for guidance from the department of natural resources on its regulations for managing lead-based paint.

(j) *Cleaning the work area.* 1. Documented methodologies shall be followed to clean all work areas at the end of each work day and when all renovation activities have been completed. After the paint disturbing work has been completed, the work area shall be cleaned until no dust, debris or residue remains.

2. For all interior and exterior work areas do all of the following:

a. Collect all paint chips and debris and, without dispersing any of it, seal the waste in a heavy-duty waste bag.

b. Dispose of all sheeting as waste by first misting, then folding inward until as small as possible, taping seams shut or placing in heavy-duty waste bags. Sheeting used to isolate contaminated areas from non-contaminated areas shall remain in place until after final cleaning and removal of all other sheeting.

3. For exterior work areas, remove all visible debris, paint chips and residue in and below the work area, including from the ground, window sills and other horizontal surfaces.

4. For interior work areas do all of the following:

a. Clean all objects and horizontal surfaces in the work area and within 2 feet outside the work area starting at the top and working down to the floor.

b. Clean walls starting at the ceiling and working down to the floor by either HEPA vacuuming or wiping with damp disposable cleaning cloths.

c. For other interior surfaces, thoroughly HEPA vacuum all remaining surfaces and objects in the work area, including horizontal surfaces, furniture and fixtures. After vacuuming, wipe the

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same surfaces, objects and fixtures with damp disposable cleaning cloths.

d. For carpets, use a HEPA vacuum with a beater bar to thoroughly and meticulously vacuum carpets and rugs.

e. For uncarpeted floors, thoroughly mop the floor using a 2- or 3-bucket mopping system or a wet mopping system using disposable cloths.

Note: Refer to Appendix C for one documented methodology, Chapter 14 of the HUD "Guidelines for the Evaluation and Control of Lead-Based Paint Hazards."

(k) *Post-activity visual inspection.* 1. A visual inspection of the work area or areas shall be conducted by a certified lead-safe renovator or certified lead abatement worker or supervisor who meets the training requirements under s. DHS 163.11 (2) (c) after renovation activities and cleaning have been completed.

2. For interior renovation activities, a visual inspection shall be performed to determine whether dust, debris or residue is still present in or around the work areas. If dust, debris or residue is present, these conditions shall be removed by re-cleaning and another visual inspection shall be performed.

3. For exterior renovation activities, a visual inspection shall be performed to determine whether dust, debris or residue is still present on surfaces in and below the work area, including windowsills and the ground. If dust, debris or residue is present, these conditions shall be eliminated and another visual inspection shall be performed. After the work area or areas pass visual inspection, the activity is considered complete and warning signs may be removed.

(L) *Post renovation cleaning verification for interior work areas.* Except as allowed under par. (m), after a successful visual inspection, a certified lead-safe renovator or certified lead abatement worker or supervisor who meets the training requirements under s. DHS 163.11 (2) (c) shall verify cleaning of all interior work areas by using all of the following procedures:

1. Verify that each windowsill in the work area has been adequately cleaned by wiping the windowsill with an unused wet disposable cleaning cloth that is damp to the touch and comparing the cleaning cloth to the cleaning verification card.

a. If the cleaning cloth matches or is lighter than the cleaning verification card, the windowsill has been adequately cleaned.

b. If the cleaning cloth is darker than the cleaning verification card, the windowsill has not been adequately cleaned and re-cleaning following the procedures in par. (j) 3. is required. After re-cleaning, either use a new cleaning cloth or fold the used cloth in such a way that an unused surface is exposed and wipe the surface again. If the cleaning cloth matches or is lighter than the cleaning verification card, the windowsill has been adequately cleaned.

c. If the cleaning cloth is still darker than the cleaning verification card, wait one hour or until the surface has dried completely, whichever is longer.

d. After waiting for the windowsill to dry, wipe the sill with a dry disposable cleaning cloth. After this wipe, the windowsill has been adequately cleaned.

2. Verify that uncarpeted floors and countertops within the work area have been adequately cleaned by wiping the floors and countertops with an unused wet disposable cleaning cloth. Floors shall be wiped using a long-handled mop designed with a head attachment for wet disposable cleaning cloths. The cleaning cloth shall remain damp at all times while it is being used to wipe the surface for post-activity cleaning verification. If the surface within the work area is larger than 40 square feet, the surface within the work area shall be divided into roughly equal sections that are each less than 40 square feet. Wipe each section separately with a new wet disposable cleaning cloth.

a. If the cloth used to wipe that section within the work area matches the cleaning verification card, that section has been adequately cleaned.

b. If the cleaning cloth used to wipe a particular section is darker than the cleaning verification card, that section has not been adequately cleaned and re-cleaning following the procedures in par. (j) 3. is required. After re-cleaning, use a new cleaning cloth and wipe that section again. If the cleaning cloth matches or is lighter than the cleaning verification card, that section of the surface has been adequately cleaned.

c. If the cleaning cloth used to wipe a particular surface section is still darker than the cleaning verification card after the surface has been re-cleaned, wait for one hour or until the entire section surface has dried completely, whichever is longer.

d. After waiting for the entire section surface to dry, wipe the surface with a dry disposable cleaning cloth. After this wipe, that section of the surface has been adequately cleaned.

3. When the work area passes the post-renovation cleaning verification, warning signs may be removed.

(m) *Optional dust clearance testing.* 1. Cleaning verification under par. (L) is not required if the contract between the company and the person contracting for the renovation activities or another federal, state, or local law or regulation requires dust clearance sampling at the conclusion of a renovation activity covered by this chapter.

2. Dust clearance samples for renovation activities shall be collected by a certified lead inspector, lead hazard investigator, lead risk assessor or lead sampling technician following clearance protocol under s. DHS 163.14 (5) (c).

3. The company performing the renovation shall re-clean or seal work areas and component types that fail dust clearance until the dust clearance sample results are below the clearance standards in s. DHS 163.14 (5) (c) 8.

(n) *Activities conducted after successful cleaning verification or clearance testing.* Activities that do not disturb paint, such as re-painting walls that have been properly prepared, are not regulated under this subchapter if they are conducted after cleaning verification has been performed or clearance testing results show dust lead levels below the clearances standards in s. DHS 163.14 (5) (c) 8.

(o) *Emergency renovations.* 1. Emergency renovations are exempt from the warning sign, containment, waste handling, training and certification requirements of this chapter to the extent necessary to respond to the emergency.

2. Emergency renovations are not exempt from the cleaning requirements of this subsection, which shall be performed by certified lead-safe renovators or individuals trained by a certified renovator, the cleaning verification requirements of this subsection, which shall be performed by certified renovators, or the recordkeeping requirements under s. DHS 163.13 (3) (c).

(p) *Use of paint test kits.* When requested by the party contracting for renovation services, the certified renovator may use only a department-recognized paint test kit to determine whether components and surfaces to be affected by the renovation activities contain lead-based paint. The certified renovator shall test each distinct component and surface to be affected, follow the manufacturer's instructions for use of the paint test kit, and document and maintain the records required under s. DHS 163.13 (3) (c) 11.

(q) *Records.* The company shall prepare, maintain and distribute records as required under s. DHS 163.13 (3) (c).

History: CR 00-172: cr. Register February 2002 No. 554, eff. 3-1-02; CR 03-019: am. (1) (g), (5) (c) 8. c. and (9) (g), cr. (9) (g) 3. Register July 2003 No. 571, eff. 8-1-03; correction in (8) (e) 1. made under s. 13.93 (2m) (b) 7., Stats., Register July 2003 No. 571; corrections in (1) (k) 3. and (8) (e) 1. made under s. 13.92 (4) (b) 7., Stats., Register January 2009 No. 637; **EmR0928:** emerg. renum. (1) (c) 1. to be (1) (c) and am., r. (1) (c) 2., am. (5) (a) 1. to 3., (b) 1., 2., (c) 3. a., 4. a., 8. (intro.), (10) (title), (intro.), and c. to e., r. and recr. (5) (b) 3., cr. (5) (b) 4. to 6., (10) and (11), eff. 10-16-09; CR 09-085: renum. (1) (c) 1. to be (1) (c) and am., r. (1) (c) 2., am. (5) (a) 1. to 3., (b) 1., 2., (c) 3. a., 4. a., 8. (intro.), 10. (title), (intro.), and c. to e., r. and recr. (5) (b) 3., cr. (5) (b) 4. to 6., (10) and (11) Register March 2010 No. 651, eff. 4-1-10.

Unofficial Text (See Printed Volume). Current through date and Register shown on Title Page.**DHS 163.15 Lead-based paint hazard standards.**

(1) DUST-LEAD HAZARD. A dust-lead hazard is present when one of the following applies:

(a) *Lead hazard screen.* For dust wipe samples taken during a lead hazard screen, the arithmetic mean of laboratory results is equal to or greater than the following:

1. Twenty-five micrograms per square foot (25 µg/ft²) on a floor.

2. One hundred twenty-five micrograms per square foot (125 µg/ft²) on an interior windowsill.

(b) *Risk assessment.* For dust wipe samples taken during a risk assessment, the arithmetic mean of laboratory results is equal to or greater than the following:

1. Forty micrograms per square foot (40 µg/ft²) on a floor.

2. Two hundred fifty micrograms per square foot (250 µg/ft²) on an interior windowsill.

(2) SOIL-LEAD HAZARD. A soil-lead hazard is present when the laboratory result for a bare soil sample is equal to or greater than any of the following:

(a) Four hundred parts per million (400 ppm) for the soil-lead concentration from a composite sample of bare soil in a play area.

(b) One thousand two hundred parts per million (1,200 ppm) for the arithmetic mean lead concentration from one or more composite samples of bare soil from the rest of the yard.

(3) LEAD-BASED PAINT HAZARD. A lead-based paint hazard is present when any of the following applies:

(a) A friction surface is subject to abrasion and the dust-lead levels on the nearest horizontal surface underneath the friction surface are equal to or greater than the dust-lead hazard levels under sub. (1).

(b) A chewable lead-based painted surface bears evidence of teeth marks.

(c) There is any damaged or deteriorated lead-based paint on an impact surface that is caused by impact from a related building component.

(d) There is any other deteriorated lead-based paint in any dwelling or child-occupied facility or on the exterior of any dwelling or child-occupied facility.

History: CR 00-172: cr. Register February 2002 No. 554, eff. 3-1-02; CR 03-019: am. (2), cr. (3) Register July 2003 No. 571, eff. 8-1-03.

DHS 163.16 Recognized paint test kits for renovation.

(1) EPA VERIFICATION PROGRAM. The department recognizes paint test kits that have been tested and determined by the EPA Environmental Technology Verification Program, or other equivalent EPA approved testing program, to meet the response criteria described in this section.

(2) RESPONSE CRITERIA. A recognized test kit shall meet or exceed both the negative response criteria and the positive response criteria, as follows:

(a) *Negative response criteria.* For paint containing lead at or above the regulated level, 0.7 milligrams per square centimeter or .06% by weight, a demonstrated probability, with 95% confidence, of a negative response less than or equal to 5% of the time.

(b) *Positive response criteria.* For paint containing lead below the regulated level, 0.7 milligrams per square centimeter or .06% by weight, a demonstrated probability, with 95% confidence, of a positive response less than or equal to 10% of the time.

(3) If a test kit meets the response criteria under subs. (2) the department will issue a notice of recognition to the kit manufacturer and post the information on the department's website.

History: EmR0928: emerg. cr. eff. 10-16-09; CR 09-085: cr. Register March 2010 No. 651, eff. 4-1-10.

Subchapter III — Accreditation of Lead Training Courses and Approval of Training Managers and Instructors**DHS 163.20 Accreditation requirements.**

(1) REQUIREMENT FOR ACCREDITATION. No person may offer, advertise, claim to provide or conduct a lead training course that is represented as qualifying any person for certification to perform a regulated renovation, lead hazard reduction, or lead investigation activity in this state unless that training course has received accreditation from the department, has an approved principal instructor, uses only approved instructors and the training provider is owned by or employs an approved training manager.

(2) ONLY TRAINING COURSES. Department accreditation is provided only for a specific training course designed for individuals seeking certification or recertification in a discipline under s. DHS 163.10 (2).

(3) ONLY IN-STATE COURSES. The department may grant full training course accreditation only to training courses conducted in Wisconsin. When review of a course is needed to ensure the quality of training received by individuals seeking certification in Wisconsin, the department may accept and review applications for contingent accreditation from training courses conducted in another state.

(4) TYPES OF COURSES. (a) *Separate accreditation.* Separate accreditation is required for each training course, whether an initial course or a refresher course. A separate application under s. DHS 163.21 is also required for each course, but 2 or more applications may be submitted at the same time.

(b) *Initial training course.* Accreditation of an initial training course shall be granted for a specific course under sub. (8) (a) or (b) that meets all requirements of this chapter.

(c) *Refresher training course.* A refresher training course shall be separate and distinct from the initial training course, be for a specific course under sub. (8) (c) and meet all requirements of this chapter. The department may not accredit a refresher course unless the training provider obtains accreditation from the department for all corresponding initial courses.

(d) *Course disciplines.* A person may seek accreditation from the department to offer lead training courses in any of the following disciplines:

1. Lead-safe renovation initial and lead-safe renovator refresher.

2. Lead-safe renovation initial and lead-safe renovator refresher conducted in a language other than English.

3. Lead abatement work initial and lead abatement worker refresher.

4. Lead abatement work initial and lead abatement worker refresher conducted in a language other than English.

5. Lead abatement supervision initial and lead abatement supervisor refresher.

6. Lead project design initial and lead project designer refresher.

7. Lead sampling initial and lead sampling technician refresher.

8. Lead inspection initial and lead inspector refresher.

9. Lead hazard investigation initial and lead hazard investigator refresher.

10. Lead risk assessor refresher.

(5) TRAINING RESOURCES. An accredited training course shall be conducted using facilities, equipment and instructional materials that promote the learning objectives for which the course is offered. Facilities shall have appropriate space for classroom, hands-on and field training. Instructional material shall be based

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upon EPA and department–approved curricula, shall include all materials approved for accreditation, and shall be kept up–to–date with new information provided by the department. Equipment shall reflect department–approved work practices, shall be maintained in proper working condition and shall be licensed and stored in compliance with any applicable requirements and regulations. Students shall be given course material based on EPA and department–approved curricula that supports the learning goals and objectives of the course and that the student may use as reference material to enhance compliance with lead–based paint regulations and standards. Students shall also be given a paper copy of this chapter.

(6) APPROVED TRAINING MANAGER. The training provider or an owner of a training provider business shall be an approved training manager under s. DHS 163.24 (2). If the training provider or owner is not eligible for approval as a training manager, the training provider shall employ a training manager who is approved under s. DHS 163.24 (2). The training manager shall be responsible for all administrative duties under s. DHS 163.25. The actions of the training manager shall be deemed actions of the owner.

(7) APPROVED INSTRUCTORS. (a) *Principal instructor.* Each training course offered shall have a principal instructor who is approved under s. DHS 163.24 (3) and designated by the training manager under s. DHS 163.25 (5). The principal instructor has the primary responsibility for the organization and teaching of the course and for direct supervision of all guest instructors for the course. An individual may not act as a principal instructor for 2 or more concurrently conducted training courses.

(b) *Guest instructor.* Under s. DHS 163.25 (4), a training manager may designate a guest instructor to teach under the direct supervision of a principal instructor or to assist a principal instructor with hands–on instructional activities, hands–on skills assessment or work practice components of a course. A guest instructor shall meet the qualifications under s. DHS 163.24 (4).

(c) *Instructors for hands–on instructional activities and skills assessment.* An accredited training course shall meet or exceed all of the following instructor requirements for hands–on activities:

1. ‘Principal instructor.’ At least one principal instructor shall provide direct supervision of each hands–on instructional activity and skills assessment.

2. ‘Student–to–instructor ratio.’ A student–to–instructor ratio of not greater than 8:1 shall be maintained during hands–on instructional activities and hands–on skills assessment but may need to be less when necessary to ensure adequate instruction and observation of student performance.

3. ‘Guest instructors.’ Guest instructors may assist the principal instructor with hands–on instructional activities and skills assessment.

(8) TRAINING COURSE CURRICULA. (a) *Required learning objectives for courses leading to certification in lead–safe renovation and lead hazard reduction disciplines.* An accredited training course that meets a training requirement under s. DHS 163.11 for certification as a lead–safe renovator, lead abatement worker, lead abatement supervisor or lead project designer shall teach work practice standards that are consistent with s. DHS 163.14 for renovation activities and abatement activities. A training course shall be based on EPA and department–approved curricula and shall meet or exceed the applicable minimum curriculum requirements, including both the minimum number of course training hours and the minimum number of hands–on training hours, as follows:

1. ‘Lead–safe renovation course.’ A lead–safe renovation course shall provide a minimum of 8 training hours. The course shall include lectures, demonstrations, a minimum of 2 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. Compare the federal definition of lead–based paint to the Wisconsin definition of lead–based paint.

b. Describe the symptoms of lead poisoning and health risks to children and adults exposed to lead.

c. Explain why lead, dust and debris are a special concern in housing and child–occupied facilities.

d. Identify the clearance standards for floors, interior window sills and window troughs.

e. Discuss the EPA, HUD and OSHA lead regulations and their relation to renovation activities.

f. Define target housing and child–occupied facility.

g. Discuss requirements for training and certification under this chapter.

h. Describe the exclusions to the renovation requirements under this chapter.

i. Discuss company responsibilities under this chapter.

j. Discuss the certified renovator roles and responsibilities under this chapter.

k. Identify the major work practice standards for renovation activities under this chapter.

L. Identify the possible enforcement actions that may be taken for violations of this chapter.

m. Discuss the HUD lead safe housing rule requirements for training, lead–safe work practices and clearance in federally owned or assisted housing.

n. Compare the requirements of this chapter with the EPA renovation, repair and painting rule under 40 CFR 745 Subparts E and L and the HUD lead safe housing rule under 24 CFR Part 35, Subparts B to M and R.

o. Explain pre–renovation education requirements under this chapter.

p. Discuss how housing age is related to the presence of lead–based paint.

q. Describe and compare methods for determining if lead–based paint is present.

r. Explain how to determine if a test kit is recognized for use in Wisconsin.

s. Correctly use a recognized test kit to determine if lead–based paint is present on components and surfaces affected by renovation work.

t. Correctly use an EPA flow chart to determine what regulatory requirements apply to a specific renovation project.

u. Describe the three major steps to lead safe renovation: proper setup, lead safe work practices and proper cleanup.

v. Describe the purpose and benefits of establishing work area containment during renovation activities.

w. Demonstrate interior work area setup and containment, including posting signs and limiting access, removing or covering furnishings and belongings, covering floors, closing doors and windows, and sealing vents.

x. Construct a work area entry doorway and dust barrier using plastic sheeting.

y. Demonstrate exterior work area setup and containment, including posting signs and limiting access, removing or covering furnishings and belongings; covering the ground; and closing doors and windows.

z. Describe the differences between traditional renovation work practices and lead–safe renovation work practices.

za. List and describe the work practices prohibited under ch. DHS 163, the EPA renovation, repair and painting rule under 40 CFR 745 Subparts E and L, and the HUD lead safe housing rule under 24 CFR Part 35, Subparts B to M and R.

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- zb. Discuss considerations for use of specialized power tools with HEPA-filtered capture attachments.
 - zc. Discuss proper use of personal protection equipment and hygiene practices to protect workers and control the spread of dust.
 - zd. Explain the role regular and daily cleaning plays in preventing the spread of lead hazards.
 - ze. Demonstrate proper interior and exterior work area cleaning techniques.
 - zf. Describe proper carpet cleaning procedures.
 - zg. Describe the purpose of cleaning verification after final cleanup.
 - zh. Demonstrate visual inspection for dust and debris after final cleaning.
 - zi. Demonstrate the full cleaning verification procedure.
 - zj. Describe dust clearance inspections and how they differ from cleaning verification.
 - zk. Describe exterior cleanup requirements, including final visual inspection.
 - zL. Demonstrate proper waste handling.
 - zm. Discuss federal and state waste disposal regulations.
 - zn. Describe how long required records must be maintained.
 - zo. List the records that must be kept on the job site during a renovation activity.
 - zp. List the records required for pre-renovation education activities.
 - zq. Describe how to document non-certified worker training.
 - zr. Describe the records that must be generated and maintained if using a paint test kit.
 - zs. Describe the post-renovation reporting requirements.
 - zt. Describe the role of non-certified, on-the-job trained renovation workers.
 - zu. List and discuss the use of the 7 steps to lead-safe renovation, repair and painting for training uncertified workers.
2. 'Lead abatement work course.' A lead abatement work course shall provide a minimum of 8 training hours only to persons who successfully completed a department-approved lead-safe work or lead-safe renovation course. The course shall include lectures, demonstrations, a minimum of 6 hours of hands-on practice and 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. Discuss the role and responsibilities of a lead abatement worker performing abatement or other lead hazard reduction.
 - b. Describe the requirements for training, certification and work practices under ch. DHS 163.
 - c. Discuss employer responsibilities for worker training and protection under 29 CFR 1926.62, lead in construction regulations issued by the U.S. occupational safety and health administration.
 - d. Determine characteristics of a job site that can affect an abatement project.
 - e. Interpret exposure measurements from personal air monitoring samples.
 - f. Discuss general engineering controls used for reducing and containing dust-lead during abatement activities that generate large quantities of dust.
 - g. List and describe at least 5 lead-based paint abatement or hazard reduction work methods.
 - h. List at least 6 restricted or prohibited work practices under s. DHS 163.14 (3) and (4).
 - i. Remove paint from components using machine sanding and machine grinding with HEPA-vacuum attachments and using wet sanding and wet scraping according to documented methodologies.
 - j. Discuss the structural conditions required for using encapsulants successfully.
 - k. Conduct a patch test for determining if an encapsulant will adhere properly.
 - L. Build a mini-containment for high dust engineering control.
 - m. Use documented methodologies to perform window treatments that involve removing window sashes, installing window trough covers, and planing window sashes with a power planer attached to a HEPA filter.
 - n. Remove components and prepare for proper disposal.
 - o. Describe the cleanup and waste disposal required after abatement.
 - p. Discuss the advantages and disadvantages of different lead hazard reduction activities.
 - q. Describe 3 exterior abatement projects, including soil-lead abatement options.
 - r. Discuss engineering controls and work practice issues specific to exterior lead-based paint projects.
 - s. Perform a job site preparation and set-up for an exterior abatement project.
 - t. Discuss cleanup after soil and exterior abatement or lead hazard reduction.
3. 'Lead abatement supervision course.' A lead abatement supervision course shall provide a minimum of 16 training hours only to persons who have successfully completed lead abatement worker training. The course shall include lectures, demonstrations, hands-on skills assessment, a course review and a written course test. The course shall provide a minimum of 6 hours of hands-on practice and hands-on skills assessment, and instruction and materials that address all of the following student learning goals and objectives:
- a. Describe the role and responsibilities of a lead abatement supervisor.
 - b. Discuss each of the major responsibility areas necessary to successfully manage lead abatement projects.
 - c. Describe basic supervisory techniques and responsibilities for lead hazard reduction projects.
 - d. Discuss the role the site supervisor plays in community relations and occupant protection.
 - e. Discuss the relation of contract specifications to the actual project.
 - f. Describe the various options for controlling interior, exterior and soil lead hazards.
 - g. Determine appropriate lead hazard reduction methods for interior, exterior and soil hazards.
 - h. Describe the requirements for using restricted lead abatement methods.
 - i. Identify prohibited work practices.
 - j. Describe the requirements for training, certification and work practices under ch. DHS 163.
 - k. Determine when notification to the department is required.
 - L. Complete a work notification form for a lead abatement project.
 - m. Describe lead waste disposal requirements.
 - n. Discuss employer responsibilities for worker training and protection under 29 CFR 1926.62, lead in construction regulations issued by the U.S. occupational safety and health administration.
 - o. Discuss employer responsibilities for worker respiratory protection under 29 CFR 1910.134.
 - p. Discuss requirements for lead hazard reduction measures under 24 CFR Part 35, HUD requirements for notification, evaluation

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tion and reduction of lead-based paint hazards in federally owned residential property and housing receiving federal assistance.

q. Discuss notification requirements under 40 CFR Part 745 Subpart E, the EPA lead-based paint pre-renovation education rule.

r. Discuss liability and insurance issues as they relate to lead hazard reduction work.

s. Interpret risk assessment and inspection reports as they apply to planned lead hazard reduction activities.

t. Describe the standards for registered lead-free property and registered lead-safe property registration.

u. Recognize common substrate problems that cause paint failure.

v. Describe surface preparation techniques for repainting.

w. Select appropriate paint types for various conditions and locations in a housing unit.

x. List requirements for lead safety when performing lead hazard reduction.

y. Determine the appropriate type and amount or number of tools, equipment, supplies, materials and replacement components necessary to perform given lead hazard reduction activities.

z. Determine the set-up work required for various lead hazard reduction projects.

za. Determine the lead hazard reduction methods most appropriate for various lead hazards.

zb. Determine the cleanup requirements for various lead hazard reduction projects.

zc. Complete a work plan for a given lead-based paint hazard reduction activity.

zd. Write contract specifications for the planned lead-based paint hazard reduction activity.

ze. Explain the purpose of the occupant protection plan.

zf. Complete an occupant protection plan for the planned lead-based paint hazard reduction activity.

zg. List and describe the information required in the abatement report.

zh. Describe the basic requirements for performing post-project pre-clearance.

zi. Perform a post-project visual inspection.

zj. Perform a dust wipe sample using proper protocol.

zk. Complete a laboratory sample analysis request form.

zL. Interpret laboratory analysis dust wipe results.

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

zn. Describe the requirements for determining if an encapsulant will adhere properly.

4. 'Lead project design course.' A lead project design course shall provide a minimum of 8 training hours only to persons who have successfully completed lead abatement supervisor training. The course shall include lectures, demonstrations, student participation, 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 major responsibilities of the project designer.

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

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

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

e. Explain the importance of writing specifications for a lead hazard reduction project.

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

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

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

i. Explain when it is appropriate to use temporary lead hazard reduction methods and when it is appropriate to use abatement.

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

k. Describe the procedures for interior dust-lead reduction and explain how those procedures differ from final cleanup procedures.

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

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

n. Explain how an occupant protection plan is implemented.

o. Identify problems associated with occupant relocation programs.

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

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

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

s. Describe clearance testing procedures for lead-based paint abatement projects in multi-family housing.

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

u. Explain the role of specifications in a contract.

v. Describe the content of specifications.

w. Write clear and concise specifications.

(b) *Required learning objectives for courses leading to certification in lead investigation disciplines.* An accredited training course that meets a training requirement under s. DHS 163.11 for certification as a lead sampling technician, lead inspector, lead hazard investigator or lead risk assessor shall teach work practice standards that are consistent with s. DHS 163.14 for lead investigation activities. A training course shall be based on EPA and department-approved curricula and shall meet or exceed the applicable minimum curriculum requirements, including both the minimum number of course training hours and the minimum number of hands-on training hours, as follows:

1. 'Lead sampling course.' A lead sampling course shall provide a minimum of 8 training hours. The course shall include lectures, demonstrations, a minimum of 3 hours of hands-on practice and 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 health effects of lead exposure and the particular danger lead poses to children under age 6.

b. Discuss why lead is a concern in housing.

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

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

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

f. Identify the following lead-based paint hazards: visible dust, paint chips, painted debris and deteriorated paint that is not proven to be lead-free.

g. Describe the basic elements required for post-project clearance.

h. Conduct a visual inspection.

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- i. Record the results of a visual inspection on a visual inspection form.
- j. Describe surfaces appropriate for dust wipe sampling.
- k. Collect dust wipe samples from 3 different surfaces using correct methods.
 - L. Identify the appropriate locations for taking dust wipe samples to clear a given project.
 - Lm. Describe requirements when conducting clearance for a renovation project.
 - m. Describe the methods used to ensure that sampling media are not contaminated.
 - n. Describe requirements when conducting clearance for a HUD-assisted renovation project.
 - o. Collect a paint chip sample using correct methods.
 - p. Collect a soil sample using correct methods.
 - q. Select an accredited laboratory and complete a laboratory sample analysis request form.
 - r. Describe methods for maintaining proper chain-of-custody for samples.
 - s. Interpret laboratory analysis results using clearance standards under s. DHS 163.15.
 - t. Describe the required contents of a clearance report.
 - u. Write a clearance report.
 - v. Explain the clearance results using clearance standards under s. DHS 163.15.
 - w. Discuss the HUD lead safe housing rule requirements for clearance in federally owned or assisted housing.
 - x. Compare the requirements of this chapter with the EPA renovation, repair and painting rule under 40 CFR 745 Subparts E and L and the HUD lead safe housing rule under 24 CFR Part 35, Subparts B to M and R.
 - y. Explain training and certification requirements for lead investigation activities under this chapter.
- 2. 'Lead hazard investigation course.' A lead hazard investigation course shall provide a minimum of 16 training hours only to persons who have successfully completed a lead sampling course. The course shall include lectures, demonstrations, a minimum of 4 hours of hands-on practice and 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 roles and responsibilities of a lead hazard investigator or risk assessor for clearance, lead hazard screen, lead-safe investigation and risk assessment activities.
 - b. Discuss the role of the lead hazard investigator in comparison to the roles of other related lead professionals.
 - c. Describe the responsibilities of a lead hazard investigator or risk assessor under the lead-safe registry program.
 - d. Describe the liability and insurance issues a lead professional must manage.
 - e. List the types of background information needed to perform a lead hazard investigation or risk assessment.
 - f. Describe the information needed during the initial client contact.
 - g. Describe how to collect appropriate information on building occupants and any resident children with elevated blood lead levels.
 - h. List at least 7 possible sources of environmental lead contamination.
 - i. Describe 5 typical locations for lead and lead-based paint in buildings.
 - j. Describe conditions when lead-based paint is considered a hazard in a risk assessment or lead hazard screen versus a lead-safe investigation.
 - k. Discuss the purpose of the visual inspection for hazard detection.
 - L. Describe protocols and documented methodologies for performing a visual inspection.
 - m. Perform a visual inspection to identify potential sources of lead-based hazards.
 - n. Determine when a lead hazard screen is an appropriate option.
 - o. Discuss and compare protocols and documented methodologies for lead hazard screens, risk assessments, elevated blood lead investigations and lead-safe investigations.
 - p. Conduct a lead hazard screen following protocols and documented methodologies.
 - q. Sample for sources of lead exposure other than lead-based paint using protocols and documented methodologies.
 - r. Apply current local, state and federal regulations and guidance to interpret lead-based paint and other lead sampling results.
 - s. Develop lead hazard control options, including temporary measures, operations and maintenance and abatement activities.
 - t. Determine schedules for re-evaluation of temporary lead hazard reduction measures.
 - u. Discuss the use of cost/benefit analysis in determining the appropriate role of temporary measures and operations and maintenance activities in lead hazard reduction.
 - v. Prepare a final risk assessment report.
 - w. Prepare a lead-safe investigation report.
 - x. Describe the procedures for issuing lead-safe certificates.
 - y. Discuss recordkeeping responsibilities for types of records kept and length of retention.
 - z. Recognize common substrate problems that cause paint failure.
 - za. Discuss federal, state and local statutes, ordinances, rules and regulations that pertain to lead-based paint hazard investigations.
 - 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 and 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 statutes, ordinances, rules and regulations that pertain to lead-based paint inspections.
 - g. Describe the requirements for training, certification and work practices under ch. DHS 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;

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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 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 abatement supervisor refresher course.' A total of 8 training hours to include a review of the curriculum covered in courses required for lead abatement supervisor certification, as appropriate, an overview of current safety practices relating to regulated activities, current federal, state and local statutes, ordinances, rules and regulations relating to regulated 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 abatement worker refresher course.' A total of 8 training hours to include a review of the curriculum covered in courses required for lead abatement worker certification, as appropriate, an overview of current safety practices relating to regulated activities, current federal, state and local statutes, ordinances, rules and regulations relating to lead-based paint hazard reduction and current technologies relating to regulated activities in general and lead-based paint hazard reduction and lead-safe work practices in particular.

3. '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 regulated activities, current federal, state and local statutes, ordinances, rules and regulations relating to lead-based paint and hazard identification and current technologies relating to regulated activities in general and lead-based paint hazard assessment 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 regulated activities, current federal, state and local statutes, ordinances, rules and reg-

ulations relating to lead-based paint identification and current technologies relating to regulated activities in general and lead-based paint identification in particular.

5. '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 regulated activities, current federal, state and local statutes, ordinances, rules and regulations relating to lead-based paint and current technologies relating to regulated activities in general and lead hazard reduction in particular.

6. '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 regulated activities, current federal, state and local statutes, ordinances, rules and regulations relating to regulated activities in general as well as specific information pertaining to risk assessments, and current technologies relating to regulated activities generally and specifically.

7. '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 regulated activities, current federal, state and local statutes, ordinances, rules and regulations relating to lead-based paint and current technologies relating to dust, paint and soil sampling in general and clearance in particular.

8. 'Lead-safe renovator refresher course.' A total of 4 training hours to include a review of the curriculum and work practices covered in the course required for lead-safe renovator certification, an overview of current lead safety practices relating to renovation activities, current federal, state and local statutes, regulations, rules and ordinances relating to lead-based paint and renovation, and current technologies relating to lead-safe work practices for renovation.

(d) *Length of training.* All required training for any conducted course shall be completed within a continuous 30-day period.

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

(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. DHS 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.

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 reflecting 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 of the course.

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

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

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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 for the failed course.

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 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.* Before admitting a student into a class, the training manager shall verify the identity of the student by viewing one form of official photo identification. The training provider shall verify that the individual who presents the identification bears a reasonable likeness to the photograph and is at least 18 years of age or will attain 18 years of age no later than 12 months after completing the training. The training manager may delegate verification of identity to an employee of the training program. Any of following forms of photo identification may be accepted:

1. Driver's license.
2. Identification card issued by the U.S. military, or a federal, state, local or tribal agency.
3. U.S. or foreign issued passport.
4. Permanent resident alien card.

(am) *Document student identification.* The training manager shall record the type of identification examined, the name of the issuing agency, the identification number, the student's full name as it appears on the identification, and the student's date of birth. The training manager may delegate recording of student identity to an employee of the training program.

(b) *Requirement to issue training certificate.* The training manager shall issue a training certificate to a student when the student completes all course requirements.

(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), which shall clearly indicate initial or refresher, and the language in which the course was conducted if other than English.
4. The student's full name as it appears on the student's official identification under par. (a).
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, and the total number of training hours provided.
7. A statement that the student passed the course test, when a course test is required.
8. The date of the course test, when a course test is required.

8m. The training expiration date, which shall be 2 years from the date of course completion for the lead abatement work initial, abatement worker refresher, abatement supervision initial, abatement supervisor refresher, project design initial, project designer refresher, lead sampling initial, sampling technician refresher, inspection initial, inspector refresher, hazard investigation initial,

hazard investigator refresher, and risk assessor refresher courses, and shall be 4 years from the date of course completion for the lead-safe renovation initial and lead-safe renovator refresher courses.

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. DHS 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 Services under ch. DHS 163, Wis. Adm. Code."

Note: For liability and security reasons, the Department does not require 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 regulated activities and the conduct of training.

History: CR 00-172: cr. Register February 2002 No. 554, eff. 3-1-02; EmR0928: emerg. am. (1), (2), (5), (8) (a) (intro.), 1. (intro.), 2. (intro.), (b) 1. j., k., o., p., (c) 7., (h) 3., (9) (a), (b), (c) 3. and 4., cr. (4) (d), (8) (a) 1. zg. to zu., (b) 1. Lm., w., x., y., (c) 8., (9) (a) 1. to 4., (am), and (c) 8m., r. and recr. (8) (a) 1. a. to zf., (b) 1. n. and t., eff. 10-16-09; CR 09-085: am. (1), (2), (5), (8) (a) (intro.), 1. (intro.), 2. (intro.), (b) 1. j., k., o., p., (c) 7., (h) 3., (9) (a), (b), (c) 3. and 4., cr. (4) (d), (8) (a) 1. zg. to zu., (b) 1. Lm., w., x., y., (c) 8., (9) (a) 1. to 4., (am), and (c) 8m., r. and recr. (8) (a) 1. a. to zf., (b) 1. n. and t. Register March 2010 No. 651, eff. 4-1-10; correction in (9) (c) 11. made under s. 13.92 (4) (b) 6., Stats., Register March 2010 No. 651.

DHS 163.21 Application for accreditation. To request accreditation of a lead training course described under s. DHS 163.20, the training manager, on behalf of the training provider, shall submit all of the following to the department:

(1) **COMPLETED APPLICATION FORM.** (a) A fully and accurately completed application on a form obtained from the department.

(am) 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.

(b) A course taught in a language other than English is considered a separate course for purposes of applying for accreditation. Only a lead-safe renovation initial, lead-safe renovator refresher, lead abatement work initial and lead abatement worker refresher may be accredited in a language other than English. When applying for accreditation of a course in a language other than English, a signed statement from a qualified, independent translator that they compared all course materials to the English language version and found the translation to be accurate shall be submitted to the department with the application.

Note: Course application forms, instructions for submitting course applications and credit card payment forms are available at Asbestos and Lead Section, Room 137, 1 W Wilson St, P.O. Box 2659, Madison WI 53701-2659; email dhasbestos-lead@wisconsin.gov; ph. 608-261-6876; or fax 608-266-9711. Submit completed course applications with all required materials and payment 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.

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(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 with beater bar, 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. DHS 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. DHS 163.10 (3) (b) and a written plan for admitting only students who meet the age requirement and produce a valid form of official photo identification under s. DHS 163.20 (9) (a), and have completed any prerequisite lead training courses under s. DHS 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. DHS 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. DHS 163.24 for approval of instructors.

Note: Instructor application and credit card payment forms are available at Asbestos and Lead Section, Room 137, 1 W Wilson St, P.O. Box 2659, Madison WI 53701-2659; email dhsasbestoslead@wisconsin.gov; ph. 608-261-6876; or fax 608-266-9711. Submit completed applications with payment 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 \$200 for an initial course and \$125 for a refresher course shall accompany each application for contingent course accreditation.

(b) *Accreditation fee.* A 2-year accreditation fee of \$25 per course hour or a 4-year accreditation fee of \$50 per course hour 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. DHS 163.25 (9).

History: CR 00-172: cr. Register February 2002 No. 554, eff. 3-1-02; EmR0928: emerg. am. (intro.), (3) (c) and (5), renum. (1) to be (1) (a) and (am), cr. (1) (b), eff. 10-16-09; CR 09-085: am. (intro.), (3) (c) and (5), renum. (1) to be (1) (a) and (am), cr. (1) (b) Register March 2010 No. 651, eff. 4-1-10.

DHS 163.22 Accreditation procedures. (1) DETERMINATION OF ELIGIBILITY FOR CONTINGENT ACCREDITATION. The department shall review all information and materials submitted under s. DHS 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. DHS 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. DHS 163.24 (3), and has notified the department under s. DHS 163.25 (3) that the course is to begin.

(3) LENGTH OF CONTINGENT ACCREDITATION. Contingent accreditation is a temporary approval to conduct training. When

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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 up to 2 years or 4 years from the date of issuance, depending on the amount of time left on the course's contingent accreditation and the amount of the fee paid under s. DHS 163.21 (9) (b). A training course may renew accreditation under the provisions of s. DHS 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, requirements for achieving full accreditation and the right to appeal the action under s. DHS 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. DHS 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. DHS 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. DHS 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. DHS 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, hands-on training and the course test.

(b) *Records audits.* The department may conduct audits of training course records, including records required under s. DHS 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.

History: CR 00-172: cr. Register February 2002 No. 554, eff. 3-1-02; EmR0928: emerg. am. (4) (b), eff. 10-16-09; CR 09-085: am. (4) (b) Register March 2010 No. 651, eff. 4-1-10.

DHS 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. DHS 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 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 a 2-year non-refundable accreditation fee of \$25 per course hour or a 4-year accreditation fee of \$50 per course hour.

Note: Application and credit card payment forms are available on the department website at www.dhs.wisconsin.gov/lead; email dhsasbestoslead@wisconsin.gov; ph. 608-261-6876; fax 608-266-9711; or Asbestos and Lead Section, Room 137, 1 W. Wilson Street, P.O. Box 2659, Madison, WI 53701-2659.

Note: Submit application and fee to the Asbestos and Lead Section, Room 137, 1 W. Wilson Street, P.O. Box 2659, Madison, WI 53701-2659, or fax to 608-266-9711. For application submitted by fax, payment may be made only by credit or debit charge to a VISA or MasterCard.

(4) AUDIT. To determine compliance with the requirements of this chapter and eligibility for renewal of accreditation, the department may conduct audits under s. DHS 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. DHS 163.22 (5) to extend accreditation for 2 years or 4 years, depending on the fee amount under sub. (3) (d) paid.

(b) *Deny renewal of accreditation.* If the department denies renewal of accreditation, the department shall notify the training

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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. DHS 163.33.

History: CR 00-172: cr. Register February 2002 No. 554, eff. 3-1-02; EmR0928: emerg. am. (3) (a) and (d), eff. 10-16-09; CR 09-085: am. (3) (a) and (d) Register March 2010 No. 651, eff. 4-1-10.

DHS 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, property maintenance, renovation, remodeling, engineering, environmental consultation, 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 other 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: Training manager application forms are available on the department website at www.dhs.wisconsin.gov/lead; email dhsasbestoslead@wisconsin.gov; ph. 608-261-6876; fax 608-266-9711; or Asbestos and Lead Section, Room 137, 1 W. Wilson Street, P.O. Box 2659, Madison, WI 53701-2659.

Note: Submit application to the Asbestos and Lead Section, Room 137, 1 W. Wilson Street, P.O. Box 2659, Madison, WI 53701-2659.

(c) *Approval procedures.* 1. Within 10 working 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. DHS 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.

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 as follows:

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

b. As a lead abatement supervisor for approval to teach initial lead-safe renovation, lead abatement work and lead abatement supervision courses and refresher lead-safe renovator, lead abatement worker and lead abatement supervisor courses.

c. As a lead project designer for approval to teach initial lead project design and refresher project designer 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, lead-safe renovation or project design disciplines, direct responsibility for activities involving lead hazard reduction, lead health effects, lead regulations, industrial hygiene activities involving lead, construction or renovation 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 disciplines, direct responsibility for activities involving lead sampling, lead inspections or risk assessments, 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, renovation or home improvement or identification activities relating to other hazardous materials.

c. For approval to teach any type of course, direct responsibility for instructing adults in work-related courses. 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 that documents how 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:

Unofficial Text (See Printed Volume). Current through date and Register shown on Title Page.

a. \$100 for a lead investigation instructor application, which includes approval to teach lead sampling, inspection, hazard investigation and risk assessment courses.

b. \$100 for a lead hazard reduction instructor application, which includes approval to teach lead abatement and lead-safe renovation courses.

c. \$50 for a lead project design instructor application, which includes approval to teach only lead project design courses.

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

Note: Application and credit card payment forms are available on the department website at www.dhs.wisconsin.gov/lead; email dhsasbestoslead@wisconsin.gov; ph. 608-261-6876; fax 608-266-9711; or Asbestos and Lead Section, Room 137, 1 W. Wilson Street, P.O. Box 2659, Madison, WI 53701-2659.

Note: Submit application and fee to the Asbestos and Lead Section, Room 137, 1 W. Wilson Street, P.O. Box 2659, Madison, WI 53701-2659, or fax to 608-266-9711. For application submitted by fax, payment may be made only by credit or debit charge to a VISA or MasterCard.

(c) *Approval procedures.* 1. Within 10 working 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. DHS 163.33.

(d) *Length of approval.* The department may grant principal instructor approval that 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 working 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. DHS 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 guest 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.

(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 the qualifications 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.

History: CR 00-172: cr. Register February 2002 No. 554, eff. 3-1-02; EmR0928: emerg. am. (2) (a) (intro.), (3) (a) 2., 3. a. to c., (b) 5., and 7. a. to c., eff. 10-16-09; CR 09-085: am. (2) (a) (intro.), (3) (a) 2., 3. a. to c., (b) 5., and 7. a. to c. Register March 2010 No. 651, eff. 4-1-10.

DHS 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 it 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 working days before the cessation of training.

(3) **COURSE SCHEDULE NOTIFICATION.** (a) *Requirement for notification.* A training manager shall notify the department by entering class schedule information for the accredited course directly into the department's online lead database or by other method approved by the department.

Note: Contact the department for instructions for completing online course notifications at email dhsasbestoslead@wisconsin.gov; ph. 608-261-6876; fax 608-266-9711; or Asbestos and Lead Section, Room 137, 1 W. Wilson Street, P.O. Box 2659, Madison, WI 53701-2659.

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

1. The name of the training provider.
2. The course discipline and whether it is an initial or refresher course.
3. The start and end dates, start and end times and location of the course.
4. The name of the designated principal instructor for the course.

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

2. In an emergency, the training manager shall make a request by telephone for department approval to schedule a training course with less than 10 working days notice. The request shall be made a minimum of one working day prior to the requested start date and shall be followed by entry of the course notification directly into the department's online lead database or by other method approved by the department.

(d) *Revised notification.* The training manager shall notify the department about course cancellations or course schedule, instructor or location changes by means of the department's online lead database when known 10 working days or more before the notified start date, and also by telephone when the change or cancellation occurs less than 10 working days before the scheduled start date.

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Note: To provide emergency course notification less than 10 working days before the start date or to revise or cancel a notification less than 2 working days in advance, phone 608-261-6876.

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

(5) DESIGNATION OF PRINCIPAL INSTRUCTORS. The training manager shall designate a principal instructor for each accredited course offering. The principal instructor shall be approved under s. DHS 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 10 working days before making 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.* The accreditation of a training course under this subchapter may be transferred to a new owner provided the course remains the same course accredited under this chapter and the transfer is requested by both the training provider transferring the course and the new owner of the course. Upon receipt of a request to transfer the accreditation of a course, the department will change the course's accreditation to contingent accreditation under s. DHS 163.22 with no change in expiration date or with an expiration date 2 years after the date ownership of the course changed, whichever is earlier.

(d) *Change in a course.* A change in the training course description under s. DHS 163.21 (2), the training resources under s. DHS 163.21 (3), the course registration plan under s. DHS 163.21 (5) or course materials under s. DHS 163.21 (6), a minimum of 10 working days prior to the start of the course. In addition to the notification of a change in course materials under s. DHS 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.* 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 Asbestos and Lead Section, Room 137, 1 W. Wilson St., P.O. Box 2659, Madison, WI 53701-2659; e-mail dhasbestoslead@wisconsin.gov; ph. 608-261-6876; or fax 608-266-9711.

(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. DHS 163.20 (8) (h).

(f) *Validity of skills assessment.* Maintaining the validity and integrity of the hands-on skills assessment under s. DHS 163.20 (8) (i) to ensure that it accurately evaluates the trainees' performance of skills taught during hands-on training.

(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 department-approved 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 any principal instructor approvals under s. DHS 163.24 (3) and guest instructor designations under sub. (4).

5. Class rosters and student attendance records.

6. The quality control plan when required under s. DHS 163.25 (9), including documentation of activities performed in compliance with the quality control plan.

7. Information regarding how any 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) Within 2 working days after an accredited lead training course is completed, 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 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.

9. The student's date of birth as it appears on the student's official photo identification.

History: CR 00-172: cr. Register February 2002 No. 554, eff. 3-1-02; EmR0928: emerg. am. (3) (a), (b) 2. to 4., (c) 2., (d), (5), (7) (intro.), (e), (10) (b) 1., (11) (b) 4., 6. and 9., r. (7) (f) and (11) (b) 8., eff. 10-16-09; CR 09-085: am. (3) (a), (b) 2. to 4., (c) 2., (d), (5), (7) (intro.), (e), (10) (b) 1., (11) (b) 4., 6. and 9., r. (7) (f) and (11) (b) 8. Register March 2010 No. 651, eff. 4-1-10.

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Subchapter IV — Enforcement

DHS 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 or refusal to comply with any provision of this chapter.

(2) OTHER AGENCY ACTION. Any other state agency in the course of the performance of its duties may determine that an individual, 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 site where the violation is alleged to be occurring or to have occurred.

(b) An authorized representative of the department may enter a site where a regulated activity is being or has been conducted or a site that the authorized representative of the department has reason to believe may be involved with a regulated activity. An authorized representative of the department may also enter the site 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 who is required to establish or maintain records under this chapter may 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. DHS 163.22 (6) to ascertain whether an accredited training course continues to meet requirements for accreditation.

(d) An authorized representative of the department entering the site of an investigation 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.

History: CR 00-172: cr. Register February 2002 No. 554, eff. 3-1-02; EmR0928: emerg. am. (1) and (2), eff. 10-16-09; CR 09-085: am. (1) and (2) Register March 2010 No. 651, eff. 4-1-10.

DHS 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 may constitute, 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. DHS 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 provi-

sion of this chapter. Reasons for accreditation enforcement actions may include any of the following violations:

- (a) The person owes the department payment of fees.
- (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.
- (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 falsified records or 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.
- (L) The person used an instructor to teach a course accredited under this chapter who was not qualified to teach at the time the course was offered.

(3) REASONS FOR APPROVAL ENFORCEMENT ACTIONS. The department may take an action under s. DHS 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 any 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.
- (c) The principal instructor failed to maintain the instructor approval or certification upon which the approval was granted, before teaching a course accredited under subch. III.

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

- (a) The person owes the department payment of fees.
- (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.

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(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 falsified records or 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 persons comply with, the work practice standards and protocols under this chapter.

(o) The person displayed conduct relating to a regulated 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 any 6–month period.

(r) The person is not eligible for certification.

(s) 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 whom the department determines is not fit or qualified. In determining whether a person is fit or 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 tribal or local government substantially related to regulated activities or other environmental remediation.

(6) REASONS FOR SUMMARY SUSPENSION. A finding of a requirement for summary suspension under s. DHS 163.32 (5) 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. DHS 163.14, or to ensure that employed or contracted persons comply with those work practice standards.

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

History: CR 00–172: cr. Register February 2002 No. 554, eff. 3–1–02; EmR0928: emerg. am. (1), (2) (d), (h), (4) (intro.), (L), (n), (5) (b), and (6) (a) 3., cr. (2) (L) and (3) (c), eff. 10–16–09; CR 09–085: am. (1), (2) (d), (h), (4) (intro.), (L), (n), (5) (b), and (6) (a) 3., cr. (2) (L) and (3) (c) Register March 2010 No. 651, eff. 4–1–10.

DHS 163.32 Enforcement actions. In addition to issuing letters of inquiry, warning letters and noncompliance statements, which are not appealable, the department may take one or more of the following appealable actions for any reason stated under s. DHS 163.31 against a person performing or offering to perform activities regulated under this chapter:

(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 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. The department may deny an application for certification, recertification, accreditation, renewal of accreditation or approval for a reason under s. DHS 163.31 (5) 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. DHS 163.33 for appealing the denial.

(3) CIVIL 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 if the department provides written notice of the grounds for a forfeiture and an explanation of the process under s. DHS 163.33 for appealing a forfeiture. Each day of continued violation constitutes a separate offense. All of the following apply to a civil forfeiture:

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(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 working days after receipt of notice of the assessment or, if that person contests that assessment under s. DHS 163.33, within 10 working 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 working 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.** The department may suspend a certification, an accreditation or an approval issued under this chapter if the department provides written notice of suspension, the grounds for suspension and an explanation of the process under s. DHS 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. 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. DHS 163.31 (6).

(b) An order by a representative of the department to summarily suspend certification of a person and therefore stop a regulated activity may be a verbal or written order. Within 7 working days after the order takes effect, the department shall either permit the continuation of the regulated 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 working days after the date of suspension if the department has initiated revocation proceedings.

(6) **REVOCAION.** The department may revoke a certification, an accreditation or an approval issued under this chapter if the department provides written notice of revocation, the grounds for revocation and an explanation of the process under s. DHS 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.

Note: Pursuant to s. 254.30 (2) (b), Stats., any person who knowingly violates any provision of this chapter or an order issued under sub. (3) shall be subject to criminal penalty and 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.

History: CR 00-172: cr. Register February 2002 No. 554, eff. 3-1-02; **EmR0928: emerg. am. (intro.) and (3) (intro.), eff. 10-16-09; CR 09-085: am. (intro.) and (3) (intro.) Register March 2010 No. 651, eff. 4-1-10.**

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

(2) **APPEALS PROCESS.** To request a hearing under ch. 227, Stats., the aggrieved person shall file, within 10 working 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 transmis-

sion 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.

History: CR 00-172: cr. Register February 2002 No. 554, eff. 3-1-02.

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

DHS 163.40 General provisions. (1) APPLICABILITY. This subchapter applies to registered lead-free property and registered lead-safe property, the property owners and the employees and agents of property owners of registered lead-free property or registered lead-safe property, and persons performing lead-based paint activities on registered lead-safe property.

(2) **REQUIREMENTS AND RESTRICTIONS. (b) Registered lead-free property or registered lead-safe property.** Only a dwelling, dwelling unit or premises with a valid certificate of lead-free status in effect may be claimed to be registered lead-free property and only a dwelling, dwelling unit or premises with a valid certificate of lead-safe status in effect may be claimed to be registered lead-safe property.

(c) *Sampling or testing.* 2. 'Treating paint as lead-based paint for registered lead-free or lead-safe properties.' For purposes of obtaining a certificate of lead-free status or a certificate of lead-safe status and for performing lead abatement or non-abatement lead-based paint activities on registered lead-safe property, paint shall be treated as lead-based paint unless the paint is proven to be lead-free. Provisions under this subchapter that apply to paint or lead-based paint apply to all paint unless the paint is proven to be lead-free.

3. 'Who may sample or test paint for a lead-free inspection or lead-safe investigation.' To be included in a lead-free inspection or lead-safe investigation, sampling or testing of paint shall be conducted by an appropriately certified person who is:

a. Not the property owner or an immediate family member, agent or employee of the property owner.

b. Not a company or associated with a company that is directly or beneficially owned, controlled or managed by the property owner, or by an immediate family member, agent or employee of the property owner.

c. Not a person hired by or under contract with the property owner to manage or maintain the property owner's real property as directed by the property owner.

d. Not a person who has been authorized by the property owner to manage or maintain the property owner's real property on the property owner's behalf.

e. Not a person who has a financial interest in the laboratory results of the sampling or testing or in the determination of whether the property meets the registered lead-free property standard or the registered lead-safe property standard.

5. 'Conducting sampling or testing.' If sampling or testing of paint is conducted on registered lead-free property or registered lead-safe property, the certified individual shall use documented methodologies that incorporate adequate quality control procedures to do one of the following:

a. Using the procedures under s. DHS 163.14 (8), test the paint with an XRF and, if the XRF reading is equal to or greater than 0.7 milligrams lead per square centimeter, determine that lead-based paint is present. If the reading is less than 0.7 milli-

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grams lead per square centimeter, determine that the paint is lead-free. When a reading is in the inconclusive range for the XRF used, treat the paint as lead-based paint unless a paint chip sample taken under subd. 5. b. results in a determination that the paint is lead-free.

b. Collect a paint chip sample; have the paint chip sample analyzed by a recognized laboratory to determine detectable levels of lead that can be quantified numerically; and determine that lead-based paint is present if the laboratory result for the paint chip sample is equal to or greater than 0.06% lead by weight. If the laboratory result for the paint chip sample is less than 0.06% lead by weight, determine that the paint is lead-free.

(3) TRANSFER OF CERTIFICATE OWNERSHIP. (a) *Requirement to transfer.* When a person obtains both equitable title and legal possession of a registered lead-free property or registered lead-safe property, any certificate issued to the previous property owner is no longer in effect unless transferred under par. (b).

(b) *Written notice to transfer.* 1. To request a transfer of ownership and an amended certificate, one of the new property owners shall submit a signed and dated written notice of the change in ownership of the property to the department within 60 days after the date on which the new property owner obtains both equitable title and legal possession of a registered lead-free property or registered lead-safe property. In the written notice, the property owner who provides the notice shall provide the names and mailing addresses of the property owners or the name and mailing address of the authorized representative of the property owners.

2. The property owner shall submit the appropriate fee for an amended certificate under s. DHS 163.41 (2) (f) or 163.42 (2).

(c) *Amended certificate.* After receiving a written notice and fee under par. (b), the department shall issue an amended certificate that reflects the change in the ownership of the property.

(d) *Maintaining a certificate of lead-safe status.* The new owners shall comply with the conditions for maintaining the certificate under s. DHS 163.42 until the certificate expires or is terminated or revoked.

Note: Along with the amended certificate, the department will send the new owners information about the conditions for maintaining the certificate.

(5) VOLUNTARY TERMINATION OF A CERTIFICATE. To voluntarily terminate a certificate of lead-free status or to terminate a certificate of lead-safe and the requirement to comply with conditions for maintaining a certificate of lead-safe status, the property owner shall return the original certificate and any existing copies to the department with a signed and dated notice to terminate the certificate. The certificate is no longer in effect on the date the department receives the notice.

History: CR 00-172: cr. Register February 2002 No. 554, eff. 3-1-02; **EmR0928: emerg. am. (1), (2) (c) 2., 3. b. and 5. a., r. (2) (a), (c) 1., 4., and (4), eff. 10-16-09; CR 09-085: am. (1), (2) (c) 2., 3. b. and 5. a., r. (2) (a), (c) 1., 4., and (4) Register March 2010 No. 651, eff. 4-1-10.**

DHS 163.41 Certificate of lead-free status. (1) REGISTERED LEAD-FREE PROPERTY STANDARDS. All registered 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 sub. (2).

(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 sub. (2).

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

(a) *Lead-free inspection protocol.* 1. 'Who may conduct.' A lead-free inspection shall be conducted by a certified lead inspector or lead risk assessor associated with a certified lead company. Under direct on-site supervision of a certified lead inspector or risk assessor, a certified lead hazard investigator or sampling technician may assist with a lead-free inspection but may not use an

XRF. Certified individuals involved with conducting a lead-free inspection shall conduct it in an unbiased, objective and impartial manner. All persons involved with conducting the lead-free inspection shall meet the requirements under s. DHS 163.40 (2) (c) 3.

2. 'Locations inspected.' The registered lead-free property covered by a certificate is limited to those locations subject to the lead-free inspection under one of the following subd. pars., except that all dwelling units are included when a random selection process under subd. 2. c. is successfully used:

a. When a certificate of lead-free status is being sought for a single dwelling unit, the locations inspected shall include the dwelling unit for which the certificate is being sought and all interior and exterior common areas for the real property associated with the dwelling.

b. When a certificate of lead-free status is being sought for an entire multi-family dwelling, the locations inspected shall include all dwelling units unless subd. 2. c. applies, and shall include all interior and exterior common areas for the real property associated with the dwelling.

c. When a certificate of lead-free status is being sought for a multi-family dwelling with more than 20 dwelling units that are similar in construction, age and have a common painting history, the locations inspected shall include either all dwelling units or a subset of the dwelling units selected using the random selection process, and shall include all interior and exterior common areas for the real property associated with the dwelling. When the random selection process is used for dwellings built before 1960, a sufficient number of dwelling units shall be selected to provide a 95% level of confidence that at least 95% of all dwelling units would meet the standard for registered lead-free property if all dwelling units were investigated. When the random selection process is used for dwellings built in 1960 or later, a sufficient number of dwelling units shall be selected to provide a 95% level of confidence that at least 90% of all dwelling units would meet the standard for registered lead-free property if all dwelling units were investigated. If any dwelling unit included in the lead-free inspection does not meet the standard, a certificate of lead-free status may not be issued. If conditions in the failed dwelling unit are corrected, conduct a new lead-free inspection that includes a new selection of dwelling units chosen using the random selection process.

Note: For assistance in selecting the correct number of dwelling units to include in the lead-free inspection, refer to Appendix E of this chapter for properties built before 1960 and to Appendix F for properties built in 1960 or later. At the first instance that a property fails a lead-free inspection, follow the actions agreed upon in the contract under s. DHS 163.13 (5) (e). Actions that might be required in the contract include the following: stop the lead-free inspection, continue with the lead-free inspection or a lead inspection to discover other sources of lead-based paint, or convert the lead-free inspection to a lead-safe risk assessment.

d. When a certificate of lead-free status is being sought for a premises that is not a dwelling, such as a child-occupied facility, the locations inspected shall include all interior and exterior common areas for the real property associated with the premises where an occupant of the child-occupied facility might be exposed to a lead-based paint hazard.

Note: Subd. 2. a. to c. apply only to dwellings and subd. 2. d. applies only to other premises that are not dwellings, such as child-occupied facilities.

e. The lead-free inspection may incorporate a determination from a prior lead investigation activity that a painted component is lead-free when the prior lead investigation activity meets the requirements under s. DHS 163.40 (2) (c) 3.

3. 'Lead inspection.' A lead-free inspection shall include a lead inspection under s. DHS 163.14 (8).

4. 'Clearance.' A lead-free inspection shall include clearance under s. DHS 163.14 (5) of the work area where more than 2 square feet of paint was removed or more than 2 square feet of paint was disturbed in removing a painted component, if known, or of the dwelling units and common areas inspected under subd. 2., unless one of the following is obtained:

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a. When the paint has not been proven to be lead-free, a clearance report issued by an appropriately certified person after the most recent removal of more than 2 square feet of paint or removal of a painted component when the removal disturbed more than 2 square feet of paint. A certified individual involved with conducting clearance that is included in a lead-free inspection may not be a property owner or an immediate family member, agent or employee of a property owner or associated with a certified lead company that is directly or beneficially owned, controlled or managed by a property owner, or by an immediate family member, agent or employee of a property owner.

b. The following statement signed by the property owner or the property owner's agent or employee and dated at the time of signature: "I have no notice or knowledge of any person, during the previous 12 months, removing a total of more than 2 square feet of paint or disturbing more than 2 square feet of paint when removing a painted component from the real property included in this lead-free inspection."

(b) *Submission of registration form.* Following instructions provided by the department, a lead company shall complete and submit the lead-free inspection registration form to the department within 10 working days after completing the lead-free inspection, including receipt of any laboratory results. The registration form shall be submitted using an electronic format provided by the department or an alternative method approved by the department.

(c) *Verification of qualification and registration.* 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 working days after receiving verification of qualification and registration from the department.

(d) *Effective date.* 1. If a certified lead company conducts a lead-free inspection and submits the registration form to the department under par. (b) within 10 working days after completion of the lead-free inspection, and, if the department determines the dwelling unit, dwelling or premises meets the standards for registered lead-free property, the certificate shall be valid on the date the on-site sampling was completed.

2. If a lead company fails to submit the registration form within 10 working days under par. (b), the certificate shall be valid on the date the dwelling unit, dwelling or premises met the standards, as determined by the department based on evidence submitted by the property owner or lead company.

3. If a certified lead company conducted a lead inspection prior to the availability of certificates of lead-free status, the certificate shall be valid on the date the lead-free inspection form under par. (b) is received by the department when one of the following meets the requirements of the lead-free inspection protocol under par. (a):

a. The prior lead inspection.

b. The prior lead inspection combined with a subsequent update to the lead inspection.

(e) *Expiration date.* A certificate of lead-free status is valid until revoked, which shall be stated on each certificate of lead-free status issued.

(f) *Fees.* 1. In addition to fees charged by the lead company for the lead-free investigation and any laboratory analysis, the property owner shall pay a lead-free certificate fee of \$50 to the lead company issuing a lead-free certificate and the lead company shall forward payment to the department before the 10th day of the month following issuance.

2. In addition to the fee under subd. 1., a lead company that submits a lead-free report using an approved alternative under sub. (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 services.

Note: The department will provide training to lead company staff on the process for registering and issuing a lead-free or lead-safe certificate. For information about this training, contact the Asbestos and Lead Section, Room 137, 1 West Wilson Street, P.O. Box 2659, Madison, WI 53701-2659; e-mail dhsasbestoslead@wisconsin.gov; ph. 608-261-6876; fax 608-266-9711.

(3) **REVOCAION.** If the department provides written notice of revocation, the grounds for revocation and an explanation of the process under s. DHS 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 certificate of lead-free status for any of 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 does not support that the property meets the registered lead-free property standards under sub. (1) because the lead-free inspection protocol under sub. (2) was not followed in determining that the dwelling, dwelling unit, child-occupied facility or other premises met the standards for registered lead-free property and a subsequent lead-free inspection does not verify that the dwelling, dwelling unit, child-occupied facility or other premises met the lead-free standards.

Note: When a property owner is notified of a problem with a lead-free inspection, the property owner may hire a certified lead company to conduct a new lead-free inspection to verify that the property was, in fact, eligible for the lead-free certificate. If the property owner submits the inspection report for the new lead-free inspection to the department, the department will review the report and stop the revocation action if the new lead-free inspection verifies the property meets the standards.

(d) The property owner or his or her employee or agent obtained the certificate by fraud.

History: CR 00-172: cr. Register February 2002 No. 554, eff. 3-1-02; EmR0928: emerg. am. (2) (a) 2. d., eff. 10-16-09; CR 09-085: am. (2) (a) 2. d. Register March 2010 No. 651, eff. 4-1-10; correction in (2) (f) 3. made under s. 13.92 (4) (b) 6., Stats., Register March 2010 No. 651.

DHS 163.42 Certificate of lead-safe status. (1) REGISTERED LEAD-SAFE PROPERTY STANDARDS. Under the standards in this subsection, paint is not lead-free unless the paint is sampled or tested under s. DHS 163.40 (2) (c) and determined not to contain lead-based paint. For registered lead-safe property, all locations under sub. (2) (a) 2. that are subject to a lead-safe investigation shall meet all of the following standards, as determined by a lead-safe investigation under sub. (2):

(a) *Interior painted components.* Interior painted components shall be free of deteriorated paint unless the paint is proven to be lead-free.

(b) *Exterior painted components.* Exterior painted components shall be free of deteriorated paint unless the paint is proven to be lead-free.

(c) *Paint chips.* Floors, stairways, windowsills, window wells or troughs and soil shall be free of visible paint chips unless the paint is proven to be lead-free.

(d) *Substrate.* For the substrate of a painted surface, there shall be no visible defect, damage, decay or deterioration in the substrate that might cause deteriorated paint unless the paint is proven to be lead-free. Painted, unkeyed plaster may not be present unless the paint is proven to be lead-free.

(e) *Dust-lead hazards.* There shall be no dust-lead hazards on registered lead-safe property. A dust-lead hazard is present when at least one of the following applies:

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

a. The laboratory results for composite dust samples collected from floors are equal to or greater than 25 micrograms per square foot (25 µg/ft²).

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b. The laboratory results for composite dust samples collected from interior windowsills are equal to or greater than 125 micrograms per square foot (125 $\mu\text{g}/\text{ft}^2$).

c. The laboratory results for composite dust samples collected from window troughs or wells are equal to or greater than 400 micrograms per square foot (400 $\mu\text{g}/\text{ft}^2$).

Note: Composite dust sampling under this protocol is comparable to dust sampling conducted under a lead hazard screen.

2. Using single-surface dust sampling, 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 (40 $\mu\text{g}/\text{ft}^2$).

b. The arithmetic mean for dust samples collected from all interior windowsills is equal to or greater than 250 micrograms per square foot (250 $\mu\text{g}/\text{ft}^2$).

c. The laboratory result for a dust sample collected from a window trough or well is equal to or greater than 400 micrograms per square foot (400 $\mu\text{g}/\text{ft}^2$).

Note: Single-surface dust sampling under this protocol is comparable to dust sampling conducted under a lead risk assessment.

(f) *Moisture or water damage.* Unless the paint is proven to be lead-free, there shall be no evidence of ongoing water damage to painted surfaces, including ongoing water damage caused by any of the following:

1. Unrepaired water leaks in gutters, downspouts, roofs, foundations or other components.

2. Unrepaired leaks in plumbing, air conditioning or heating systems.

3. Absent or malfunctioning gutters or downspouts.

(g) *Painted floors and stairs.* Painted interior and exterior floors and the traffic area of stair treads shall be free of deteriorated paint and evidence of abrasion unless all existing paint on the floor or stair tread is proven to be lead-free.

(h) *Window systems, including storm and screen windows.* For painted window systems, all of the following apply unless the paint is proven to be lead-free:

1. Weep holes shall be present and open in any window system designed to have weep holes.

2. Window wells or troughs shall be smooth and cleanable.

3. Glazing shall not have gaps.

(i) *Soil-lead hazard.* There shall be no soil-lead hazard on registered lead-safe property. A soil-lead hazard is present when bare soil is present and an assessment conducted under s. DHS 163.14 (9) (g) determines that the bare soil is a soil-lead hazard under s. DHS 163.15 (2).

(2) ISSUANCE OF CERTIFICATE OF LEAD-SAFE STATUS. (a) *Lead-safe investigation protocol.* 1. 'Who may conduct.' A lead-safe investigation shall be conducted by a certified lead hazard investigator or lead risk assessor associated with a certified lead company. Under direct on-site supervision of a certified lead hazard investigator or risk assessor, a certified lead inspector or sampling technician may assist with a lead-safe investigation. Certified individuals involved with conducting a lead-safe investigation shall conduct it in an unbiased, objective and impartial manner. All persons involved with conducting the lead-safe investigation shall meet the requirements under s. DHS 163.40 (2) (c) 3.

2. 'Locations investigated.' The registered lead-safe property covered by a certificate is limited to those locations subject to the lead-safe investigation under one or more of the following subd. pars., except that all dwelling units are included when a random selection process under subd. 2. c. is successfully used:

Note: Subd. 2. a. to c. apply to dwellings and subd. 2. d. applies to other premises that are not dwellings, such as child-occupied facilities.

a. When a certificate of lead-safe status is being sought for a single dwelling unit, the locations investigated shall include the dwelling unit for which the certificate is being sought and all interior and exterior common areas for the real property associated

with the dwelling where an occupant of the dwelling unit might be exposed to a lead-based paint hazard.

b. When a certificate of lead-safe status is being sought for an entire multi-family dwelling, the locations investigated shall include all dwelling units unless subd. 2. c. applies, and shall include all interior and exterior common areas for the real property associated with the dwelling where an occupant might be exposed to a lead-based paint hazard.

c. When a certificate of lead-safe status is being sought for a multi-family dwelling with more than 20 dwelling units that are similar in construction, age and have a common paint, maintenance and management history, the locations investigated shall include either all dwelling units or a subset of the dwelling units that are selected using the random selection process, and shall include all interior and exterior common areas for the real property associated with the dwelling where an occupant might be exposed to a lead-based paint hazard. When the random selection process is used, a sufficient number of dwelling units shall be selected to provide a 95% level of confidence that at least 95% of all dwelling units would meet the standard for registered lead-safe property if all dwelling units were investigated. If any dwelling unit included in the lead-safe investigation does not meet the standard, a certificate of lead-safe status may not be issued. If conditions in the failed dwelling unit are corrected, conduct a new lead-safe investigation that includes a new selection of dwelling units using the random selection process.

Note: For assistance in selecting the correct number of dwelling units to include in the lead-safe investigation, refer to Appendix E of this chapter. At the first instance that a property fails a lead-safe investigation, follow the actions agreed upon in the contract under s. DHS 163.13 (5) (e). Actions that might be required in the contract include stopping the lead-safe investigation or converting to a risk assessment.

d. When a certificate of lead-safe status is being sought for a premises that is not a dwelling, such as a child-occupied facility, the locations investigated shall include all interior and exterior common areas for the real property associated with the premises where an occupant of the child-occupied facility might be exposed to a lead-based paint hazard.

e. The lead-safe investigation may incorporate a determination from a prior lead investigation activity that a painted component is lead-free when the prior lead investigation activity meets the requirements under s. DHS 163.40 (2) (c) 3.

3. 'Sampling or testing for lead-based paint.' Certified persons conducting a lead-safe investigation shall treat paint as lead-based paint unless the paint is sampled or tested under s. DHS 163.40 (2) (c) and determined not to contain lead-based paint.

4. 'Visual inspection.' Conduct a visual inspection of the real property to determine compliance with sub. (1) (a) to (e) and (g) to (i).

5. 'Collection of dust samples.' For a lead-safe investigation of a dwelling, use documented methodologies to collect composite dust samples under subd. 6. or single-surface dust samples under subd. 7., and to collect single surface dust samples of common areas under subd. 8. For a lead-safe investigation of any other premises, use documented methodologies to collect single-surface dust samples under subd. 9.

Note: Composite dust sampling under this protocol is comparable to dust sampling conducted under a lead hazard screen and single-surface dust sampling is comparable to dust sampling conducted under a lead risk assessment. Documented methodologies for dust wipe samples under this protocol include the EPA protocols under 40 CFR 745.227, EPA guidance documents relating to the EPA protocols and Chapter 5 of HUD's "Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing."

6. 'Collect composite dust samples of a dwelling unit.' Collect composite dust samples from a dwelling unit as follows:

a. Collect one or more composite dust sample consisting of 4 separate dust samples from the floors of the main entryway and rooms or areas where a child under age 6 years would most likely come into contact with dust.

b. Collect one or more composite dust sample consisting of 4 separate dust samples from the window troughs or 4 separate

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dust samples from interior sills of windows that are most frequently operated or where a child under age 6 years would most likely come into contact with dust.

c. For a dwelling unit in a multi-family dwelling, collect dust samples under subd. 8. from common areas where a child under age 6 years would most likely come into contact with dust in addition to the samples collected under subd. 6. a. and b.

7. 'Single surface dust samples of a dwelling unit.' Collect single-surface dust samples from a dwelling unit as follows:

a. Collect a minimum of 4 dust samples from floors in rooms and areas that might be frequented by children under age 6, with samples collected from areas of the floor where a child under age 6 would most likely come into contact with dust, such as a play area within a room, a high-traffic walkway and underneath windows.

b. Collect one dust sample from a window trough of a window that is commonly operated or where a child under age 6 years would most likely come into contact with dust.

c. Excluding the window from which the sample under subd. 7. b. was taken, collect a minimum of 3 dust samples from interior windowsills in rooms or areas where a child under age 6 years would likely come into contact with dust. Select windows that are frequently operated or where a child under age 6 years would most likely come into contact with dust.

d. For a dwelling unit in a multi-family dwelling, collect dust samples under subd. 8., from common areas where a child under 6 years would most likely come into contact with dust in addition to the samples collected under subd. 7. a. to c.

8. 'Single surface dust samples of dwelling common areas.' Collect single surface dust samples of dwelling common areas as follows:

a. Collect window and floor dust samples from common areas adjacent to the dwelling.

b. Collect window and floor samples from other common areas where a child under age 6 would likely come into contact with dust.

9. 'Single-surface dust samples of other premises.' For a child-occupied facility or premises other than a dwelling, collect single-surface dust samples as follows:

a. Window and floor samples in each room, hallway or stairwell used by a child under age 6 years.

b. Collect window and floor dust samples from common areas adjacent to the child-occupied facility or other premises.

c. Collect window and floor samples from other common areas where a child under 6 years of age would likely come into contact with dust.

10. 'Collection of soil samples.' Soil analysis is not required unless bare soil is present. If bare soil is present, collect soil samples for analysis of lead concentrations from the following locations:

a. Exterior play areas where bare soil is present.

b. The rest of the yard where bare soil is present.

c. Dripline and foundation areas where bare soil is present.

11. 'Analysis by a recognized laboratory.' Have any collected paint chip, dust or soil samples analyzed by a recognized laboratory to determine any detectable levels of lead that can be quantified numerically.

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

(c) *Verification of qualification and registration.* 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 of qualification and registration from the department.

(d) *Effective date.* 1. If a certified lead company conducts a lead-safe investigation and submits the registration form to the department under par. (b) within 10 working days after completion of the lead-safe investigation, including receipt of any laboratory results, and if the department determines the dwelling unit, dwelling or premises meets the standards for registered lead-safe property, the certificate shall be valid on the date the on-site sampling was completed.

2. If a lead company fails to submit the registration form within 10 working days under (b), the certificate shall be valid on the date the dwelling unit, dwelling or premises met the standards, as determined by the department based on evidence submitted by the property owner or lead company.

(e) *Expiration date.* 1. 'General criteria for determining the expiration date.' For property meeting the registered lead-safe property standards under sub. (1), 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 is proven to be lead-free shall be excluded from consideration. A component that has been enclosed or encapsulated according to documented methodologies shall be excluded from consideration under subds. 1. to 5. To determine the expiration date, select the shortest duration under subds. 2. to 7. based only on the components subject to the lead-safe investigation under sub. (2) (a) 2.

2. 'Nine months.' The presence of paint on an impact or friction surface of a window well or trough, window channel, or window sash shall result in a certificate of lead-safe status being issued for no more than 9 months when paint is not proven to be lead-free and the painted surface is not enclosed by a durable material that protects the paint from impact and abrasion.

Note: The 9-month certificate is intended to allow recognition of temporary measures, such as removing dust-lead and debris created by impact and friction, while more permanent lead hazard reduction 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.

3. 'One year.' The presence of any of the following conditions shall result in a certificate of lead-safe status being issued for no more than one year unless the paint is proven to be lead-free:

a. In a dwelling unit or common area, paint is present on a floor and the painted surface is not covered by an intact lead-free topcoat or by a durable material or carpeting that protects the paint from abrasion.

b. In a dwelling unit or common area, paint is present under an intact lead-free topcoat of the traffic area of a stair tread and the painted surface is not covered by a durable material or carpeting that protects the paint from abrasion.

c. Paint is present on a drawer of a built-in cabinet, malfunctioning door, or on any other interior friction surface not otherwise described and the painted friction surface is not covered by a durable material that protects the paint from abrasion.

4. 'Three years.' The presence of any of the following conditions shall result in a certificate of lead-safe status being issued for no more than 3 years unless the paint is proven to be lead-free:

a. Paint is present on an exterior sill, interior sill or stool, casing, head, jamb, glazing, caulk, putty or any other component of a window that is not an impact or friction surface under subd. 1.

b. Paint is present and exposed on any exterior horizontal surface or any of the following exterior components: floor, porch, stair system.

c. Other than paint on a window well or trough under subd. 1., paint is present and exposed to damage by the impact of another

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component striking the painted component, such as a door striking a baseboard or chair rail.

- d. Paint is present on an interior or exterior door.
- e. A component shows evidence of mold, mildew, moisture or water damage where paint is present, but no evidence of an active leak.
- f. In a dwelling unit or common area, paint is present under an intact lead-free topcoat of a floor and the painted surface is not covered by a durable material or carpeting that protects the paint from abrasion.
- g. In an enclosed area that is locked and secured against access by occupants other than the property owner or the property owner's family, agent or employee, paint is present on a floor or the traffic area of a stair tread and the painted surface is not covered by a lead-free topcoat or by a durable material or carpeting that protects the paint from abrasion.

5. 'Five years.' Unless the paint is proven to be lead-free, the presence of paint on an exterior component not described under subds. 1. to 3., 5. or 6., such as siding, porch ceiling, gutter, downspout, soffit or fascia, shall result in a certificate of lead-safe status being issued for no more than 5 years.

6. 'Ten years.' Unless the paint is proven to be lead-free, the presence of paint on an interior component that is not described under subds. 1. to 3., 5. or 6., such as a wall, ceiling or painted floor covered by wall-to-wall carpeting, shall result in a certificate of lead-safe status being issued for no more than 10 years.

7. 'Twenty years.' A certificate of lead-safe status shall be issued for no more than 20 years when all paint that has not been proven to be lead-free has been fully enclosed with durable material that does not allow dust or debris from the paint to escape into the environment.

(f) *Fees.* 1. In addition to fees charged by the lead company for the lead-safe investigation and laboratory analysis, the property owner shall pay a lead-safe certificate fee of \$25 to the lead company issuing a lead-safe certificate and the lead company shall forward payment to the department before the 10th day of the month following issuance.

2. In addition to the fee under subd. 1., a lead company that submits a lead-safe report using an approved alternative under par. (b) 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 services.

(3) CONDITIONS FOR MAINTAINING A CERTIFICATE OF LEAD-SAFE STATUS. (a) *Requirement to comply.* The property owner shall comply with all of the conditions for maintaining a certificate of lead-safe status under pars. (b) to (h).

Note: A quantity of dust-lead small enough to cover a finger tip is sufficient to cause a child to have a lead exposure. Even a blood level of 10 micrograms per deciliter of blood might decrease a child's reading ability by 10%. Dust-lead is created when lead-based paint deteriorates due to the effects of water or moisture or due to age, which might be evidenced by flaking, chipping, peeling, chalking, alligatoring or other cracking. Dust-lead is also created when lead-based paint is subject to friction, impact, or other disturbance, such as by activities involving sanding, scraping, sawing, planing, cutting, burning, and heating to high temperatures.

(b) *Distribute materials to occupants.* 1. 'Applicability.' This requirement applies to a property owner when a registered lead-safe property includes a dwelling unit or premises that is occupied by someone other than the property owner or the property owner's immediate family.

2. 'Requirement for distribution of materials.' a. For tenancy of a dwelling unit under a rental agreement, the property owner shall ensure that a lead-safe information pamphlet under subd. 3. and a form under subd. 4. is delivered by personal, postal or delivery service to an adult occupant or other responsible occupant entering into a tenancy under a rental agreement.

b. For tenancy of a dwelling unit in the absence of a rental agreement, the property owner shall ensure that a lead-safe infor-

mation pamphlet under subd. 3. and a form under subd. 4. is delivered by personal, postal or delivery service to an occupant age 16 years or older when the occupant holds possession of the dwelling unit for a period of 30 consecutive days or more with the knowledge and consent of the owner and materials have not been distributed to other occupants of the dwelling unit within the previous 12 months.

c. For a child-occupied facility, the property owner shall ensure that a registered lead-safe property poster obtained from the department is posted where it is visible to persons responsible for children occupying the child-occupied facility.

d. For a premises that is not a dwelling unit or a child-occupied facility, the property owner shall ensure that a registered lead-safe property poster obtained from the department is posted where it is visible to persons occupying the premises.

3. 'Lead-safe information pamphlet.' The lead-safe information pamphlet shall be obtained from or approved by the department.

4. 'Form for reporting deteriorated paint and other potential lead-based paint hazards.' The form for reporting deteriorated paint, failure of an enclosure, encapsulation or covering, and any other potential lead-based paint hazards shall be obtained from the department or may be another form that shall include a request for all of the following information:

a. The name and contact information for the person submitting the form.

b. The location and a brief description of the deteriorated paint, failure of an enclosure, encapsulation or covering, or other potential lead-based paint hazard.

c. The date the form is delivered to the property owner or the property owner's agent or employee.

d. Optional disclosure of the presence of a child under age 6.

5. 'Timing for distribution of required materials after issuance of a certificate.' The property owner shall ensure that distribution of materials under subds. 3. and 4. is completed within 60 days after issuance of a certificate of lead-safe status.

Note: The lead-safe information pamphlet, registered lead-safe property poster and the form for reporting deteriorated paint and potential lead-based paint hazards may be obtained from the department website at www.dhs.wisconsin.gov/lead; email dhsasbestoslead@wisconsin.gov; ph. 608-261-6876; fax 608-266-9711; or Asbestos and Lead Section, Room 137, 1 W. Wilson Street, P.O. Box 2659, Madison, WI 53701-2659.

6. 'Timing for distribution at start of tenancy.' The property owner shall ensure that distribution of materials under subds. 3. and 4. is completed as follows:

a. For tenancy of a dwelling unit under a rental agreement, prior to the start of tenancy, entering into a rental agreement or accepting earnest money or a security deposit, whichever is later.

b. For tenancy of a dwelling unit in the absence of a rental agreement, prior to the start of tenancy by an occupant age 16 years or older who holds possession for a period of 30 consecutive days or more with the knowledge and consent of the owner and materials have not been distributed to other occupants of the dwelling unit within the previous 12 months.

Note: For rental housing, the required materials may be distributed together with disclosure materials required under HUD regulations under 24 CFR Part 35, Subpart H and EPA regulations under 40 CFR Part 745 Subpart F.

7. 'Timing for distribution on an ongoing basis.' When a certificate of lead-safe status is issued for 3 years or more, the property owner shall ensure that materials under subds. 3. and 4. be distributed no later than every 13 months as long as the tenancy continues unless the property owner chooses to post a lead-safe information pamphlet in each dwelling unit covered by the certificate of lead-safe status.

(c) *Conduct visual inspection.* When a certificate of lead-safe status is issued for 3 years or more, the property owner shall ensure that the registered lead-safe property has a visual inspection conducted as follows:

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1. The visual inspection shall be completed no later than every 13 months.

2. During the visual inspection, the registered lead-safe property shall be examined visually for the presence of deteriorated paint that is not proven to be lead-free, failure of an enclosure, encapsulant or covering, and the presence of other potential lead-based paint hazards using documented methodologies. Components that previously were determined to be free of lead-based paint in accordance with procedures under s. DHS 163.40 (2) (c) may be excluded from the visual inspection.

Note: Refer to Appendix G for one documented methodology for conducting a visual inspection.

3. The results of the visual inspection shall be recorded on a visual inspection form obtained from or approved by the department. The form shall include all of the following:

- a. The date of the visual inspection.
 - b. The name and contact telephone number of the person who conducted the visual inspection.
 - c. The result of the visual inspection.
4. The visual inspection form shall be maintained under par. (h) and, when requested, shall be submitted to the department within 10 working days.

5. Any deteriorated paint that is not proven to be lead-free and any failing enclosure, encapsulation or covering shall be repaired and any lead-based paint hazard removed according to the timeframe under par. (d).

Note: "Lead Paint Safety, A Field Guide for Painting, Home Maintenance, and Renovation Work" strongly recommends dust wipe samples be taken every two years to check for dust-lead hazards when a young child or pregnant woman lives in a dwelling.

(d) *Remove lead-based paint hazards.* 1. Subject to the provisions under subds. 2. to 6., the property owner or the property owner's agent or employee shall ensure that any failing enclosure, encapsulation or covering, deteriorated paint that is not proven to be lead-free, and any other potential lead-based paint hazard is repaired or removed within 20 working days of gaining knowledge of the potential lead-based paint hazard from any source, including a visual inspection under par. (e), a report by an adult or responsible occupant or the parent or guardian of an occupant who is under age 6 years, or a notice from a federal, state or local governmental agency.

2. If the property owner or the property owner's employee or agent knows or has reason to know that a child under the age of 6 occupies a unit where an interior lead-based paint hazard is located, the property owner or the property owner's employee or agent shall ensure that measures are taken within 5 working days to protect the child from lead exposure. These measures may be temporary, such as temporarily covering deteriorated paint with duct tape or preventing access to the area, provided the repair or removal is completed within 20 working days.

3. If an exterior lead-based paint hazard is identified between October 1 and May 1, it shall be removed by June 1.

4. The failing enclosure, encapsulation or covering, deteriorated paint that is not proven to be lead-free, or any other potential lead-based paint hazard shall be repaired or removed at an earlier date if the department or another governmental agency orders earlier action.

5. Repair or removal of a failing enclosure, encapsulation or covering, deteriorated paint that is not proven to be lead-free, or any other potential lead-based paint hazard is not required when both of the following conditions apply:

- a. An individual certified in a lead investigation discipline uses documented methodologies to determine that a dust-lead hazard is not present and the paint is lead-free.
- b. All reports and data related to the determination are maintained under par. (h).

6. When exceptional circumstances prevent the timely repair or removal of a failing enclosure, encapsulation or covering, dete-

riorated paint that is not proven to be lead-free, or any other potential lead-based paint hazard, the property owner or the property owner's employee or agent may ask the department to grant an extension as follows:

a. The property owner or the property owner's agent or employee shall submit a written request for an extension for receipt by the department before the applicable timeframe under subds. 1. to 3.

b. The request shall identify the registered lead-safe property by certificate registration number and shall clearly explain why an extension is necessary.

c. A processing fee of \$25 shall be submitted to the department with each request for an extension.

d. Within 10 working days after receiving a request for an extension and the processing fee, the department shall grant or deny the request based on all facts available to the department.

e. An extension may be granted by the department if the extension does not present a serious and immediate threat to a child under age 6 years. Each extension shall be unique to the particular situation for which the extension is granted and may not exceed 40 working days per extension.

f. Any extension denied by the department may be appealed under s. DHS 163.33.

Note: Submit any extension request to the Asbestos and Lead Section, Room 137, 1 West Wilson Street, P.O. Box 2659, Madison, WI 53701-2659; e-mail; dhsasbestoslead@wisconsin.gov or fax 608-266-9711.

(e) *Ensure appropriate certification.* 1. When a property owner requests or allows an abatement or lead investigation activity to be conducted, the property owner shall ensure that persons conducting the abatement or lead investigation activity are appropriately certified under s. DHS 163.10 and are affiliated with a certified company under s. DHS 163.12.

2. When a property owner requests or allows an interim control or renovation activity to be conducted, the property owner shall inform persons conducting the activity that the activity involves registered lead-safe property and shall ensure that persons conducting the activity are appropriately certified under s. DHS 163.10 and are affiliated with a certified company under s. DHS 163.12.

3. When a lead investigation, abatement, interim control or renovation activity is conducted by a property owner or the property owner's agent or employee, the property owner shall ensure compliance with certification and work practice requirements under this chapter.

4. Under this paragraph, a property owner is deemed to not allow the occupant to conduct the activity under any of the following circumstances:

a. When the property owner can demonstrate that the occupant received a written rental agreement that prohibits the occupant from disturbing paint and performing lead-based paint activities on the property without certification.

b. When the property owner can demonstrate that the occupant received the property owner's written rules prohibiting the occupant from disturbing paint and performing lead-based paint activities on the property without certification.

c. The property owner's written rules for the property were posted where the occupant should reasonably have been expected to see the prohibition and the rules prohibit the occupant from disturbing paint and performing lead-based paint activities on the property without certification.

(f) *Follow work practice standards.* 1. When a property owner requests or allows an interim control or renovation activity to be conducted, the property owner shall inform persons conducting the activity that they are required to comply with lead-safe work practices under s. DHS 163.14 (11).

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3. Under this paragraph, a property owner is deemed to not allow the occupant to conduct the activity under any of the following circumstances:

a. When the property owner can demonstrate that the occupant received a written rental agreement that prohibits the occupant from disturbing paint on the property without certification.

b. When the property owner can demonstrate that the occupant received the property owner's written rules prohibiting the occupant from disturbing paint on the property without certification.

c. The property owner's written rules for the property were posted where the occupant should reasonably have been expected to see the prohibition and the rules prohibit the occupant from disturbing paint on the property without certification.

(g) *Conduct clearance.* 1. When a property owner requests or allows an interim control or renovation activity to be conducted, the property owner shall ensure that clearance under s. DHS 163.14 (5) is conducted.

2. Under this paragraph, a property owner is deemed to not allow the occupant to conduct the activity under any of the following circumstances:

a. When the property owner can demonstrate that the occupant received a written rental agreement that prohibits the occupant from disturbing paint and performing lead-based paint activities on the property without certification.

b. When the property owner can demonstrate that the occupant received the property owner's written rules prohibiting the occupant from disturbing paint and performing lead-based paint activities on the property without certification.

c. The property owner's written rules for the property were posted where the occupant should reasonably have been expected to see the prohibition and the rules prohibit the occupant from disturbing paint and performing lead-based paint activities on the property without certification.

(h) *Maintain documentation.* A property owner shall ensure that the following documentation is maintained for a minimum of one year after expiration of the certificate of lead-safe status that was in effect when the documented activity was conducted:

1. Reports, data and notices issued or obtained under requirements of this chapter and related to a registered lead-safe property, including lead-safe investigation reports, abatement notices, abatement reports, and clearance reports.

2. Visual inspection reports and occupant reports of potential lead-based paint hazards, with a notation as to the date received, when applicable, and the date the potential lead-based paint hazard was removed under par. (c) and by whom.

Note: Under federal disclosure requirements under 24 CFR Part 35 and 40 CFR Part 745, the seller or lessor of residential property must disclose the existence of any available records or reports pertaining to lead-based paint and lead-based paint hazards and provide the purchaser or lessee with any of these records or reports that are available to the seller or lessor.

(4) APPLICATIONS FOR CERTIFICATES OF LESS THAN 12 MONTHS. Unless exempted by statute, 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. If the department provides written notice of revocation, the grounds for revocation and an explanation of the process under s. DHS 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 certificate of lead-safe status 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 statute, ordinance, rule or regulation relating to lead-based paint at the registered lead-safe property.

(g) The lead-safe investigation does not support that the property meets the registered lead-safe property standards under sub. (1) because the lead-safe investigation protocol under sub. (2) was not followed in determining that the property met the registered lead-safe property standards and a subsequent lead-safe investigation did not verify that the property met the lead-safe standards.

Note: When a property owner is notified of a problem with a lead-safe investigation, the property owner may hire a certified lead company to conduct a new lead-safe investigation to verify that the property was, in fact, eligible for the lead-safe certificate. If the property owner submits the investigation report for the new lead-safe investigation to the department, the department will review the report and stop the revocation action if the new lead-safe investigation verifies the property meets the standards.

History: CR 00-172: cr. Register February 2002 No. 554, eff. 3-1-02; CR 03-019: am. (1) (b) and (2) (a) 10., r. (1) (c) and (2) (e) 3. d., renum. (1) (d) to (j) to be (1) (c) to (i) and am. (1) (e) 2. c., r. and recr. (1) (i), cr. (2) (a) 10. c., Register July 2003 No. 571, eff. 8-1-03; **EmR0928: emerg. am. (2) (a) 2. d., (3) (e) 1. to 3., (f) 1., 3. a. to c. and (g) 1., r. (3) (f) 2., eff. 10-16-09; CR 09-085: am. (2) (a) 2. d., (3) (e) 1. to 3., (f) 1., 3. a. to c. and (g) 1., r. (3) (f) 2. Register March 2010 No. 651, eff. 4-1-10; correction in (2) (f) 3. made under s. 13.92 (4) (b) 6., Stats., Register March 2010 No. 651.**

DHS 163.43 Certification to perform non-abatement lead-based paint activities on registered lead-safe property. **History:** CR 00-172: cr. Register February 2002 No. 554, eff. 3-1-02; **EmR0928: emerg. r. eff. 10-16-09; CR 09-085: r. Register March 2010 No. 651, eff. 4-1-10.**

DHS 163.44 Work practice standards for non-abatement lead-based paint activities. **History:** CR 00-172: cr. Register February 2002 No. 554, eff. 3-1-02; correction in (1) (g) 3. made under s. 13.92 (4) (b) 7., Stats., Register January 2009 No. 637; **EmR0928: emerg. r. eff. 10-16-09; CR 09-085: r. Register March 2010 No. 651, eff. 4-1-10.**