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WISCONSIN DEPARTMENT OF HEALTH SERVICES PROPOSED ORDER TO ADOPT RULES

The Wisconsin Department of Health Services (Department) proposes an order to **repeal** DHS 163.03 (41) (Note), (61) (Note), (82), (96m) (Note), (97) and (113); 163.10 (3) (c) 1. a., b., b. (Note), 2., a. & b., 3., a. & b., (5) (c) 1. & 2., (f), 1. & 2., (7) (b) 1. & 2., and (8) (b) 4.; 163.11 (2) (c) 2., (3) (a) 2. b. (Note), and (3m); 163.12 (1m), (2) (d) 1. & 2. and (3) (a) 1. am.; 163.13 (10) (a) & (b); 163.14 (1) (d) (Note), (e) 1., 2., a. to c., 4., 5., a. to d., (f), (k) 1. to 3., (5) (c) 9. e., (10) (b) & (c), (11) (g) 5. and (i) 6. (Note); 163.16 (2) and (3); 163.20 (9) (c) (Note); 163.24 (3) (b) 4. and 6.; 163.25 (3) (d) (Note), (10) (b) 7. a. to d. and 8.; 163.42 (1) (d), (e), (e) (Note 1) and (Note 2), (3) (c) 2. (Note), 5. (Note), (e) 4., (f) 3. and (g) 2. to **amend** DHS 163.02 (2) (Note); 163.03 (18) (Note), (29) (Note), (35), (41), (61), (63), (66), (74), (76), (96) (Note), (96m), (108), (109), 163.10 (1) (intro.), (1) (bm), (d) 2., (2) (b) 3., 4., (c), (4), (5) (a), (b), (d), (g) 1. a. to h., 2., 3., 4. (Note 1) & (Note 2), (6) (a), (b), (c) 1. & 2., (8) (a) and (Note), (b) (intro.), (c) 1. to 3., 4. a. to gm., 6. (Note 1) & (Note 2), and (d) 1.; 163.11 (3) (b) 2. a. and (4); 163.12 (1) (a), (am), (2) (intro.), (b), (3) (a) 1. g., 2. a., (b) 3. (Note 1) & (Note 2), (4) (a), (6) (a) 2., 2. (Note 1) & (Note 2) and (b) 1.; 163.13 (1), (2), (3) (a) 3., (b) 6., (c) 2., 7. (intro.), 7. g., 10., 12., (5) (d) 2. a., (6) (a) (intro.), (a) 1., 1. a. & b., (b) 1., 2., 2. a. to c., (7) (b), (c), (8) (title), (a), (b) (intro.), (c) (intro.), 4., 5. (Note), (9) (12) (title) and (intro.), (a) & (b); 163.14 (1) (h) (title), (i) and (Note), (j), (m) 3., (2) (title), (a), 1. to 4., (b) (title), (b) 1. (intro.) to 4., 4. (Note 1) & (Note 2), (c) (title), (c) 1. (intro.) to 3., 3. (Note), (3) (h), (i), (5) (c) 5. b. (Note), 6., 8. a. to c., 9. d., 11. e. (Note), (7) (d) (intro.), 1., 3., (g) 14., (8) (title), (8) (c) 1. to 3., (e) 6., 7. a. and b., (f) (intro.), (9) (c) (intro.), 1. to 3., (e), (11) (f) 1., 4., (g) 1., 4., (h) 4., 6. and 7.; 163.15 (1) (a) 1., 2., (b) 1. and 2.; 163.16 (1); 163.20 (3), (4) (a), (c), (7) (b), (c) 2., (8) (a) (intro.), 1. r., zb., 2. (intro.), a., g., h., i., j., m., o., q., 3. (intro.), k., L., q., 4. (intro.), (b) (intro.), 1. f., 2. (intro.), v., w., 3. (intro.), b., s., (c) 7., (h) 1. and 5., (8) (i), (9) (title), (am), (b), (c) (intro.) and 5.; 163.21 (1) (b) (Note), (2) (c), (3) (a) to (c), (5), (6) (c) 5., (g), (i) and (7) (b) (Note); 163.22 (1), (2) and (6) (c) (title); 163.23 (3) (a) and (5); 163.24 (1), (2) (c) 1., 2., (d), (3) (b) 3., (c) 1., 2., (e) 1. a., b., 2., 3. a. and b.; 163.25 (1), (2), (3) (title), (a) (title) and (Note), (b) (title), (c) (title), 2., and (d.); (6), (7) (title) and (intro.), (d), (9) (intro.), (e), (10) (a), (b) 2., 3., 5., and (11) (b) 3. to 5.; 163.31 (2) (b), (i), (4) (b), (g), (h), (i), (j), (L), (o), and (6) (a) & (b); 163.32 (1) (a), (b), (c), (e), (f), (2), (3), (5) (b); 163.40 (2) (c) 2., 5. a. and b.; 163.41 (2) (a) 2. c. (Note), e., 4. a., (f) 3. (Note); 163.42 (1), (a) to (c), (f) to (h), (2) (a) 2. c. (Note), e., (3) (b) 5. (Note), (d) 1., 4., 5., a., 6., and 6. f. (Note), and (f) 1.; to **repeal and recreate** DHS 163.10 (1) (e), (3) (c) 1. (intro.), 2., 3., (5) (c), (f), (7) (b), (8) (c) 4. h., (e) 1. and 2.; 163.11 (3) (a) 2. (intro.), a. and b.; 163.12 (2) (d); 163.13 (3) (c) (intro.), (10); 163.14 (1) (e), (k) and (Note), (7) (g) 15.. (10) (a), and (11) (j) 4. e. (Note); 163.20 (5), (6), and (8) (a) 1. a.; 163.23 (3) (d) (Note 1) and (Note 2); 163.24 (2) (b) 2. (Note 1) and (Note 2), (3) (b) 7. d. (Note 1) and (Note 2); 163.25 (7) (e) (Note) and (10) (b) 7.; 163.42 (1) (d) and (e); to **create** DHS 163.03 (13) (d), (88r), (102m), (107m), 163.10 (5) (a) (Note), (6) (am); 163.11 (3) (a) 2. c. to e., 163.13 (12) (c); 163.14 (2) (a) 5., (5) (c) 8. am., 9. cm., cr., (8) (f) 11.; 163.20 (8) (a) 2. u., (h) 7.; 163.31 (2) (m) to (o), (4) (Lm), and (t) to (w), relating to Certification For The Identification, Removal And Reduction Of Lead-Based Paint Hazards.

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RULE SUMMARY

Statute interpreted

Sections 254.172 - 254.181, and 254.30, Stats.

Statutory authority

Sections 227.11 (2) (a), 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.

Explanation of agency authority

The Department's authority to promulgate the proposed rules is provided in statute. Section 227.11 (2) (a), Stats., authorizes the Department to promulgate rules interpreting the provisions of any statute enforced or administered by the agency if the agency considers it necessary to effectuate the purpose of the statute. Section 254.172, Stats., permits the Department to promulgate rules governing lead hazard reduction that the Department determines are consistent with federal law. Section 254.176, Stats., allows the Department to establish by rule certification requirements for any person who performs lead hazard reduction or lead management activity or who supervises the performance of any lead hazard reduction or lead management activity. Section 254.178, Stats., requires that the Department promulgate rules establishing requirements for the accreditation of lead training courses and approval of lead instructors. Section 254.179, Stats., requires the Department to promulgate rules for certifying dwellings as lead-safe or lead-free, including the standards that must be met for issuance of a lead-free or lead-safe certificate and the period of validity of the certificate.

Related statute or rule

None

Plain language analysis

The Department is required to administer a comprehensive statewide lead poisoning prevention program that includes certification, accreditation and approval requirements. Requirements for lead certification, training course accreditation and instructor approval are established in Ch. DHS 163. The Department proposes to make the following revisions to the rule chapter:

1. Lead inspection is defined in Ch. DHS 163 and work practice standards are provided. The Department proposes to revise the rule to reflect language in 2015 Wisconsin Act 122 that exempts certain partial lead inspection activities from meeting lead inspection requirements under Ch. DHS 163.
2. Lead-bearing paint is defined in current rule to comply with the U.S. Consumer Product Safety Commission's definition as set in 1978. 2015 Wisconsin Act 55, Section 4045p, amended the statutory definition of lead-bearing paint in § 254.11 (8). The Department proposes to amend the definition of "lead-based paint or lead-bearing paint" to comply with the statutory definition in Wis. Stat., Ch. 254.
3. In 2011, the U.S. EPA revised its Lead-Based Paint Poisoning Prevention in Certain Residential Structures regulation under 40 CFR Part 745 to require states authorized by EPA to administer a lead-based paint program in lieu of the EPA to meet a minimum standard for flexible remedies that includes the authority to assess civil penalties, including a maximum

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penalty authority for any violation in an amount no less than \$5,000 per violation per day. At the time, the maximum penalty authority for lead-based paint violations in Wisconsin statute and rule was \$1,000 per violation per day. 2015 Wisconsin Act 55, Section 4049d, increased the civil penalty authority for violations of lead paint regulations from up to \$1,000 per violation per day to up to \$5,000 per violation per day in compliance with the federal requirements. The Department proposes to amend the current maximum penalty in rule from \$1,000 to \$5,000 per violation per day in compliance with Wis. Stat., Ch. 254.

4. Current rule required the Department to process certification applications within 10 days of receipt. With the addition in 2010 of certification requirements for lead-safe renovation to the rule, certification workload has tripled with no additional staff position provided, making it difficult and at times impossible to routinely meet the 10 day requirement. A review of other Midwest states showed that no other state has such a self-limiting expectation. The Department proposes to revise the number of days it has to process certification applications from 10 days to 15 days.

5. The current asbestos rule, Ch. DHS 159, provides for provisional certification for applicants to be able to work using their training completion diploma until they receive their certification card. This allows a person to be able to work immediately once they have submitted their application. Provisional certification would effectively offset any harm potentially created by extending the Department's certification processing time in item #4 from 10 to 15 days. The Department proposes to add provisional certification to Ch. DHS 163, similar to Ch. DHS 159.

6. Current certification language in Ch. DHS 163 is unnecessarily complicated and difficult to understand, even for employees charged with administering it. For instance, lead disciplines that require an initial state exam may only be for 1 year initially, but thereafter may be renewed for either 1 or 2 year lengths depending on the refresher training cycle, while others are only offered with a 2-year option. To help simplify and standardize the certification options for everyone, the Department proposes to eliminate all 1-year certifications and make all certifications good for 2 years, reducing the frequency of re-certifications.

7. Since Ch. DHS 163 was last amended, significant changes in work practice guidelines have been published. Specifically, the U.S. HUD published a significantly revised new edition of its HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing in 2012. These guidelines are the most definitive documented source for work practices for lead hazard reduction and lead investigation professionals. The Department proposes updating the work practice standards language and requirements for lead abatement, lead-safe renovation, and lead investigation activities to be in compliance with the revisions to the HUD Guidelines. This may include adding or updating some definitions, as well.

8. Under the lead rule, companies may apply for course accreditation to offer lead courses in the various disciplines leading to certification. Once accredited the course must continue to meet the requirements for an accredited course, including meeting a student to instructor ratio of not less than 8:1 for all student hands-on practice requirements, ranging from 2 to 6 hours for 1- to 2-day courses. Maintaining a low student to instructor ratio is important for initial courses where many students come in with minimal skills, but may be less important for refresher classes where students have already been certified for at least 2 years. The Department proposes to allow a student to instructor ratio for refresher classes of 12:1 in recognition that students come into the refresher with a skill set in place and to ease the instructor burden on training providers.

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9. The U.S. EPA requires refresher classes for lead sampling technicians to be 4 hours in length. The current state lead rule requires this refresher course to be only 2 hours in length, which experience has shown is not enough time to adequately review all course material, provide hands-on practice time and a course test. The Department proposes to increase the required course length for the Lead Sampling Technician Refresher course to 4 hours.

10. Some people wishing to take training and become certified to conduct regulated lead activities have little education and low literacy levels. In addition, English may be a second language for some. All the courses require a course completion test be administered and that students pass the test with a score of at least 70% correct. To assist students with reading difficulties, the Department proposes to amend the rule to allow the training provider to read the course test to any student at the student's request.

11. The lead program is funded partially by a continuing lead grant from the U.S. EPA and through program revenue from certification fees. Fees have not been increase in rule since 2002. Proposed fee increases would be \$25 for the following individual 2-year certifications.

- Lead abatement supervisor: increase from \$225 to \$250
- Lead abatement worker: increase from \$75 to \$100
- Lead hazard investigator and lead inspector: increase from \$275 to \$300
- Lead project designer and lead risk assessor: increase from \$325 to \$350
- Lead sampling technician and lead-safe renovator: increase from \$50 to \$75

A fee increase is proposed for company certifications of \$50, from \$75 to \$125 for a 2-year certification. A fee increase is proposed for the state lead examination from \$50 to \$75. In addition, training providers are currently the only regulated entity not also required to be a certified lead company. The program proposes adding the requirement for a training provider to also be a certified lead company.

12. Major sections of Ch. DHS 163 have not been substantially revised since 2002 or before. The Department proposes to update, correct, clarify and simplify or eliminate any outdated provisions in order to reflect current definitions, standards and best practices.

There are no reasonable alternatives to the proposed rulemaking. The Department is required by Wis. Stats. § 254.15 (1), to develop and implement certification, training accreditation, and instructor approval requirements for lead-based paint activities.

Summary of, and comparison with, existing or proposed federal regulations

40 CFR §§ 745.80 to 745.91, Subpart E, relating to residential property renovation establishes requirements for performing renovation activities in residential dwellings and child-occupied facilities, including provision of pre-renovation information to owners and occupants; training of renovators and dust sampling technicians; certification of renovators, dust sampling technicians and renovation firms; lead-safe work practices for renovation; and reports and recordkeeping.

40 CFR § 745.225 to 745.239, Subpart L, relating to lead-based paint activities establishes requirements for training course accreditations and individual and firm certifications in the lead-safe renovator, lead abatement worker, lead abatement supervisor, lead project designer, lead sampling technician, lead inspector, and lead risk assessor disciplines. This subpart provides requirements for course accreditation, including course curriculum contents, course application process, instructor approval, and responsibilities of accredited courses including course

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notification and recordkeeping. This subpart establishes the requirements for certification of individuals and firms engaged in lead-based paint activities, including required training courses, education and experience, and certification examinations. Subpart L also establishes the work practice standards for conducting lead-based paint activities, including lead abatement, lead inspection, lead risk assessment and lead clearance activities.

The Department's rules under ch. DHS 163 are consistent with the EPA requirements under 40 CFR §§ 745.80 to 745.91 and 745.225 to 745.239, and meet the requirements for EPA authorization under 40 CFR §§ 745.320 to 339, Subpart Q, for Wisconsin to implement and enforce its regulations for accreditation, certification and work practices for residential property renovations and lead-based paint activities in lieu of the EPA enforcing federal regulations in Wisconsin.

Comparison with rules in adjacent states*

Illinois:

The Illinois certification program that certifies individuals and companies to conduct lead abatement and lead investigation activities is similar to Wisconsin DHS 163 except that Illinois does not administer the lead-safe renovation program. Illinois administers a lead training course accreditation program for all lead courses except the lead renovation course. The Illinois lead abatement certification program is EPA-authorized as is Wisconsin's program. Illinois work practice requirements for lead abatement, inspection, risk assessment and clearance activities are similar to those in DHS 163. Illinois incorporates in rule multiple federal regulations and guidance documents while DHS 163 references these federal regulations and guidance documents without incorporation.

Illinois Administrative Code, Title 77: Public Health, Chapter 1: Department of Public Health, Subchapter p: Hazardous and poisonous Substances, Part 845: Lead Poisoning Prevention Code. DPH 77 Ill. Adm. Code 845 last revised November 2008.

Iowa:

Like Wisconsin, Iowa is EPA-authorized to administer a full lead certification program, certifying individuals and companies to conduct lead abatement, lead-safe renovation and lead investigation activities. They also, like Wisconsin, administer a comprehensive lead training course accreditation program. Their overall program is generally similar to Wisconsin's except that the Iowa work practice requirements are written more comprehensively, providing more of the specific requirements found in federal regulations and guidance documents, whereas, DHS 163 provides general work practice requirements, and references the documented methodologies found in federal guidance that a person must follow to remain in compliance.

Iowa Administrative Code 641, Chapter 69. Renovation, Remodeling, and Repainting—Lead Hazard Notification Process, last revised January 2010; and Chapter 70, Lead-Based Paint Activities, last revised July 2017.

Michigan:

Michigan's certification program for individuals and companies to conduct lead abatement and investigation activities is similar to Wisconsin DHS 163 except that Michigan administers only the pre-renovation education part of the lead-safe renovation program. Michigan does not administer the certification, accreditation, and work practice parts of the lead-safe renovation program. Michigan is EPA-authorized to administer its lead program. Michigan accredits lead

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training courses for all lead courses except the lead renovation course. Michigan work practice requirements for lead abatement, inspection, risk assessment and clearance activities are more comprehensively written, including specific work practice language in regulation that DHS 163 covers with general language and reference to the required use of the identified documented methodologies.

Public Health Code, Act 368 of 1978, Part 54A, 333.5451-333.5477. The Lead Abatement Act Administrative rules: Lead Hazard Control, R325.99101-R325.99409. Last revised September 2007.

Minnesota:

Minnesota's lead certification program is EPA-authorized and certifies individuals and companies to conduct lead abatement and lead investigation activities. They are not EPA-authorized for, and do not administer, the full lead-safe renovation program at the state level, but do require renovation companies to be certified as renovation firms. Minnesota administers lead training course accreditation for all lead courses including the lead-safe renovation course. The Minnesota lead certification program is similar to Wisconsin's program except they do not certify lead-safe renovators. Minnesota work practice requirements are similar to DHS 163.

2018 Minn. Statute Chapter 144, 144.9501 – 144.9512, The Lead Poisoning Prevention Act, last revised July 1, 2016; Minn. Statute 144.99 Enforcement, Subd. 4. Administrative penalty orders; and, Administrative Rules, Chapter 4761. Last revised in 2013.

*Fees and civil penalty comparisons with these neighboring states are provided on the attached table.

Summary of factual data and analytical methodologies

A technical advisory committee was convened to review all content and proposed changes. The committee met on October 3, 2018 and October 23, 2018 and included representatives from local public health and housing agencies, certified lead professionals, child care providers and regulators, a Milwaukee resident who also works for the nonprofit Milwaukee Social Development Commission on lead issues, and a physician with the Division of Public Health. Minor revisions were made at the request of committee members and all final proposed changes were unanimously accepted by the committee.

The Department did not rely on data or analytical methodologies to draft the proposed rule, but was guided by recent statutory revisions requiring subsequent revisions to the administrative rule, by issues and concerns raised by stakeholders that are required to comply with the rules, by the program's 30 years of experience administering the rules, and by revisions that were made to federal guidance documents such as the HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing (2012 Edition) and HUD Policy Guidance Number 2017-01, Revised Dust-Lead Action Levels for Risk Assessment and Clearance, among other documents. The revisions to federal guidelines and policies were made based on data analyses of dust-lead hazard and effective work practice studies some of which are cited below:

- Gaitens JM, Dixon SL, Jacobs DE, Nagaraja J, Strauss W, Wilson JW, et al. Exposure of U.S. children to residential dust lead, 1999–2004: I. Housing and demographic factors. *Environmental Health Perspectives* 117:461–467, 2009, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2661918/pdf/ehp-117-461.pdf>.

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- Dixon SL, Gaitens JM, Jacobs DE et al. Exposure of U.S. children to residential dust lead, 1999-2004: II: The contribution of lead-contaminated dust to children's blood lead levels. *Environmental Health Perspectives* 117(3):468-474, 2009, <http://ehp.niehs.nih.gov/wp-content/uploads/117/3/ehp.11918.pdf>.
- US Department of Health and Human Services (US DHHS). Monograph: Health effects of low-level lead. 2012. US DHHS, National Toxicology Program. http://ntp.niehs.nih.gov/ntp/ohat/lead/final/monographhealtheffectslowlevellead_newissn_508.pdf.
- *Low Level Lead Exposure Harms Children: A Renewed Call for Primary Prevention*, Report of the Advisory Committee on Childhood Lead Poisoning Prevention of the Centers for Disease Control and Prevention, January 4, 2012, https://www.cdc.gov/nceh/lead/acclpp/final_document_030712.pdf, also, see *CDC Response to Advisory Committee on Childhood Lead Poisoning Prevention Recommendations in "Low Level Lead Exposure Harms Children: A Renewed Call of Primary Prevention"*, June 7, 2012, https://www.cdc.gov/nceh/lead/acclpp/cdc_response_lead_exposure_recs.pdf.

Analysis and supporting documents used to determine effect on small business

Please see economic impact analysis.

Effect on small business

Please see economic impact analysis.

Agency contact person

Shelley Bruce

1 West Wilson Street

Madison, WI 53703

608-267-0928

shelley.bruce@dhs.wisconsin.gov

Statement on quality of agency data

The data sources referenced and used to draft the rules and analyses are accurate, reliable, and objective and are discussed in the "Summary of factual data and analytical methodologies."

Place where comments are to be submitted and deadline for submission

Comments may be submitted to the agency contact person that is listed above until the deadline given in the upcoming notice of public hearing. The notice of public hearing and deadline for submitting comments will be published in the Wisconsin Administrative Register and to the Department's website, at <https://www.dhs.wisconsin.gov/rules/permanent.htm>. Comments may also be submitted through the Wisconsin Administrative Rules Website, at: <https://docs.legis.wisconsin.gov/code/chr/active>.

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RULE TEXT

Section 1. DHS 163.02 (2) (Note) is amended to read:

DHS 163.02 (2) (Note) Submit your request for approval of an alternative to a requirement to the ~~Asbestos and Lead~~ Lead and Asbestos Section, Room 137, 1 W. Wilson St., P.O. Box 2659, Madison, WI 53701-2659; or e-mail dhasbestoslead@wisconsin.gov; ~~or fax 608-266-9714.~~

Section 2. DHS 163.03 (13) (d) is created to read:

DHS 163.03 (13) (d) A structure that is being converted to a child-occupied facility.

Section 3. DHS 163.03 (18) (Note), (29) (Note), (35) and (41) are amended to read:

DHS 163.03 (18) (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 airlock entryway.~~ For additional information on appropriate containment, refer to ~~Appendix H of this chapter, Chapter 8, Resident Protection and Worksite Preparation, of HUD's~~ the current edition of the HUD "Guidelines for the Evaluation and Control for Lead-Based Paint Hazards in Housing," available at https://www.hud.gov/program_offices/healthy_homes/lbp/hudguidelines.

DHS 163.03 (29) (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 (current edition); 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 <https://www.hud.gov/offices/lead> or from the EPA website at <https://www.epa.gov/lead>.

DHS 163.03 (35) "Dust sample" means a sample of dust collected using a documented methodology, such as a dust wipe sample ~~or vacuum sampling~~.

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DHS 163.03 (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.~~ has the meaning given in s. 101.01 (3), Stats.

Section 4. DHS 163.03 (41) (Note) is repealed.

Section 5. DHS 163.03 (61) is amended to read:

DHS 163.03 (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, more than 0.5% lead by weight in the dried film of applied paint, or more than ~~0.7 milligrams~~ 1 milligram of lead per square centimeter in the dried film of applied paint.

Section 6. DHS 163.03 (61) (Note) is repealed.

Section 7. DHS 163.03 (63), (66), (74), and (76) are amended to read:

DHS 163.03 (63) "Lead-based paint hazard" means any condition that causes exposure to lead from dust-lead, soil-lead, deteriorated lead-based 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.

DHS 163.03 (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 renovation activity, lead hazard reduction activity ~~or~~, lead investigation activity, or lead training activity.

DHS 163.03 (74) "Lead inspection" means the on-site, ~~surface by surface investigation~~ sampling or testing of painted, varnished or other coated surfaces all testing combinations to determine the presence of ~~lead~~ lead-based paint.

DHS 163.03 (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, partial lead inspection, risk assessment, ~~and~~ soil sampling, and XRF testing activities.

Section 8. DHS 163.03 (82) is repealed.

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Section 9. DHS 163.03 (88r) is created to read:

DHS 163.03 (88r) “Partial lead inspection” means an on-site sampling or testing of one or more, but not all, testing combinations in any target housing or child-occupied facility to determine the presence of lead-based paint.

Section 10. DHS 163.03 (96) (Note) and (96m) are amended to read:

DHS 163.03 (96) (Note) A list of recognized laboratories is available on the department website at <https://www.dhs.wisconsin.gov/lead>, ~~or write Asbestos and Lead Section, Room 137, P.O. Box 2659, Madison, WI 53701-2659; e-mail dhsasbestoslead@wisconsin.gov; ph. 608-261-6876; or fax 608-266-9711.~~

DHS 163.03 (96m) "Recognized test kit" means a commercially available kit recognized by the ~~department~~ EPA as being capable of allowing a user to determine the presence of lead at levels equal to or in excess of ~~0.7 milligrams~~ 1 milligram per square centimeter, or more than ~~0.06%~~ 0.5% lead by weight ~~as defined under s. DHS 163.03 (61)~~, in a paint chip, paint powder, or painted surface.

Section 11. DHS 163.03 (96m) (Note) and (97) are repealed.

Section 12. DHS 163.03 (102m) and (107m) are created to read:

DHS 163.03 (102m) “Room equivalent” means an identifiable part of a residence, such as a room, a house exterior, a foyer, a staircase within a housing unit, a hallway within a housing unit, or an exterior area (exterior areas contain items such as play areas, painted swing sets, painted sandboxes, etc.). Closets or other similar areas adjoining rooms should not be considered as separate room equivalents unless they are obviously dissimilar from the adjoining room equivalent.

DHS 163.03 (107m) “Testing combination” means a unique combination of room equivalent, building component type, and substrate.

Section 13. DHS 163.03 (108) and (109) are amended to read:

DHS 163.03 (108) "~~Training certificate~~ diploma" 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.

DHS 163.03 (109) "Training hour" means ~~60~~ 50 minutes of actual instruction, which shall include time devoted to learning activities, including lecture, small group activities, demonstrations, evaluations or hands-on activities.

Section 14. DHS 163.03 (113) is repealed.

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Section 15. DHS 163.10 (1) (intro.), (1) (bm), and (d) 2. are amended to read:

DHS 163.10 (1) (intro.) Except as provided under ~~par. pars. (d) and (e)~~, an individual shall follow work practice requirements and meet all other responsibilities under this chapter and, except as provided under pars. (c), ~~and (d), and (e)~~, 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:

DHS 163.10 (1) (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~~.

DHS 163.10 (1) (d) 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).

Section 16. DHS 163.10 (1) (e) is repealed and recreated to read:

DHS 163.10 (1) (e) When performing a partial lead inspection a person is not required to be certified under par. (a), and is not subject to other provisions under this chapter, if the presence of lead-bearing paint or a lead hazard is assumed and a renovation of a dwelling, unit of a dwelling, or premises is performed in a lead-safe manner. The person who performs a partial lead inspection under this subsection shall disclose, in writing, to the owner or lessor of the dwelling or premises before performing the partial lead inspection that the partial lead inspection being conducted is not a regulated activity and may not be used to declare the structure free of lead-based paint.

Section 17. DHS 163.10 (2) (b) 3., 4., & (c) are amended to read:

DHS 163.10 (2) (b) 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, partial lead inspection, or lead-free inspection, but may not use an XRF.

DHS 163.10 (2) (b) 4. 'Lead risk assessor.' A certified lead risk assessor may conduct any lead investigation activity, including clearance, lead-free inspection, lead inspection, partial lead inspection, elevated blood-lead investigation, lead hazard screen, lead-safe investigation and risk assessment activities, and may use an XRF.

DHS 163.10 (2) (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.

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Section 18. DHS 163.10 (3) (c) 1. (intro), a., b., and b. (Note) are repealed and recreated to read:

DHS 163.10 (3) (c) 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:~~ 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.

Section 19. DHS 163.10 (3) (c) 2. a. & b. are repealed and recreated to read:

DHS 163.10 (3) (c) 2. 'Timing of certification examination.' 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 may revoke the interim certification and shall deny initial certification. The individual will not be eligible to re-apply for a period of 12 months from the date of denial. The individual shall retake the initial training course before reapplying for initial certification in the same discipline.

Section 20. DHS 163.10 (3) (c) 3. a. & b. are repealed and recreated to read:

DHS 163.10 (3) (c) 3. 'Certification examination registration.' To register for a certification examination, an applicant shall submit to the department a completed application for certification under sub. (5) with the appropriate fees under sub. (5) (g).

Section 21. DHS 163.10 (4) & (5) (a) are amended to read:

DHS 163.10 (4) SUBMISSION OF DOCUMENTATION. If an applicant submits a photocopy rather than an original document, ~~the applicant shall have the copy notarized~~ department may require the copy to be signed by a notary public as a true copy of the original before submitting the copy to the department.

DHS 163.10 (5) (a) *Application form.* ~~A fully and accurately completed complete application signed by the applicant 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.~~

Section 22. DHS 163.10 (5) (a) (Note) is created to read:

DHS 163.10 (5) (a) (Note) Under ss. 250.041 and 254.115, Stats., the social security number is required but will not be made available to the public.

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Section 23. DHS 163.10 (5) (b) is amended to read:

DHS 163.10 (5) (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 color photograph of the ~~applicant's face in a standard passport size of 2" x 2"~~ applicant, taken within the previous 24 months ~~and resolution in the format specified by the department~~.

Section 24. DHS 163.10 (5) (c) 1. & 2. are repealed and recreated to read:

DHS 163.10 (5) (c) *Photo identification*. An individual who has not completed a course accredited by the department shall provide a clear copy of an official photo identification with date of birth, such as a state-issued identification, driver's license, or passport.

Section 25. DHS 163.10 (5) (d) is amended to read:

DHS 163.10 (5) (d) *Documentation of training*. All previous required training ~~certificate diplomas~~ 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.

Section 26. DHS 163.10 (5) (f) 1. & 2. are repealed and recreated to read:

DHS 163.10 (5) (f) *Other documentation*. An applicant requesting certification based on current certification issued by EPA or another EPA-authorized state or tribal program shall submit a copy of their current certification issued by EPA or an EPA-authorized state or tribe, notarized as a true copy of the original document.

Section 27. DHS 163.10 (5) (g) 1. a. to h., 2., 3., 4. (Note 1) & (Note 2), and (6) (a) are amended to read:

DHS 163.10 (5) (g) 1. a. For certification as a lead abatement supervisor a fee of ~~\$125~~ \$275.

DHS 163.10 (5) (g) 1. b. For certification as a lead abatement worker, a fee of ~~\$75~~ \$100.

DHS 163.10 (5) (g) 1. c. For certification as a lead hazard investigator, a fee of ~~\$150~~ \$325.

DHS 163.10 (5) (g) 1. d. For certification as a lead inspector, a fee of ~~\$150~~ \$325.

DHS 163.10 (5) (g) 1. e. For certification as a lead project designer, a fee of ~~\$175~~ \$375.

DHS 163.10 (5) (g) 1. f. For certification as a lead risk assessor, a fee of ~~\$175~~ \$375.

DHS 163.10 (5) (g) 1. g. For certification as a lead sampling technician, a fee of ~~\$50~~ \$75.

DHS 163.10 (5) (g) 1. gm. For certification as a lead-safe renovator, a fee of ~~\$50~~ \$75.

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DHS 163.10 (5) (g) 1. 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~~ government agency that verifies employment and need for certification.

DHS 163.10 (5) (g) 2. `Certification examination fee.' For lead abatement supervisor, hazard investigator, inspector or risk assessor initial certification, a nonrefundable certification examination registration of ~~-\$50~~ \$75.

DHS 163.10 (5) (g) 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.~~

DHS 163.10 (5) (g) 4. (Note 1) Applications ~~and credit card payment forms~~ are available on the department website at <https://www.dhs.wisconsin.gov/WALDO>; by email at dhasbestoslead@wisconsin.gov; ~~ph. or phone: 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.~~

DHS 163.10 (5) (g) 4. (Note 2) Submit application and fee to the ~~Asbestos and Lead and Asbestos 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 or apply online at <https://www.dhs.wisconsin.gov/WALDO>.

DHS 163.10 (6) (a) *Time limit.* Within ~~40~~ 15 working days after receipt of a fully and accurately completed certification application, as specified in sub. (5), the department shall ~~grant interim or initial or deny certification or shall deny certification.~~

Section 28. DHS 163.10 (6) (am) is created to read:

DHS 163.10 (6) (am) *Provisional certification.* The course completion diploma shall serve as a temporary certification for persons who have submitted a fully and accurately completed certification application, as specified in sub. (5), until the certification card from the department has been issued.

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Section 29. DHS 163.10 (6) (b), (c) 1. & 2. are amended to read:

DHS 163.10 (6) (b) *Grant interim certification.* ~~Subject to provisions for lead inspector and risk assessor applicants under sub. (3) (d) 2., the~~ 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) (e) 3, and is registered for, but has not passed, the certification examination for the discipline.~~ Sub. (3) (d) 2. also applies to lead inspector and risk assessor applicants. 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.

DHS 163.10 (6) (c) 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 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).

DHS 163.10 (6) (c) 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.~~

Section 30. DHS 163.10 (7) (b) 1. & 2. are repealed and recreated to read:

DHS 163.10 (7) (b) *Initial certification.* Initial certification shall remain valid for 2 years after the completion date of the most recent training required under s. DHS 163.11.

Section 31. DHS 163.10 (8) (a) and (Note), (b) (intro.) are amended to read:

DHS 163.10 (8) (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.

DHS 163.10 (8) (a) (Note) ~~If it is 12 months or more have passed since a certification expired, the person wanting to renew certification~~ be certified must make reapplication apply for initial certification under subs. (3) to (7).

DHS 163.10 (8) (b) (intro.) *Conditions.* ~~To be recertified~~ recertify, the individual shall:

Section 32. DHS 163.10 (8) (b) 4. is repealed.

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Section 33. DHS 163.10 (8) (c) 1. to 3., 4. a. to gm. are amended to read:

DHS 163.10 (8) (c) 1. 'Application form.' A ~~fully and accurately~~ completed application signed by the applicant 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.~~

DHS 163.10 (8) (c) 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 color photograph of the ~~applicant's face in a standard passport size of 2" x 2"~~ applicant, taken within the previous 24 months in the format specified by the department.

DHS 163.10 (8) (c) 3. ~~'Training certificate~~ Training diplomas. 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~~ training diploma that was not previously submitted for training required under s. DHS 163.11.

DHS 163.10 (8) (c) 4. a. For recertification as a lead abatement supervisor, ~~a 1 year fee of \$125 or a fee of \$225~~ \$275.

DHS 163.10 (8) (c) 4. b. For recertification as a lead abatement worker, a fee of ~~\$75~~ \$100.

DHS 163.10 (8) (c) 4. c. For recertification as a lead hazard investigator, ~~a 1 year fee of \$150 or a fee of \$275~~ \$325.

DHS 163.10 (8) (c) 4. d. For recertification as a lead inspector, ~~a 1 year fee of \$150 or a fee of \$275~~ \$325.

DHS 163.10 (8) (c) 4. e. For recertification as a lead project designer, ~~a 1 year fee of \$175 or a fee of \$325~~ \$375.

DHS 163.10 (8) (c) 4. f. For recertification as a lead risk assessor, ~~a 1 year fee of \$175 or a fee of \$325~~ \$375.

DHS 163.10 (8) (c) 4. g. For recertification as a lead sampling technician, a fee of ~~\$50~~ \$75.

DHS 163.10 (8) (c) 4. gm. For recertification as a lead-safe renovator, a fee of ~~\$50~~ \$75.

Section 34. DHS 163.10 (8) (c) 4. h. is repealed and recreated to read:

DHS 163.10 (8) (c) 4. h. To qualify for government certification fee exemption upon recertification, the applicant shall verify current government employment and need for certification.

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Section 35. DHS 163.10 (8) (c) 6. (Note 1) & (Note 2), and (d) 1., are amended to read:

DHS 163.10 (8) (c) 6. (Note 1) ~~Application and credit card payment forms~~ Applications are available on the department website at <https://www.dhs.wisconsin.gov/WALDO>; by email at dhasbestoslead@wisconsin.gov; ~~ph. or phone 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.~~

DHS 163.10 (8) (c) 6. (Note 2) Submit application and fee to the ~~Asbestos and Lead and Asbestos~~ 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 or apply online at~~ <https://www.dhs.wisconsin.gov/WALDO>.

DHS 163.10 (8) (d) 1. Within ~~10~~ 15 working days after receipt of a fully and accurately completed application for recertification, the department shall grant or deny recertification.

Section 36. DHS 163.10 (8) (e) 1. & 2. are repealed and recreated to read:

DHS 163.10 (8) (e) 1. When the department recertifies an individual, the department shall extend the certification of the individual for 2 years from the expiration date.

DHS 163.10 (8) (e) 2. A person who is currently certified, whose last certification was for one year, and whose next training due date is one year after the current certification expiration date, will be eligible to apply for a one-time one-year recertification that shall expire on the same date as the next training due date. The certification fee for this one-time one-year certification will be one-half the current 2-year certification fee.

Section 37. DHS 163.11 (2) (c) 2. is repealed.

Section 38. DHS 163.11 (3) (a) 2. (intro.), a., and b. are repealed and recreated to read:

DHS 163.11 (3) (a) 2. (intro) As a condition for recertification, an individual whose certification has expired shall meet one of the following training requirements:

DHS 163.11 (3) (a) 2. a. An individual issued certification as a lead abatement supervisor, abatement worker, sampling technician, hazard investigator, inspector, project designer, or risk assessor shall have completed a refresher training class before certification expired or shall complete a refresher training class and recertify under s. DHS 163.10 (8) within 12 months after the certification expiration date.

DHS 163.11 (3) (a) 2. b. An individual issued certification as a lead abatement supervisor, abatement worker, sampling technician, hazard investigator, inspector, project designer, or risk assessor whose certification has been expired for more than 12 months shall complete an initial training course in that discipline under sub. (2) (a) or (b) before applying for certification under s. DHS 163.10 (3) to (5).

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Section 39. DHS 163.11 (3) (a) 2. b. (Note) is repealed.

Section 40. DHS 163.11 (3) (a) 2. c. to e. are created to read:

DHS 163.11 (3) (a) 2. c. An individual issued certification as a lead-safe renovator whose certification has expired but whose training due date has not yet passed may recertify under s. DHS 163.10 (8) without taking a refresher training class and shall receive a new certification expiration date equal to the current training due date.

DHS 163.11 (3) (a) 2. d. An individual issued certification as a lead-safe renovator whose training due date has passed and whose certification has been expired for less than 12 months shall complete a refresher training class and recertify under s. DHS 163.10 (8) within 12 months after the certification expiration date.

DHS 163.11 (3) (a) 2. e. An individual issued certification as a lead-safe renovator whose training due date has passed and whose certification has been expired for 12 months or more shall complete an initial lead-safe renovation training class under sub. (2) (c) before applying for certification under s. DHS 163.10 (5).

Section 41. DHS 163.11 (3) (b) 2. a. is amended to read:

DHS 163.11 (3) (b) 2. a. For certification as a lead sampling technician, a ~~2-hour~~ 4-hour lead sampling technician refresher training course.

Section 42. DHS 163.11 (3m) is repealed.

Section 43. DHS 163.11 (4), 163.12 (1) (a) and (am) are amended to read:

DHS 163.11 (4) PROOF OF TRAINING. The individual shall retain an original training ~~certificate diploma~~, issued by the training provider, for each required training course completed.

DHS 163.12 (1) (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~~ person before it may perform, supervise, advertise, claim to provide or offer to perform or supervise a lead renovation activity, lead hazard reduction activity or a lead investigation activity for which certification is required under s. DHS 163.10 (1), or a lead training activity for which accreditation is required under s. DHS 163.20 (1).

DHS 163.12 (1) (am) ~~On or after April 22, 2010, e~~ 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~~ person 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).

Section 44. DHS 163.12 (1m) is repealed.

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Section 45. DHS 163.12 (2) (intro.) & (b) are amended to read:

DHS 163.12 (2) (intro.) ~~CONDITIONS FOR CERTIFICATION.~~ To be certified as a lead company ~~or lead safe company~~, an applicant shall do all of the following:

DHS 163.12 (2) (b) ~~Use certified individuals~~ persons. Agree to employ or contract with only appropriately certified ~~individuals~~ persons to perform or supervise regulated activities when certification is required under this chapter.

Section 46. DHS 163.12 (2) (d) (intro.), 1. & 2. are repealed and recreated to read:

DHS 163.12 (2) (d) *Affirm knowledge of applicable regulations.* An authorized representative of the company shall sign an affirmation of knowledge of the requirements for conducting regulated work under this chapter.

Section 47. DHS 163.12 (3) (a) 1. am. is repealed.

Section 48. DHS 163.12 (3) (a) 1. g., 2. a., (b) 3. (Note 1) & (Note 2), (4) (a), (6) (a) 2., 2. (Note 1) & (Note 2), and (b) 1. are amended to read:

DHS 163.12 (3) (a) 1. 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~~ adhere to the requirements of this chapter when conducting activities regulated under this chapter ~~covered by the work practice standards.~~

DHS 163.12 (3) (a) 2. a. A nonrefundable initial certification fee of ~~\$75~~ \$125.

DHS 163.12 (3) (b) 3. (Note 1) ~~Application and credit card payment forms~~ Applications are available on the department website at <https://www.dhs.wisconsin.gov/WALDO>; by email at dhasbestoslead@wisconsin.gov; ~~ph. or phone 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.~~

DHS 163.12 (3) (b) 3. (Note 2) Submit application ~~and fee, if applicable,~~ to the ~~Asbestos and Lead and Asbestos 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 or apply online at <https://www.dhs.wisconsin.gov/WALDO>.

DHS 163.12 (4) (a) *Time limit.* ~~Within 10~~ 15 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.

DHS 163.12 (6) (a) 2. A nonrefundable fee of ~~\$75~~ \$125, except that a state or local government agency is exempt from paying the fee.

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DHS 163.12 (6) (a) 2. (Note 1) ~~Application and credit card payment forms~~ Applications are available on the department website at <https://www.dhs.wisconsin.gov/WALDO>; by email at dhasbestoslead@wisconsin.gov; ~~ph. or phone 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.~~

DHS 163.12 (6) (a) 2. (Note 2) Submit application to the ~~Asbestos and Lead and Asbestos~~ 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~~ or apply online at <https://www.dhs.wisconsin.gov/WALDO>.

DHS 163.12 (6) (b) 1. 'Time limit.' ~~Within 40~~ 15 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.

Section 49. DHS 163.13 (1), (2), (3) (a) 3., and (b) 6. are amended to read:

DHS 163.13 (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).

DHS 163.13 (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, unless the individual is working under provisional certification. An individual working under provisional certification shall have a copy of their training diploma at the job site.

DHS 163.13 (3) (a) 3. A lead company certificate ~~of approval~~ from the department.

DHS 163.13 (3) (b) 6. A lead company certificate ~~of approval~~ from the department.

Section 50. DHS 163.13 (3) (c) (intro.) is repealed and recreated to read:

DHS 163.13 (3) (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. 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. Within 10 working days post-renovation, the company performing the renovation shall provide a renovation report that includes a copy of each document created for the renovation under this subsection to the persons contracting for the renovation, and to any adult occupant of a dwelling unit or representative of a child-occupied facility affected by the renovation. The company shall retain and provide as required all the following records:

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Section 51. DHS 163.13 (3) (c) 2., 7. (intro.), 7. g., 10., 12., (5) (d) 2. a., (6) (a) (intro.), (a) 1., 1. a., b., (b) 1., 2., a. to c., (7) (b), (c), (8) (title), (a), (b) (intro.), (c) (intro.), 4., 5. (Note), and (9) are amended to read:

DHS 163.13 (3) (c) 2. Any inspection or partial inspection report from a certified lead inspector, ~~hazard investigator~~ or risk assessor certifying that lead-based paint is not present on components that will be affected by the renovation activity and that lead-safe work practices will not be required.

DHS 163.13 (3) (c) 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~~ diploma and a certification signed by the certified renovator assigned to the project and attesting to all of the following:

DHS 163.13 (3) (c) 7. g. ~~A~~ The certified renovator performed post-renovation cleaning verification, including a brief description of the results and number of wet and dry cloths used. DHS 163.13 (3) (c) 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~~ EPA, a description of the components tested, including their specific locations, and the result for each location and test kit used.

DHS 163.13 (3) (c) 12. A company certificate ~~of approval~~ from the department.

DHS 163.13 (5) (d) 2. a. Treat the paint as lead-based paint ~~unless the paint is proven to be lead-free.~~

DHS 163.13 (6) (a) *Individual.* The individual to whom a training ~~certificate~~ diploma is issued by a training manager and to whom a certification card is issued by the department is the owner of that training ~~certificate~~ diploma and certification card, and is responsible for the following:

DHS 163.13 (6) (a) 1. 'Responsibility for training ~~certificate~~ diploma.'

DHS 163.13 (6) (a) 1. a. The individual shall retain an original training ~~certificate~~ diploma 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~~ make it available upon request by the department.

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DHS 163.13 (6) (a) 1. b. The individual shall not allow another person to photocopy the training ~~certificate~~ diploma 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~~ diploma.

DHS 163.13 (6) (b) 1. 'Prohibited actions.' The employer or company may not confiscate an individual's original training ~~certificate~~ diploma or certification card. The employer or company may not photocopy an individual's training ~~certificate~~ diploma 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.

DHS 163.13 (6) (b) 2. 'Responsibility for company certificate ~~of approval~~.'

DHS 163.13 (6) (b) 2. 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.

DHS 163.13 (6) (b) 2. 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~~.

DHS 163.13 (6) (b) 2. 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.

DHS 163.13 (7) (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.

DHS 163.13 (7) (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~~ fulfill 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~~ fulfill the ~~duties~~ responsibilities of a certified lead-safe renovator.

DHS 163.13 (8) (title) SUMMARY REPORT OF LEAD INVESTIGATION ACTIVITIES.

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DHS 163.13 (8) (a) Requirement for summary report. 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 who were certified to perform lead investigation activities at any time during a reporting period 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~~ reporting period, the report shall be filed to show no activity.

DHS 163.13 (8) (b) ~~Summary Reporting~~ Reporting period and submittal date. Each summary shall cover a three-month reporting period and shall be submitted to the department as follows:

DHS 163.13 (8) (c) Content of summary report. A completed summary report 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:

DHS 163.13 (8) (c) 4. Type of lead investigation activity conducted. If the type of lead investigation activity conducted is a clearance, whether the clearance was for an abatement project.

DHS 163.13 (8) (c) 5. (Note) The Lead-Based Paint Investigation Summary Report forms form, F-44013, are is available on the department website at www.dhs.wisconsin.gov/lead, <https://www.dhs.wisconsin.gov/lead/formspubs.htm>, or by email at dhsasbestoslead@wisconsin.gov; ~~ph. or phone 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 Lead and Asbestos Section, Room 137, 1 W. Wilson Street, P.O. Box 2659, Madison WI 53701-2659.

DHS 163.13 (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.

Section 52. DHS 163.13 (10) (a) & (b) are repealed and recreated to read:

DHS 163.13 (10) ASSOCIATION WITH A CERTIFIED COMPANY. An individual shall be associated with a lead company certified 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, renovation, or lead investigation activity regulated under this chapter.

Section 53. DHS 163.13 (12) (title) and (intro.), (a) and (b) are amended to read:

DHS 163.13 (12) (title) ~~Notification~~ NOTICE OF COMPANY CHANGE

DHS 163.13 (12) (intro.) The company shall notify the department in writing at least 10 working days before changing any of the following:

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DHS 163.13 (12) (a) The company's name or address ~~changes~~.

DHS 163.13 (12) (b) The company's ownership ~~changes~~.

Section 54. DHS 163.13 (12) (c) is created to read:

DHS 163.13 (12) (c) The company's federal employer identification number.

Section 55. DHS 163.14 (1) (d) (Note) is repealed.

Section 56. DHS 163.14 (1) (e) is repealed and recreated to read:

DHS 163.14 (1) (e) *Occupant protection.* Documented methodologies and all of the following work practice requirements shall be used to protect occupants when abatement activities are performed:

DHS 163.14 (1) (e) 1. 'Post signs.' Signs clearly defining the work area and warning occupants and other persons not involved in the abatement activities to remain outside the work area. 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 abatement activities and clearance have been completed.

DHS 163.14 (1) (e) 2. 'Pre-clean work areas.'

DHS 163.14 (1) (e) 2. a. If paint chips, dust, or debris are present on the interior, HEPA vacuum the floor before protective sheeting is laid down and HEPA vacuum window wells or troughs before working on windows.

DHS 163.14 (1) (e) 2. b. If paint chips, dust or debris are present on the exterior, HEPA vacuum or use a wet/dry vacuum with a drywall bag and HEPA filter to clean all paint chips and debris before protective sheeting is laid down.

DHS 163.14 (1) (e) 3. 'Contain work areas.' Before starting abatement activities, contain the work area, including the floor or ground, with heavy duty plastic sheeting, so that no dust or debris leaves the work area during the activity. Workers shall maintain the integrity of the containment throughout the abatement activities by ensuring that the plastic sheeting used as containment material is not torn or displaced, and that no dust or debris leaves the work area during the abatement. 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 emergency exit. All containment materials, including plastic sheeting, must be disposed of after one use and may not be relocated for reuse during a project.

DHS 163.14 (1) (e) 4. 'Protect personal property.' Measures shall be taken to protect all personal property in the work area from contamination by dust and debris.

Draft

DHS 163.14 (1) (e) 4. a. Remove all objects that can be moved from the work area, including furniture, rugs, and window coverings. Objects that cannot be removed shall first be cleaned using a HEPA vacuum, and then be completely covered with plastic sheeting or other impermeable material with all seams and edges taped or otherwise sealed.

DHS 163.14 (1) (e) 4. b. Close and seal all duct openings in the work area with taped down plastic sheeting or other impermeable material.

DHS 163.14 (1) (e) 4. c. 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 containing dust and debris in the work area.

DHS 163.14 (1) (e) 4. d. 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 abatement, or a sufficient distance to contain all dust, whichever is greater. Floor containment measures may stop at the edge of a vertical barrier system consisting of impermeable barriers that extend from the floor to the ceiling that are completely sealed at joints with the floor, ceiling and walls.

DHS 163.14 (1) (e) 5. Use precautions to ensure that all personnel, tools, and other items, including the exteriors of waste containers, are free of dust and debris before leaving the work area.

DHS 163.14 (1) (e) 6. 'Restrict access.' 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. Warning tape may be used to prevent unintentional access into work areas in addition to the posted warning signs. 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."

DHS 163.14 (1) (e) 7. '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~~ posted in plain view outside the abatement work area for viewing by interested persons.

DHS 163.14 (1) (e) 8. 'Distribute occupant protection plan.'

DHS 163.14 (1) (e) 8. 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.

Draft

DHS 163.14 (1) (e) 8. 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.

DHS 163.14 (1) (e) 8. 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.

DHS 163.14 (1) (e) 8. 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.

Section 57. DHS 163.14 (1) (f) is repealed.

Section 58. DHS 163.14 (1) (h) (title), (i), (i) (Note), and (j) are amended to read:

DHS 163.14 (1) (h) (title) *Requirement for ~~notification~~ notice to the department.*

DHS 163.14 (1) (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 before beginning worksite set-up, at the end of each day's work, and when all work has been completed.

DHS 163.14 (1) (i) (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" the most current edition of the HUD "Guidelines for the Evaluation and Control for Lead-Based Paint Hazards in Housing" available on the HUD website at https://www.hud.gov/program_offices/healthy_homes/lbp/hudguidelines.

DHS 163.14 (1) (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.

Section 59. DHS 163.14 (1) (k) and (Note) is repealed and recreated to read:

DHS 163.14 (1) (k) *Requirement for management of wastewater, air emissions and solid waste.* All wastewater, air emissions, and solid waste from lead abatement activities shall be handled according to documented methodologies and as follows:

DHS 163.14 (1) (k) 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.

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DHS 163.14 (1) (k) 2. Stored in a container or enclosure at the conclusion of each work day that prevents access to and release of dust and debris.

DHS 163.14 (1) (k) 3. Contained to prevent release of dust and debris during transport.

DHS 163.14 (1) (k) 4. Discharge of wastewater shall be managed according to chs. NR 105, 106 and 200 to 299.

DHS 163.14 (1) (k) 5. Air emissions shall be managed according to chs. NR 404, 415, 429, and 445.

DHS 163.14 (1) (k) 6. Paint debris and waste shall be managed according to chs. NR 500 to 538 and 660 to 679.

DHS 163.14 (1) (k) (Note) Refer to guidance from the Department of Natural Resources on managing lead-based paint waste, “Commercial and Residential Paint Removal and Disposal,” at <https://www.dnr.wi.gov/files/PDF/pubs/wa/WA173.pdf>, as well as the most current edition of the HUD “Guidelines for the Evaluation and Control for Lead-Based Paint Hazards in Housing,” available at [https://www.hud.gov/program_offices/healthy_homes/lbp/hudguide lines](https://www.hud.gov/program_offices/healthy_homes/lbp/hudguide%20lines).

Section 60. DHS 163.14 (1) (m) 3., (2) (title), (a) (intro.), 1. to 4. are amended to read:

DHS 163.14 (1) (m) 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~~ notice under sub. (2).

DHS 163.14 (2) (title) ABATEMENT ~~NOTIFICATION~~ NOTICE TO THE DEPARTMENT.

DHS 163.14 (2) (a) Timing of notice. The lead abatement supervisor shall submit ~~notification~~ notice for receipt by the department as follows:

DHS 163.14 (2) (a) 1. For an original notice of abatement, written ~~notification~~ notice not less than 2 working days before the start of the activity.

DHS 163.14 (2) (a) 2. In an emergency where a health risk warrants immediate action, written or verbal ~~notification~~ notice before the start of the activity.

DHS 163.14 (2) (a) 3. Projects must start on the start date provided on the project notice. To change the project start date on an existing notice, written or verbal revised ~~notification~~ notice 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.

Draft

DHS 163.14 (2) (a) 4. To change the project end date on an existing ~~nonemergency~~ notice, ~~written or verbal~~ submit revised notification notice in writing as soon as the change is determined, but no later than the original end date.

Section 61. DHS 163.14 (2) (a) 5. is created to read:

DHS 163.14 (2) (a) 5. Project duration provided in the written notice shall be appropriate to the size and scope of the project. Original notices shall be for a duration of no more than 14 consecutive days. If the project will extend beyond the original end date, revised notice shall be made in writing no later than the original end date or most recently revised end date.

Section 62. DHS 163.14 (2) (b) (title), (b) 1. (intro.) to 4., 4. (Note 1) & (Note 2), (c) (title), (c) 1. (intro.) to 3., 3. (Note), (3) (h), (i), (5) (c) 5. b. (Note), (c) 6., and 8. a. are amended to read:

DHS 163.14 (2) (b) (title) ~~Written notification notice.~~

DHS 163.14 (2) (b) 1. ~~'Form for written notification notice.'~~ Written notification notice shall be on the department's ~~notification notice~~ form or on a form approved by the department and shall include all of the following information:

DHS 163.14 (2) (b) 2. ~~'Acceptable methods for submitting written notification notice.'~~ Written notification notice may be sent by U.S. mail, commercial carrier, fax, e-mail, or another method approved by the department.

DHS 163.14 (2) (b) 3. ~~'Official date of written notification notice.'~~ The official date of a written notification notice shall be the date on the department's date of receipt stamp. A ~~notification notice~~ received after 4:00 p.m. shall be dated as received the next working day.

DHS 163.14 (2) (b) 4. ~~'Rejection of notification notice.'~~ The department may reject a ~~notification notice~~ that is illegible or incomplete.

DHS 163.14 (2) (b) 4. (Note 1) Department Lead Abatement Notification forms, F-44012, are available on the department website at ~~www.dhs.wisconsin.gov/lead;~~ https://www.dhs.wisconsin.gov/lead/formspubs.htm; by email at dhsasbestoslead@wisconsin.gov; ~~ph. or phone 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.~~

DHS 163.14 (2) (b) 4. (Note 2) Submit notifications notices to the ~~Asbestos and Lead and~~ Asbestos Section, Room 137, 1 W. Wilson Street, P.O. Box 2659, Madison, WI 53701-2659, by fax to 608-266-9711, or email dhsasbestoslead@wisconsin.gov.

DHS 163.14 (2) (c) (title) ~~Verbal notification notice.~~

Draft

DHS 163.14 (2) (c) 1. ~~'Acceptable methods for submitting verbal-notification notice.'~~ For emergency or revised ~~notification notice~~, verbal ~~notification notice~~ may be made by telephone or in person and shall include all of the following information:

DHS 163.14 (2) (c) 2. ~~'Official date of verbal-notification notice.'~~ The official date of a verbal ~~notification notice~~ shall be the date a department representative receives the verbal ~~notification notice~~.

DHS 163.14 (2) (c) 3. ~~'Written follow-up to verbal-notification notice.'~~ When verbal ~~notification notice~~ is given, the lead abatement supervisor shall also submit a written ~~notification notice~~ ~~under par. (b) by email, fax or other method acceptable to the department~~ within 2 working days after the date of the verbal ~~notification notice~~.

DHS 163.14 (2) (c) 3. (Note) To submit verbal ~~notification notice~~, phone 608-261-6876 or deliver in person to Room 137, 1 W. Wilson Street in Madison, ~~and send. Send the required follow-up written notice to the Asbestos and Lead Section, Bureau of Occupational Health, P.O. Box 2659, Madison, WI 53701-2659~~ dhsasbestoslead@wisconsin.gov or fax to 608-266-9711.

DHS 163.14 (3) (h) Using ~~a an improperly operating HEPA vacuum that does not have a properly operating HEPA filter~~ when cleaning ~~up lead-contaminated dust, debris, or paint chips.~~

DHS 163.14 (3) (i) Dry sweeping when cleaning ~~up lead-contaminated dust, debris, or paint chips.~~

DHS 163.14 (5) (c) 5. b. (Note) For assistance in selecting the correct sample size, refer to Appendix E of this chapter the most current edition of the HUD "Guidelines for the Evaluation and Control for Lead-Based Paint Hazards in Housing" available at https://www.hud.gov/program_offices/healthy_homes/lbp/hudguidelines.

DHS 163.14 (5) (c) 6. ~~'Visual inspection of exterior work area.'~~ Following an exterior activity, conduct a visual inspection. All horizontal surfaces on the exterior, including the ground, and all worker pathways shall be found to be cleaned and free of visible dust, debris, residue, and paint chips. ~~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, dust, debris, or residue are present, the person who conducted the activity being cleared shall ~~remove the paint chips from the site~~ properly clean and properly dispose of them according to applicable federal, state and local government requirements.

DHS 163.14 (5) (c) 8. a. ~~Forty Ten~~ Ten micrograms per square foot (~~40 µg/ft²~~ 10 µg/ft²) on ~~a an~~ an interior floor.

Section 63. DHS 163.14 (5) (c) 8. am. is created to read:

Draft

DHS 163.14 (5) (c) 8. am. Forty micrograms per square foot ($40 \mu\text{g}/\text{ft}^2$) on a porch floor.

Draft

Section 64. DHS 163.14 (5) (c) 8. b. and c. are amended to read:

DHS 163.14 (5) (c) 8. b. ~~Two hundred fifty~~ One hundred micrograms per square foot (~~250 µg /ft²~~ 2100 µg/ft²) on an interior windowsill.

DHS 163.14 (5) (c) 8. c. ~~Four~~ One hundred micrograms per square foot (~~400 µg /ft²~~ 2100 µg/ft²) on window wells or troughs.

Section 65. DHS 163.14 (5) (c) 9. cm. and cr. are created to read:

DHS 163.14 (5) (c) 9. cm. The description and results of the visual inspection for the presence of visible dust, debris, residue, or paint chips and the presence of deteriorated paint.

DHS 163.14 (5) (c) 9. cr. The specific locations on the property where clearance samples were taken.

Section 66. DHS 163.14 (5) (c) 9. d. is amended to read:

DHS 163.14 (5) (c) 9. d. ~~The~~ A copy of the laboratory report with the results of clearance testing, ~~the specific locations on the property where clearance samples were taken and, if applicable, all soil analyses and the~~. The clearance report shall include the name, address and telephone number of each recognized laboratory that conducted the analyses.

Section 67. DHS 163.14 (5) (c) 9. e. is repealed.

Section 68. DHS 163.14 (5) (c) 11. e. (Note), (7) (d) (intro.), 1. & 3., and (g) 14. are amended to read:

DHS 163.14 (5) (c) 11. e. (Note) A list of recognized laboratories is available at <https://www.epa.gov/sites/production/files/2018-06/documents/nllap.pdf>. ~~Request a copy of the clearance form or submit a completed form to Asbestos and Lead~~ Submit required information to Lead and Asbestos Section, Room 137, 1 W. Wilson ~~St~~ Street, P.O. Box 2659, Madison WI 53701-2659; by email to dhasbestoslead@wisconsin.gov; ~~ph. 608-261-6876~~ or by fax to 608-266-9711.

DHS 163.14 (7) (d) *Deteriorated paint*. Conduct a visual inspection of the real property to determine if any deteriorated paint is present. Treat untested 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:

DHS 163.14 (7) (d) 1. Use documented methodologies that incorporate adequate quality control procedures to sample or test each surface testing combination with deteriorated paint ~~that the hazard investigator or risk assessor determines is in poor condition and has a distinct paint history~~.

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DHS 163.14 (7) (d) 3. Determine that lead-based paint is present if the laboratory results are ~~equal to or greater~~ more than 0.06% 0.5% lead by weight or that lead-based paint is not present if the laboratory results are equal to or less than 0.06% 0.5% lead by weight.

DHS 163.14 (7) (g) 14. ~~All results of~~ A copy of the laboratory report of the analysis on of collected paint, soil, and dust samples.

Section 69. DHS 163.14 (7) (g) 15. is repealed and recreated to read:

DHS 163.14 (7) (g) 15. A written evaluation of the sample analysis results that were provided by the laboratory.

Section 70. DHS 163.14 (8) (title), (8) (c) 1. to 3., (e) 6., 7. a. and b., and (f) (intro.) are amended to read:

DHS 163.14 (8) (title) LEAD INSPECTION AND PARTIAL LEAD INSPECTION.

DHS 163.14 (8) (c) 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~~ and exterior testing combination.

DHS 163.14 (8) (c) 2. In a multi-family dwelling or child-occupied facility, also test each interior and exterior testing combination ~~component with a distinct paint history~~ in every common area.

DHS 163.14 (8) (c) 3. When ~~a person requests~~ a partial inspection is conducted to determine if lead-safe work practices are required for purposes of identifying lead-based paint in an area to be renovated ~~or remodeled~~, test each interior and exterior testing combination that falls 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.

DHS 163.14 (8) (e) 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~~ more than 0.06% 0.5% lead by weight or that lead-based paint is not present if the laboratory results are equal to or less than 0.06% 0.5% lead by weight.

DHS 163.14 (8) (e) 7. a. If the XRF reading ~~equal to 0.7~~ exceeds 1 milligram per square centimeter, determine that lead-based paint is present.

DHS 163.14 (8) (e) 7. b. If the XRF reading is ~~negative~~, less than or equal to 1 milligram per square centimeter, determine that lead-based paint is not present.

Draft

DHS 163.14 (8) (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 property owner or owners and to any other person who contracted for the inspection. The report shall include all of the following information:

Section 71. DHS 163.14 (8) (f) 11. is created to read:

DHS 163.14 (8) (f) 11. A copy of any laboratory report of the analysis of collected paint chips.

Section 72. DHS 163.14 (9) (c) (intro.), 1. to 3., (e), are amended to read:

DHS 163.14 (9) (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:

DHS 163.14 (9) (c) 1. Each ~~surface testing combination~~ with deteriorated paint ~~that is determined to have a distinct paint history~~.

DHS 163.14 (9) (c) 2. Each interior windowsill ~~determined to have a distinct painting history~~.

DHS 163.14 (9) (c) 3. Any other surface that is determined to be a potential lead-based paint hazard ~~and to have a distinct paint history~~.

DHS 163.14 (9) (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.

Section 73. DHS 163.14 (10) (a) is repealed and recreated.

DHS 163.14 (10) (a) *Renovation activities in target housing*. No more than 60 days before beginning renovation activities in any residential dwelling unit of target housing, or common area of multi-family target housing, the company performing the renovation activities shall:

DHS 163.14 (10) (a) 1. Provide the Renovate Right pamphlet to the owner of the unit, and, if not owner-occupied, also to an adult occupant of each unit in which renovation activities will be conducted.

DHS 163.14 (10) (a) 1. a. Obtain from the owner and an adult occupant of any non-owner-occupied unit in which renovation will be conducted, a written acknowledgment of receiving the pamphlet, or obtain a certificate of mailing at least 7 days prior to the start of the renovation activities.

Draft

DHS 163.14 (10) (a) 1. b. If the renovator has been unable to obtain a written acknowledgement from an adult occupant of a non-owner-occupied dwelling, the renovator may alternatively 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 acknowledgement from an adult occupant. Such certification must include the address of the unit undergoing renovation, the date and method of delivery of the pamphlet, name of the person delivering the pamphlet, reason for lack of acknowledgement, signature of an authorized renovation company representative, and the date of signature.

DHS 163.14 (10) (a) 2. Provide written notice to all affected dwelling units about the planned and ongoing renovation activities.

DHS 163.14 (10) (a) 2. a. Distribute written notice that includes the pamphlet, to each affected dwelling unit prior to the start of renovation. The written notice shall describe the general nature and locations of the planned activities and the expected starting and ending dates.

DHS 163.14 (10) (a) 2. 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. Alternatively, the pamphlet may be distributed to each affected unit.

DHS 163.14 (10) (a) 3. For renovation activities in common areas of multi-family dwellings, the renovation company shall prepare, sign, and date, a statement describing the steps taken to notify all occupants of the intended renovation activities.

DHS 163.14 (10) (a) 4. If the scope, locations or expected starting and ending dates of renovation activities change after the initial notice to occupants, the company shall provide further written notice to owners and occupants providing revised information on the ongoing or planned activities. This subsequent notice shall be provided before initiating work beyond that which was described in the initial notice.

Section 74. DHS 163.14 (10) (b) and (c) are repealed.

Section 75. DHS 163.14 (11) (f) 1., 4., (g) 1. and 4. are amended to read:

DHS 163.14 (11) (f) 1. Remove all objects from the work area, including furniture, rugs, and window coverings. Pre-clean all horizontal surfaces with a HEPA vacuum to remove any existing paint dust and debris. Objects that cannot be removed shall first be cleaned using a HEPA vacuum, and then be covered with plastic sheeting or other impermeable material with all seams and edges taped or otherwise sealed.

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DHS 163.14 (11) (f) 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. Floor containment measures may stop at the edge of the vertical barrier when using a vertical containment system consisting of impermeable barriers that extend from the floor to the ceiling and that are completely sealed at joints with the floor, ceiling, and walls.

DHS 163.14 (11) (g) 1. Remove all objects from the work area, including furniture and play equipment, and pre-clean horizontal surfaces and the ground to remove any visible paint debris. Objects that cannot be removed shall be covered with plastic sheeting or other impermeable material with all seams and edges taped or otherwise sealed.

DHS 163.14 (11) (g) 4. Cover the ground with heavy duty 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. Vertical containment or equivalent extra precautions in containing the work area may be necessary in order to prevent contamination of other buildings, other areas of the property, or adjacent buildings or properties. Ground containment measures may stop at the edge of the vertical barrier when using a vertical containment system.

Section 76. DHS 163.14 (11) (g) 5. is repealed.

Section 77. DHS 163.14 (11) (h) 4., 6., 7. are amended to read:

DHS 163.14 (11) (h) 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 to collect dust and debris at the point of generation and in a fully contained work area.

DHS 163.14 (11) (h) 6. Using an improperly operating HEPA vacuum to clean up ~~worksite~~ dust, debris, and paint chips.

DHS 163.14 (11) (h) 7. Dry sweeping dust, debris, or paint chips ~~in a renovation work area.~~

Section 78. DHS 163.14 (11) (i) 6. (Note) is repealed.

Section 79. DHS 163.14 (11) (j) 4. e. (Note) is repealed and recreated to read:

DHS 163.14 (11) (i) 4. e. (Note) For documented methodologies for cleaning, refer to the most current edition of the HUD “Guidelines for the Evaluation and Control for Lead-Based Paint Hazards in Housing” available at https://www.hud.gov/program_offices/healthy_homes/lbp/hudguidelines.

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Section 80. DHS 163.15 (1) (a) 1. to 2. and (b) 1. to 2. are amended to read:

DHS 163.15 (1) (a) 1. ~~Twenty five~~ Ten micrograms per square foot (~~25 $\mu\text{g}/\text{ft}^2$~~ 10 $\mu\text{g}/\text{ft}^2$) on a floor.

DHS 163.15 (1) (a) 2. ~~One hundred twenty five~~ Fifty micrograms per square foot (~~125 $\mu\text{g}/\text{ft}^2$~~ 50 $\mu\text{g}/\text{ft}^2$) on an interior windowsill.

DHS 163.15 (1) (b) 1. ~~Forty~~ Ten micrograms per square foot (~~40 $\mu\text{g}/\text{ft}^2$~~ 10 $\mu\text{g}/\text{ft}^2$) on a floor.

DHS 163.15 (1) (b) 2. ~~Two hundred fifty~~ One hundred micrograms per square foot (~~250 $\mu\text{g}/\text{ft}^2$~~ 100 $\mu\text{g}/\text{ft}^2$) on an interior windowsill.

Section 81. DHS 163.16 (1) is amended to read:

DHS 163.16 (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 EPA response criteria ~~described in this section.~~

Section 82. DHS 163.16 (2) and (3) are repealed.

Section 83. DHS 163.20 (3), (4) (a) and (c) are amended to read:

DHS 163.20 (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.~~

DHS 163.20 (4) (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.~~ A training provider may have no more than one application for course accreditation submitted for review at a time.

DHS 163.20 (4) (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.~~

Section 84. DHS 163.20 (5) and (6) are repealed and recreated to read:

DHS 163.20 (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.

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DHS 163.20 (5) (a). Facilities shall have appropriate space for classroom and hands-on training.

DHS 163.20 (5) (b). Instructional material shall be department-approved, include only materials currently approved, and be kept updated with new information provided by the department.

DHS 163.20 (5) (c). Equipment shall be appropriate for demonstrating and conducting the required work practices under s. DHS 163.14, maintained in proper working condition, and licensed and stored in compliance with any applicable requirements and regulations.

DHS 163.20 (5) (d). Students shall be given the department-approved student manual and any other approved handouts to take with them. Students shall also be given a paper copy of this chapter unless the student agrees to accept an electronic copy.

DHS 163.20 (6) APPROVED TRAINING MANAGER. The training provider shall have an approved training manager 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 training provider company.

Section 85. DHS 163.20 (7) (b), (c) 2., and (8) (a) (intro.), are amended to read:

DHS 163.20 (7) (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).

DHS 163.20 (7) (c) 2. 'Student-to-instructor ratio.' A student-to-instructor ratio of not greater than 8:1 shall be maintained during initial course 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. A student-to-instructor ratio of not greater than 12:1 shall be maintained during refresher course 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.

DHS 163.20 (8) (a) (intro.) *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~~ include all work practice standards that are consistent with under s. DHS 163.14 for the discipline 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:

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Section 86. DHS 163.20 (8) (a) 1. a. is repealed and recreated to read:

DHS 163.20 (8) (a) 1. a. Define lead-based paint.

Section 87. DHS 163.20 (8) (a) 1. r., zb., 2. (intro.), and 2. a., g., h., i., j, m, o., q., are amended to read:

DHS 163.20 (8) (a) 1. r. Explain how to determine if a test kit is recognized for use ~~in~~ Wisconsin.

DHS 163.20 (8) (a) 1. zb. Discuss ~~considerations for use of~~ specialized power tools with HEPA-filtered ~~capture attachments~~ exhaust control.

DHS 163.20 (8) (a) 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~~ and meet the requirements of s. DHS 163.10 for certification. 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:

DHS 163.20 (8) (a) 2. a. Discuss the role and responsibilities of a lead abatement worker ~~performing abatement or other lead hazard reduction~~.

DHS 163.20 (8) (a) 2. g. ~~List and describe at least 5~~ Describe lead-based paint abatement or hazard reduction work methods.

DHS 163.20 (8) (a) 2. h. ~~List at least 6~~ Describe restricted or prohibited work practices under s. DHS 163.14 (3) and (4).

DHS 163.20 (8) (a) 2. i. ~~Remove~~ Demonstrate the removal of paint from components using machine sanding ~~and machine~~, grinding, or planing with HEPA-vacuum exhaust control attachments, and using wet sanding and wet scraping according to documented methodologies.

DHS 163.20 (8) (a) 2. j. Discuss the structural conditions required for successful ~~using~~ use of encapsulants ~~successfully~~.

DHS 163.20 (8) (a) 2. m. ~~Use~~ Demonstrate the use of documented methodologies to remove and replace windows ~~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~~.

DHS 163.20 (8) (a) 2. o. ~~Describe the cleanup~~ Perform the final cleaning and waste disposal required after abatement.

DHS 163.20 (8) (a) 2. q. Describe ~~3 exterior abatement projects~~ activities, including soil-lead abatement options.

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Section 88. DHS 163.20 (8) (a) 2. u. is created to read:

DHS 163.20 (8) (a) 2. u. Discuss requirements for pre-cleaning and daily cleaning of abatement work areas, including worker pathways.

Section 89. DHS 163.20 (8) (a) 3. (intro.), k., L., q., 4. (intro.), (b) (intro.), 1. f., 2. (intro.), v., w., 3. (intro.), b., s., (c) 7., (h) 1. and 5. are amended to read:

DHS 163.20 (8) (a) 3. (intro.) `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 and meet the requirements of s. DHS 163.10 for certification. 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:

DHS 163.20 (8) (a) 3. k. Determine when ~~notification~~ notice to the department is required.

DHS 163.20 (8) (a) 3. L. Complete a work ~~notification~~ notice form for a lead abatement project.
DHS 163.20 (8) (a) 3. q. Discuss ~~notification~~ requirements for revising a project notice under 40 CFR Part 745 Subpart E, the EPA lead based paint pre renovation education rule.

DHS 163.20 (8) (a) 4. (intro.) `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 and meet the requirements of s. DHS 163.10 for certification. 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:

DHS 163.20 (8) (b) (intro.) *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:

DHS 163.20 (8) (b) 1. 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~~.

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DHS 163.20 (8) (b) 2. (intro.) `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 and meet the requirements of s. DHS 163.10 for certification. 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:

DHS 163.20 (8) (b) 2. v. ~~Prepare~~ Describe the elements required in a final risk assessment report.

DHS 163.20 (8) (b) 2. w. ~~Prepare~~ Describe the elements required in a lead-safe investigation report.

DHS 163.20 (8) (b) 3. (intro.) `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 and meet the requirements of s. DHS 163.10 for certification. 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:

DHS 163.20 (8) (b) 3. b. ~~Discuss~~ Compare the role of the lead inspector ~~in relation~~ to the roles of other lead professionals.

DHS 163.20 (8) (b) 3. s. ~~Prepare~~ Describe the required elements in an inspection report and a lead-free inspection report.

DHS 163.20 (8) (c) (intro.) *Required topics for lead refresher courses.* Each lead refresher training course shall meet the required minimum training hours, shall include lectures, ~~participatory activities~~ discussion, hands-on instructional activities and skills assessment, 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:

DHS 163.20 (8) (c) 7. `Lead sampling technician refresher course.' A total of ~~2~~ 4 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.

DHS 163.20 (8) (h) 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. Each test shall be proctored by a principal instructor or training manager who is present in the exam room at all times.

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DHS 163.20 (8) (h) 5. ~~A~~The training provider shall allow a student who fails the course test ~~must~~ at least two retakes of the entire course test within 30 days, but may not take offer the course test more than once in a given day. or more than twice in a 2 week period. If a~~A~~ student who 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.~~

Section 90. DHS 163.20 (8) (h) 7. is created to read:

DHS 163.20 (8) (h) 7. A representative of the training provider designated by the training manager or principal instructor may read a course test to a student in a room separate from other test takers.

Section 91. DHS 163.20 (8) (i), (9) (title), (am), (b), (c) (intro.), and 5. are amended to read:

DHS 163.20 (8) (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.~~

DHS 163.20 (9) (title) TRAINING ~~CERTIFICATE~~ DIPLOMA.

DHS 163.20 (9) (am) *Document student identification.* The training manager, or employee designated by 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.~~

DHS 163.20 (9) (b) *Requirement to issue training* ~~certificate~~ diploma. The training manager shall issue a training ~~certificate~~ diploma to a student when the student completes all course requirements.

DHS 163.20 (9) (c) (intro.) *Content of training* ~~certificate~~ diploma. A training ~~certificate~~ diploma shall include all of the following information:

DHS 163.20 (9) (c) 5. A clearly identifiable ~~picture~~ color photograph of the student's face that meets the requirements under s. DHS 163.10 (5) (b).

Section 92. DHS 163.20 (9) (c) (Note) is repealed.

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Section 93. DHS 163.21(1) (b) (Note), (2) (c), (3) (a) to (c), (5), (6) (c) 5., (g), (i), and (7) (b) (Note) are amended to read:

DHS 163.21 (1) (b) (Note) Course application forms, and instructions for submitting course applications and credit card payment forms are available at ~~Asbestos and Lead and Asbestos~~ Section, Room 137, 1 W. Wilson St, P.O. Box 2659, Madison WI 53701-2659; by email at dhasbestoslead@wisconsin.gov; ~~ph. or by phone at 608-261-6876; or fax 608-266-9711.~~ Submit completed course applications with all required materials and payment to the same office.

DHS 163.21 (2) (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

DHS 163.21 (3) (a) *Facilities.* Location of facilities used for training, including classroom and ~~any field sites~~ remote sites.

DHS 163.21 (3) (b) ~~*Training and equipment for hands-on activities.*~~ *Equipment for training and hands-on activities.* Training equipment ~~and equipment for hands-on activities,~~ including type of equipment, ~~its,~~ number of each type, location and method of storage.

DHS 163.21 (3) (c) *Audiovisual materials 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 plastic~~ sheeting, ~~high efficiency particulate air vacuums~~ HEPA vacuums with beater bar, ~~glove bags~~ and hand tools, including the number of each and location where they are stored.

DHS 163.21 (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). The plan shall provide a description of how the training provider will assure that only students eligible to take a refresher course will be admitted to a refresher class.

DHS 163.21 (6) (c) 5. Audiovisual materials used for each topic, including copies of handouts, ~~and overheads, and titles and descriptions of videos, film or slide~~ slides, photographs and displays ~~programs.~~

DHS 163.21 (6) (g) *Score report and test policy.* A form for notifying a student of the student's course test score, if used, and any policy for retaking the course test.

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DHS 163.21 (6) (i) ~~Training certificate diploma~~. A sample training certificate diploma 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 ~~certificate diplomas~~, the sample training certificate diploma shall be printed on the same paper and in the same color as the actual ~~certificate diploma~~.

DHS 163.21 (7) (b) (Note) Instructor ~~application and credit card payment forms~~ applications are available at ~~Asbestos and Lead and Asbestos~~ Section, Room 137, 1 W. Wilson ~~St~~ Street, P.O. Box 2659, Madison WI 53701-2659; by email at dhasbestoslead@wisconsin.gov; ~~ph. or phone~~ at 608-261-6876; ~~or fax 608-266-9711~~. Submit ~~completed~~ applications with payment by mail or personal delivery.

Section 94. DHS 163.22 (1), (2), and (6) (c) (title) are amended to read:

DHS 163.22 (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~~ notice 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.

DHS 163.22 (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 course schedule to the department under s. DHS 163.25 (3) ~~that the course is to begin~~.

DHS 163.22 (6) (c) (title) ~~Notification~~ Notice of audit results.

Section 95. DHS 163.23 (3) (a) is amended to read:

DHS 163.23 (3) (a) *Application form*. A fully and accurately completed department application form. ~~The application shall include a statement signed by the training manager that the training course complies with the requirements of this chapter.~~

Section 96. DHS 163.23 (3) (d) (Note 1) and (Note 2) are repealed and recreated to read:

DHS 163.23 (3) (d) (Note 1) An application form may be requested by email at dhasbestoslead@wisconsin.gov or by phone at 608-261-6876.

DHS 163.23 (3) (d) (Note 2) Submit application and fee to the Lead and Asbestos Section, Room 137, 1 W. Wilson Street, P.O. Box 2659, Madison, WI 53701-2659.

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Section 97. DHS 163.23 (5) is amended to read:

DHS 163.23 (5) RENEWAL OF ACCREDITATION. ~~After reviewing a training course~~ Within 60 days of receiving application for renewal of accreditation, the department shall review the application for compliance with the conditions for renewal of accreditation, the department shall and take one of the following actions:

Section 98. DHS 163.24 (1) is amended to read:

DHS 163.24 (1) REQUIREMENT FOR APPROVAL. No individual may function as a training manager for a provider of accredited training courses, or principal instructor of an accredited training course without being approved by the department under this section.

Section 99. DHS 163.24 (2) (b) 2. (Note 1) and (Note 2) are repealed and recreated to read:

DHS 163.24 (2) (b) 2. (Note 1) Training manager application forms may be requested by email at dhasbestoslead@wisconsin.gov or by phone at 608-261-6876.

DHS 163.24 (2) (b) 2. (Note 2) Submit application to the Lead and Asbestos Section, Room 137, 1 W. Wilson Street, P.O. Box 2659, Madison, WI 53701-2659.

Section 100. DHS 163.24 (2) (c) 1. and 2., (d), and (3) (b) 3. are amended to read:

DHS 163.24 (2) (c) 1. ~~Within 10 15~~ 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.

DHS 163.24 (2) (c) 2. If approval is granted, the department shall send the applicant written ~~notification~~ notice of approval.

DHS 163.24 (2) (d) *Length of approval.* Training manager approval ~~is~~ remains effective until the training manager ~~surrenders the certificate of approval to the department~~ terminates association with the lead company providing the accredited course, the company goes out of business, all managed course accreditations expire and are not renewed within 12 months of expiration, or until the department suspends or revokes approval.

DHS 163.24 (3) (b) 3. 'References.' A minimum of 3 professional references ~~or letters of recommendation, but no more than one from the applicant's current employer.~~

Section 101. DHS 163.24 (3) (b) 4. and 6. are repealed.

Section 102. DHS 163.24 (3) (b) 7. d. (Note 1) and (Note 2) are repealed and recreated to read:

DHS 163.24 (3) (b) 7. d. (Note 1) Applications are available on the department website at <https://www.dhs.wisconsin.gov/lead>; by email at dhasbestoslead@wisconsin.gov; or by phone at 608-261-6876.

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DHS 163.24 (3) (b) 7. d. (Note 2) Submit application and fee to the Lead and Asbestos Section, Room 137, 1 W. Wilson Street, P.O. Box 2659, Madison, WI 53701-2659

Section 103. DHS 163.24 (3) (c) 1. and 2., (e) 1. a., b., 2., 3. a., and b. are amended to read:

DHS 163.24 (3) (c) 1. Within ~~40~~ 15 working days after the submission of a complete application, ~~including acceptable documentation of training, education and experience,~~ the department shall either grant or deny approval for an applicant to be a principal instructor.

DHS 163.24 (3) (c) 2. If approval is granted, the department shall send the applicant written ~~notification~~ notice of approval.

DHS 163.24 (3) (e) 1. a. A completed application for renewal of approval. ~~The application shall include the applicant's social security number.~~

DHS 163.24 (3) (e) 1. b. ~~An~~ A nonrefundable 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.~~

DHS 163.24 (3) (e) 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.

DHS 163.24 (3) (e) 3. a. Within ~~40~~ 15 working days after the submission of all required application information, the department shall either grant or deny approval.

DHS 163.24 (3) (e) 3. b. If renewal of approval is granted, the department shall send the applicant written ~~notification~~ notice of approval.

Section 104. DHS 163.25 (1), (2), (3) (title), (a) (title) and (Note), (b) (title), (c) (title), 2., and (d) are amended to read:

DHS 163.25 (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 training provider as it appears on the application for accreditation or as later changed by notice to the department under sub. (7).

DHS 163.25 (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~~ Notice shall be made a minimum of ~~40~~ 15 working days before the cessation of training.

DHS 163.25 (3) (title) COURSE SCHEDULE ~~NOTIFICATION~~ NOTICE TO THE DEPARTMENT.

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DHS 163.25 (3) (a) *Requirement for ~~notification~~ notice.*

DHS 163.25 (3) (a) (Note) Contact the department for instructions for completing online course ~~notification notices~~, by email at dhsasbestoslead@wisconsin.gov or phone at 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.~~

DHS 163.25 (3) (b) (title) ~~Notification~~ Notice content. The notice shall include all of the following:

DHS 163.25 (3) (c) (title) *Timing of ~~notification~~ notice.*

DHS 163.25 (3) (c) 2. ~~In an emergency, The~~ training manager ~~shall make a~~ may request by ~~telephone~~ for department approval to schedule a training ~~course~~ class with less than 10 working days advance notice. The request shall be made by phone or by other method approved by the department a minimum of one working day prior to the requested start date. ~~and~~ If approved, the training provider shall be followed by entry of the course notification directly into immediately notify the class using the department's online lead database or.

DHS 163.25 (3) (d) *Revised ~~notification~~ notice.* 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 or other method approved by the department when the change or cancellation occurs less than 10 working days before the scheduled start date.

Section 105. DHS 163.25 (3) (d) (Note) is repealed.

Section 106. DHS 163.25 (6), (7) (title) and (intro.), and (d) are amended to read:

DHS 163.25 (6) NONDISCRIMINATION IN TRAINING. Access to an accredited training course may not be denied solely due to age, sex, race, color, religion or creed, national origin, ancestry, sexual orientation, gender identity, or disability.

DHS 163.25 (7) ~~NOTIFICATION~~ NOTICE OF CHANGES. The training manager shall notify the department in writing a minimum of ~~10~~ 15 working days before making the following changes:

DHS 163.25 (7) (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 notice~~ of a change in course materials under s. DHS 163.21 (6), the training manager shall submit a draft of the revised ~~document~~ materials. After reviewing the draft revisions, the department may allow a trial period of 3 class sessions of a training course before requiring submittal of a final revision.

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Section 107. DHS 163.25 (7) (e) (Note) is repealed and recreated to read:

DHS 163.25 (7) (e) (Note) Submit training course changes to the Lead and Asbestos Section, Room 137, 1 W. Wilson Street, P.O. Box 2659, Madison, WI 53701-2659; or by e-mail to dhasbestoslead@wisconsin.gov.

Section 108. DHS 163.25 (9) (intro.), (e), (10) (a), (b) 2., 3., and 5. are amended to read:

DHS 163.25 (9) QUALITY CONTROL. The training manager shall be responsible for developing and implementing a written quality control plan with measures that include all of the following:

DHS 163.25 (9) (e) *Validity of course test.* Maintaining the validity ~~and~~, integrity and security of the course test under sub. s. DHS 163.20 (8) (h).

DHS 163.25 (10) (a) *Requirement to retain records.* The training manager shall ensure that the training 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.

DHS 163.25 (10) (b) 2. ~~The All scored course test for all students who passed or failed tests.~~

DHS 163.25 (10) (b) 3. A copy of each student's training ~~certificate~~ diploma and original photo saved in digital format.

DHS 163.25 (10) (b) 5. ~~Class rosters and student~~ Original attendance forms signed by students, and any other attendance records.

Section 109. DHS 163.25 (10) (b) 7. is repealed and recreated to read:

DHS 163.25 (10) (b) 7. Documentation of hands-on skills assessment completed for each student and signed by the principal instructor.

Section 110. DHS 163.25 (10) (b) 7. a. to d. and 8. are repealed.

Section 111. DHS 163.25 (11) (b) 3. to 5. are amended to read:

DHS 163.25 (11) (b) 3. For each training ~~certificate~~ diploma issued, the date the training ~~certificate~~ diploma was issued.

DHS 163.25 (11) (b) 4. The student's full legal name and address. ~~If a training certificate was issued, the~~ The same name shall be the same as it is appears on the training certificate be used on the student's training diploma.

Draft

DHS 163.25 (11) (b) 5. For each training ~~certificate~~ diploma issued, the unique training ~~certificate~~ diploma number as it appears on the training ~~certificate~~ diploma.

Section 112. DHS 163. 31 (2) (b) and (i) are amended to read:

DHS 163.31 (2) (b) The person deceptively issued or used training ~~certificates~~ diplomas.

DHS 163.31 (2) (i) The person failed to submit required information ~~or notification~~ notices to the department in a timely manner.

Section 113. DHS 163.31 (2) (m) to (o) are created to read:

DHS 163.31 (2) (m) The person failed to respond to a letter of inquiry, notice of noncompliance, or written orders within the required time.

DHS 163.31 (2) (n) The person continues to violate or resumes violation of a provision for which notice of noncompliance was previously issued.

DHS 163.31 (2) (o) The person fails to comply with an order issued under s. 163.32 (1) by the time specified in the order.

Section 114. DHS 163.31 (4) (b), (g), (h), (i), (j), (L), are amended to read:

DHS 163.31 (4) (b) The person used a training ~~certificate~~ diploma or electronic equivalent ~~that was issued by a training manager without attending an appropriate~~ having successfully completed the course or an entire course or without passing an approved course test for which the diploma was issued.

DHS 163.31 (4) (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~~ diploma, certification card or other copies of certification document documentation by another.

DHS 163.31 (4) (h) The person withheld or confiscated an employee's valid training ~~certificate~~ diploma or valid certification card.

DHS 163.31 (4) (i) The person performed work requiring certification at a job site without having proof ~~onsite~~ of certification on site.

DHS 163.31 (4) (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~~ without being appropriately certified.

DHS 163.31 (4) (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~~ required under this chapter.

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Section 115. DHS 163.31 (4) (Lm) is created to read:

DHS 163.31 (4) (Lm) The person failed or refused to establish, maintain, provide, or permit department access to, the records or reports required under this chapter.

Section 116. DHS 163.31 (4) (o) is amended to read:

DHS 163.31 (4) (o) The person ~~displayed conduct~~ committed an action or created a condition relating to a regulated activity that in the department's judgment constitutes unreasonable risk to the health, safety, or welfare of any person.

Section 117. DHS 163.31 (4) (t) to (w) are created to read:

DHS 163.31 (4) (t) The person performed regulated work under provisional certification without meeting all conditions for provisional certification.

DHS 163.31 (4) (u) The person failed to respond to a letter of inquiry, notice of noncompliance, or written orders within the required time.

DHS 163.31 (4) (v) The person continues to violate or resumes violation of a provision for which notice of noncompliance was previously issued.

DHS 163.31 (4) (w) The person failed to comply with an order issued under s. 163.32 (1) by the time specified in the order.

Section 118. DHS 163.31 (6) (a) and (b) are amended to read:

DHS 163.31 (6) (a) ~~A~~The 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:

DHS 163.31 (6) (b) ~~A~~The person has committed an action or has created a condition relating to a regulated activity that in the department's judgment directly threatens the health, safety or welfare of any person.

Section 119. DHS 163. 32 (1) (a), (b), (c), (e), (f), (2), (3) and (5) (b) are amended to read:

DHS 163.32 (1) (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.~~

DHS 163.32 (1) (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.~~

Draft

DHS 163.32 (1) (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~~ for which accreditation under this chapter is required.

DHS 163.32 (1) (e) That within a specified time the person submit a plan of correction for department approval, and implement the plan as approved by the department for a violation of any provision under this chapter.

DHS 163.32 (1) (f) That within a specified time 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.

DHS 163.32 (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.

DHS 163.32 (3) CIVIL FORFEITURE. The department may impose a daily forfeiture of not less than \$100 nor more than ~~\$1,000~~ \$5,000 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:

DHS 163.32 (5) (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~~ 10 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~~ 20 working days after the date of suspension if the department has initiated revocation proceedings.

Section 120. DHS 163. 40 (2) (c) 2., 5. a. and b. are amended to read:

DHS 163.40 (2) (c) 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, untested 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.~~

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DHS 163.40 (2) (c) 5. 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~~ more than 0.71 milligrams 1 milligram lead per square centimeter, determine that lead-based paint is present. If the reading is equal to or less than 0.71 milligrams 1 milligram lead per square centimeter, determine that ~~the paint is lead-free~~ lead-based paint is not present. 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~~ lead-based paint is not present.

DHS 163.40 (2) (c) 5. 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 more than 0.06% 0.5% lead by weight. If the laboratory result for the paint chip sample is equal to or less than 0.06% 0.5% lead by weight, determine that ~~the paint is lead-free~~ lead-based paint is not present.

Section 121. DHS 163.41 (2) (a) 2. c. (Note), e., 4. a., and (f) 3. (Note) are amended to read:

DHS 163.41 (2) (a) 2. c. (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~~ the most current edition of the HUD “Guidelines for the Evaluation and Control for Lead-Based Paint Hazards in Housing” available at https://www.hud.gov/program_offices/healthy_homes/lbp/hudguidelines. 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.

DHS 163.41 (2) (a) 2. e. The lead-free inspection may incorporate a determination from a prior lead investigation activity that lead-based paint is not present on a painted component ~~is lead-free~~ when the prior investigation activity meets the requirements under s. DHS 163.40 (2) (c) 3.

DHS 163.41 (2) (a) 4. a. ~~When the paint has not been proven to be lead-free, a~~ 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.

DHS 163.41 (2) (f) 3. (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 and Asbestos~~ Section, Room 137, 1 ~~West W.~~ Wilson Street, P.O. Box 2659, Madison, WI 53701-2659; by e-mail to dhsasbestoslead@wisconsin.gov; ph. or phone 608-261-6876; ~~fax 608-266-9711~~.

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Section 122. DHS 163. 42 (1), (a) - (c) are amended to read:

DHS 163.42 (1) REGISTERED LEAD-SAFE PROPERTY STANDARDS. Under the standards in this subsection, paint is ~~not lead free~~ considered to be 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. 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):

DHS 163.42 (1) (a) *Interior painted components.* Interior painted components shall be free of deteriorated lead-based paint ~~unless the paint is proven to be lead free.~~

DHS 163.42 (1) (b) *Exterior painted components.* Exterior painted components shall be free of deteriorated lead-based paint ~~unless the paint is proven to be lead free.~~

DHS 163.42 (1) (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.~~

Section 123. DHS 163.42 (1) (d), (e), (Note 1) and (Note 2) are repealed and recreated to read:

DHS 163.42 (1) (d) *Substrate.* Substrates with lead-based paint shall have no visible defect, damage, decay or deterioration that might cause paint failure.

DHS 163.42 (1) (e) *Dust-lead hazards.* The property shall have no dust-lead hazards as defined under DHS 163.15 (1) (b).

Section 124. DHS 163.42 (1) (f) to (h) are amended to read:

DHS 163.42 (1) (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.~~ Surfaces with lead-based paint shall be free from ongoing water damage caused by any of the following:

DHS 163.42 (1) (f) 1. Unrepaired water leaks in gutters, downspouts, roofs, foundations or other components.

DHS 163.42 (1) (f) 2. Unrepaired leaks in plumbing, air conditioning or heating systems.

DHS 163.42 (1) (f) 3. Absent or malfunctioning gutters or downspouts.

DHS 163.42 (1) (g) *Painted floors and stairs.* Painted interior and exterior floors and ~~the traffic area of treads~~ stairs shall be free of deteriorated or abraded lead-based paint and evidence of abrasion unless all existing paint on the floor or stair tread is proven to be lead free.

DHS 163.42 (1) (h) *Window systems, including storm and screen windows.* For ~~painted~~ window systems with lead-based paint, all of the following apply ~~unless the paint is proven to be lead free:~~

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Section 125. DHS 163.42 (2) (a) 2. c. (Note), e., and (3) (b) 5. (Note) are amended to read:

DHS 163.42 (2) (a) 2. c. (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~~ the most current edition of the HUD “Guidelines for the Evaluation and Control of Lead-based Paint Hazards in Housing” available at https://www.hud.gov/program_offices/healthy_homes/lbp/hudguidelines. 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.

DHS 163.41 (2) (a) 2. e. The lead-safe investigation may incorporate a determination from a prior lead investigation activity that lead-based paint is not present on a painted component ~~is lead-free~~ when the prior lead investigation activity meets the requirements under s. DHS 163.40 (2) (c) 3.

DHS 163.42 (3) (b) 5. (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 <https://www.dhs.wisconsin.gov/lead>; by email to dhasbestoslead@wisconsin.gov; ~~ph. or by phone at 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.~~

Section 126. DHS 163.42 (3) (c) 2. (Note) and 5. (Note) are repealed.

Section 127. DHS 163.42 (3) (d) 1., 4., 5., a., 6., and 6. f. (Note) are amended to read:

DHS 163.42 (3) (d) 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, or untested 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.

DHS 163.42 (3) (d) 4. The failing enclosure, encapsulation or covering, untested 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.

DHS 163.42 (3) (d) 5. Repair or removal of a failing enclosure, encapsulation or covering, untested 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:

DHS 163.42 (3) (d) 5. a. An individual certified in a lead investigation discipline uses documented methodologies to determine that neither a dust-lead hazard ~~is not~~ nor lead-based paint is present ~~and the paint is lead free~~.

Draft

DHS 163.42 (3) (d) 6. When exceptional circumstances prevent the timely repair or removal of a failing enclosure, encapsulation or covering, untested deteriorated 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:

DHS 163.42 (3) (d) 6. f. (Note) Submit any extension request to the ~~Asbestos and Lead and Asbestos~~ Section, Room 137, 1 ~~West W.~~ Wilson Street, P.O. Box 2659, Madison, WI 53701-2659; ~~e-mail~~; or by email to dhsasbestoslead@wisconsin.gov ~~or fax 608-266-9711~~.

Section 128. DHS 163.42 (3) (e) 4. is repealed.

Section 129. DHS 163.42 (3) (f) 1. is amended to read:

DHS 163.42 (3) (f) 1. 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 renovation certification requirements under s. DHS 163.10 (1) and the work practices under s. DHS 163.14 (11).

Section 130. DHS 163.42 (3) (f) 3. and (g) 2. are repealed.

Section 131. EFFECTIVE DATE: This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, as provided in s. 227.22 (2) (intro.), Stats.

Comparison of Lead Program Fees with Neighboring States

Discipline	Illinois Fees	Iowa Fees	Michigan Fees	Minnesota Fees	Current WI Fees	Proposed WI Fees
Fees last increased:	2008	2017	2007	2016	2002	2019
Lead-Safe Renovator	NA	\$180/3 years	NA	NA	\$50/2 years	\$75/2 years
Lead Worker	\$50/year	\$180/3 years	\$25/year	\$50/year	\$75/2 years	\$100/2 years
Lead Supervisor	\$100/year	\$180/3 years	\$50/year	\$50/year	\$125/1 year or \$225/2 years	\$250/2 years
Sampling/Clearance Technician	NA	\$180/3 years	\$50/year	NA	\$50/2 years	\$75/2 years
Lead Inspector/ Hazard Investigator	\$100/year	\$180/3 years	\$150/year	\$50/year	\$150/1 year or \$275/2 years	\$300/2 years
Lead Risk Assessor	\$100/year	\$180/3 years	\$150/year	\$100/year	\$175/1 year or \$325/2 years	\$350/2 years
Lead Project Designer	NA	\$180/3 years	\$150/year	\$100/year	\$175/1 year or \$325/2 years	\$350/2 years
Lead Company/ Renovation Company	\$500/year	No fee	\$220/year + one-time \$100 application fee	\$100/2 years	\$75/2 years	\$125/2 years
Initial Course Accreditation	\$500/year	\$200/3 years	\$475/year + \$100 processing fee	\$500/2 years	\$200-\$400/2 years* + \$200 application fee	No change
Refresher Course Accreditation	\$250/year	\$200/3 years	\$475/year + \$100 processing fee	\$250/2 years	\$50-\$200/2 years* + \$125 application fee	No change
Course Accreditation Renewal	\$500 Initial/year \$250 Refresher/yr.	\$200/3 years	\$265/year + \$100 processing fee	\$250 Initial \$125 Refresher	\$50-\$200/2 years*	No change
State Exam	\$50	Set by the community college administering exam	\$75 to \$125 every 3 years based on discipline	Set by approved independent exam providers	\$50	\$75
Civil Penalties	1 st violation: up to \$1,000/day Repeat: minimum fine of \$1000 + additional fines	Penalty not to exceed \$5,000 for each offense.	1 st violation: \$2000 2 nd violation: \$5,000 3 rd violation: \$10,000 Per violation or per day a violation continues.	Penalty of at least \$5,000 per violation per day, not to exceed \$10,000 for each violation.	Civil penalty of at least \$100 but not more than \$1,000 per violation per day.	Civil penalty of at least \$100 but not more than \$5,000 per violation per day.

* Fee is based on \$25 per course hour. Courses range in length from 2-hours to 16-hours each.