

West's Wisconsin Statutes Annotated Currentness

Health (Ch. 250 to 255)

▢ Chapter 254. Environmental Health (Refs & Annos)

→ Subchapter II. Toxic Substances

### 254.11. Definitions

In this subchapter:

- (1) "Asbestos" means chrysotile, crocidolite, amosite, fibrous tremolite, fibrous actinolite or fibrous anthophyllite.
- (2) "Asbestos abatement activity" means any activity which disturbs asbestos-containing material, including but not limited to the repair, enclosure, encapsulation or removal of asbestos-containing material and the renovation or demolition of any part of a structure.
- (3) "Asbestos-containing material" means asbestos or any material or product which contains more than one percent of asbestos.
- (4) "Asbestos management activity" means an inspection for asbestos-containing material, the design of an asbestos response action or the development of an asbestos management plan.
- (4g) "Certificate of lead-free status" means a certificate issued by a certified lead risk assessor or other person certified under [s. 254.176](#) that documents a finding by the assessor that a premises, dwelling or unit of a dwelling is free of lead-bearing paint as of the date specified on the certificate.
- (4h) "Certificate of lead-safe status" means a certificate issued by a certified lead risk assessor or other person certified under [s. 254.176](#) that documents that the assessor detected no lead-bearing paint hazards affecting the premises, dwelling or unit of the dwelling on the date specified on the certificate.
- (5) "Dwelling" means any structure, all or part of which is designed or used for human habitation.
- (5m) "Elevated blood lead level" means a level of lead in blood that is any of the following:
  - (a) Twenty or more micrograms per 100 milliliters of blood, as confirmed by one venous blood test.
  - (b) Fifteen or more micrograms per 100 milliliters of blood, as confirmed by 2 venous blood tests that are performed at least 90 days apart.
- (6) "Fibrous" means having parallel sides and a length which is at least 3 times the diameter and which results in an aspect ratio of 3 to one or more.
- (7) "Hematofluorometer" means an instrument used in identification of minute amounts of a substance in human blood by detection and measurement of the characteristic wavelength of the light emitted by the substance during fluorescence.

(7g) "Imminent lead hazard" means a lead hazard that, if allowed to continue, will place a child under 6 years of age at risk of developing lead poisoning or lead exposure, as determined by the department or other state agency, a local health department or a federal agency.

(7r) "Interim control activity" means any set of measures designed to temporarily reduce human exposure or likely exposure to a lead hazard, including specialized cleaning, repair, maintenance, painting, temporary containment and ongoing monitoring of lead hazards or potential lead hazards.

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

(8d) "Lead-bearing paint hazard" has the meaning specified by rule by the department.

(8g) "Lead hazard" means any substance, surface or object that contains lead and that, due to its condition, location or nature, may contribute to the lead poisoning or lead exposure of a child under 6 years of age.

(8j) "Lead hazard abatement" means any set of measures designed to permanently eliminate a lead hazard, including all of the following:

(a) The removal of lead-bearing paint and lead-contaminated dust, the permanent containment or encapsulation of lead-bearing paint, the replacement of surfaces or fixtures painted with lead-bearing paint, and the removal or covering of lead-contaminated soil.

(b) All preparation, clean-up, disposal and postabatement clearance testing activities associated with the measures under par. (a).

(8n) "Lead hazard reduction" means actions designed to reduce human exposure to lead hazards, including lead hazard abatement and interim control activities involving lead-bearing paint or lead-contaminated dust or soil or clearance activities that determine whether an environment contains a lead hazard.

(8s) "Lead investigation" means a measure or set of measures designed to identify the presence of lead or lead hazards, including examination of painted or varnished surfaces, paint, dust, water and other environmental media.

(8u) "Lead management activity" means a lead investigation or the design or management of lead hazard reduction.

(9) "Lead poisoning or lead exposure" means a level of lead in the blood of 10 or more micrograms per 100 milliliters of blood.

(9g) "Lead risk assessor" has the meaning specified by rule by the department.

(9r) "Occupant" means a person who leases or lawfully resides in a dwelling or premises.

(10) "Owner" means a person who has legal title to any dwelling or premises.

(10m) "Premises" means any of the following:

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

(b) Other classes of buildings and facilities, including attached structures and real property upon which the buildings or facilities stand, that the department determines by rule to pose a significant risk of contributing to the lead poisoning or lead exposure of children under 6 years of age.

(11) "Public employee" has the meaning given under [s. 101.055\(2\)\(b\)](#).

(12) "School" means any local education agency, as defined in [20 USC 3381](#), the owner of any nonpublic, non-profit elementary or secondary school building or any governing authority of any school operated under [20 USC 921](#) to [932](#).

(13) "Third-party payer" means a disability insurance policy that is required to provide coverage for a blood lead test under [s. 632.895\(10\)\(a\)](#); a health maintenance organization or preferred provider plan under ch. 609; a health care coverage plan offered by the state under [s. 40.51\(6\)](#); a self-insured health plan offered by a city or village under [s. 66.0137\(4\)](#), a political subdivision under [s. 66.0137\(4m\)](#), a town under [s. 60.23\(25\)](#), a county under [s. 59.52\(11\)\(c\)](#), or a school district under [s. 120.13\(2\)\(b\)](#); or a sickness care plan operated by a cooperative association under [s. 185.981](#).

#### **254.115. Denial, nonrenewal and revocation of certification and permit based on tax delinquency**

(1) Except as provided in sub. (1m), the department shall require each applicant to provide the department with the applicant's social security number, if the applicant is an individual, or the applicant's federal employer identification number, if the applicant is not an individual, as a condition of issuing or renewing any of the following:

(a) Certification under [s. 254.176](#).

(b) A certification card under [s. 254.20 \(3\)](#) or [\(4\)](#).

(c) A permit for operation of a campground under [s. 254.47 \(1\)](#) or [\(2m\)](#).

(d) A permit under [s. 255.08 \(2\)](#) (a) or (b).

(1m) If an individual who applies for or to renew a certification, certification card or permit under sub. (1) does not have a social security number, the individual, as a condition of obtaining the certification, certification card or permit, shall submit a statement made or subscribed under oath or affirmation to the department that the applicant does not have a social security number. The form of the statement shall be prescribed by the department of children and families. A certification, certification card or permit issued or renewed in reliance upon a false statement submitted under this subsection is invalid.

(2) The department may not disclose any information received under sub. (1) to any person except to the department of revenue for the sole purpose of requesting certifications under [s. 73.0301](#).

(3) Except as provided in sub. (1m), the department shall deny an application for the issuance or renewal of a certification, certification card or permit specified in sub. (1) if the applicant does not provide the information specified in sub. (1).

(4) The department shall deny an application for the issuance or renewal of a certification, certification card or permit specified in sub. (1), or shall revoke the certification, certification card or permit specified in sub. (1), if the department of revenue certifies under [s. 73.0301](#) that the applicant for or holder of the certification, certification card or permit is liable for delinquent taxes.

#### **254.12. Use or sale of lead-bearing paints**

(1) No person may apply lead-bearing paints:

(a) To any exposed surface on the inside of a dwelling;

(b) To the exposed surface of a structure used for the care of children; or

(c) To any fixture or other object placed in or upon any exposed surface of a dwelling and ordinarily accessible to children.

(2) No person may sell or transfer any fixture or other object intended to be placed upon any surface on the inside of a dwelling, containing a lead-bearing paint and ordinarily accessible to children.

#### **254.13. Reporting requirements**

(1) Every physician who diagnoses lead poisoning or lead exposure, or any nurse, hospital administrator, director of a clinical laboratory or local health officer who has verified information of the existence of any person found or suspected to have lead poisoning or lead exposure, shall report to the department or to the local health officer of the region in which the person resides within 48 hours after verifying this information. The local health officer shall report to the department the name, address, laboratory results, date of birth and any other information about the person that the department considers essential. Any physician, nurse, hospital administrator, director of a clinical laboratory, local health officer or allied health professional making such a report in good faith shall be immune from any civil or criminal liability that otherwise might be incurred from making the report.

(2) A person who screens a child under 6 years of age for lead poisoning or lead exposure under this subchapter, or any rule promulgated under this subchapter, shall report the results of the screening to the department within the time period for reporting by rule. The department shall promulgate rules specifying the form of the reports required under this subsection. A person making a report under this subsection in good faith is immune from civil or criminal liability that might otherwise be incurred from making the report.

#### **254.14. Renumbered in part and repealed in part by 1993 Act 450, §§ 39 to 41, eff. May 14, 1994**

#### **254.15. Departmental duties**

The department shall:

(1) Develop and implement a comprehensive statewide lead poisoning or lead exposure prevention and treatment program that includes lead poisoning or lead exposure prevention grants under [s. 254.151](#); any childhood lead poisoning screening requirement under rules promulgated under [ss. 254.158](#) and [254.162](#); any requirements regarding care coordination and follow-up for children with lead poisoning or lead exposure required under rules promulgated under [s. 254.164](#); responses to reports of lead poisoning or lead exposure under [s. 254.166](#); any lead investigation requirements under rules promulgated under [ss. 254.167](#) and [254.168](#); any lead hazard reduction requirements under rules promulgated under [s. 254.172](#); certification, accreditation and approval requirements under [ss. 254.176](#) and [254.178](#); any certification requirements and procedures under rules promulgated under [s. 254.179](#); and any fees imposed under [s. 254.181](#).

(2) Provide laboratory testing of biological and environmental lead specimens for lead content to any physician, hospital, clinic, municipality or private organization that cannot secure or provide testing through other sources. The department may not assume responsibility for blood lead analysis required in programs in operation on April 30, 1980.

(3) Develop or encourage the development of appropriate programs and studies to identify sources of lead poisoning or lead exposure, and assist other entities in the identification of lead in children's blood and of the sources of the lead poisoning or lead exposure.

(4) Provide technical assistance and consultation to local, county or regional governmental or private agencies to promote and develop lead poisoning or lead exposure prevention programs that afford opportunities for employing residents of communities and neighborhoods affected by lead poisoning or lead exposure from lead-bearing paint, and that provide appropriate training, education and information to inform these residents of the opportunities for employment.

(5) Provide recommendations for the identification and treatment of lead poisoning or lead exposure.

(6) Develop educational programs to communicate to parents, educators and officials of local boards of health the health danger of lead poisoning or lead exposure from lead-bearing paint among children.

#### **254.151. Lead poisoning or lead exposure prevention grants**

From the appropriation under [s. 20.435\(5\)\(ef\)](#), the department shall award the following grants under criteria that the department shall establish in rules promulgated under this section:

(1) To fund educational programs about the dangers of lead poisoning or lead exposure.

(2) To fund lead poisoning or lead exposure screening, care coordination and follow-up services, including lead investigations, to children under age 6 who are not covered by a 3rd-party payer.

(3) To fund administration or enforcement of responsibilities delegated under [s. 254.152](#).

(4) To fund other activities related to lead poisoning or lead exposure; .

(5) To fund any combination of the purposes under subs. (1) to (4).

(6) To develop and implement outreach and education programs for health care providers to inform them of the need for lead poisoning or lead exposure screening and of the requirements of this subchapter relating to lead poisoning or lead exposure.

(7) In each fiscal year, \$125,000 to fund lead screening and outreach activities at a community-based human service agency that provides primary health care, health education and social services to low-income individuals in 1st class cities.

#### **254.152. Delegation to local health departments**

Except with respect to the department's authority to promulgate rules under this chapter, the department may designate local health departments as its agents in administering and enforcing [ss. 254.11 to 254.178](#) and any rules promulgated under those sections. The department may not designate a local health department as its agent unless the department provides a grant that the department determines to be sufficient for the local health department to carry out any responsibilities as an agent designated under this section.

#### **254.154. Local authority**

This subchapter does not prohibit any city, village, town or other political subdivision from enacting and enforcing ordinances establishing a system of lead poisoning or lead exposure control that provides the same or higher standards than those set forth in this subchapter. Nothing in this subchapter may be interpreted or applied in any manner to impair the right of any person, entity, municipality or other political subdivision to sue for damages or equitable relief. Nothing in this subchapter may be interpreted or applied in any manner to impair the right of a municipality or other political subdivision to impose a penalty for or restrain the violation of an ordinance specified in this section.

#### **254.156. Definition of lead-bearing paint and lead poisoning or lead exposure**

Notwithstanding [s. 254.11](#)(intro.), (8) and (9), whenever the centers for disease control and prevention of the federal department of health and human services specifies a standard for the determination of lead-bearing paint or lead poisoning or lead exposure that differs from that specified in [s. 254.11\(8\)](#) or (9), the department shall promulgate a rule defining "lead-bearing paint" or "lead poisoning or lead exposure" to correspond to the specification of the centers for disease control and prevention. Rules promulgated under this section supersede [s. 254.11\(8\)](#) and (9) with respect to the requirements of this subchapter.

#### **254.158. Screening recommendations**

The department may promulgate rules specifying recommended lead poisoning or lead exposure screening methods and intervals for children under 6 years of age. Any rules promulgated under this section:

- (1) Shall meet any federal requirements for the screening of children under 6 years of age.
- (1m) May include an appropriate questionnaire regarding potential exposure to lead and products containing lead.
- (2) Shall permit at least the following persons to provide screening services:

- (a) A person licensed to practice medicine or osteopathy under ch. 448.
  - (b) A nurse registered, permitted or licensed under ch. 441.
  - (c) A public health nurse under [s. 250.06\(1\)](#).
- (3) Shall exempt a child from the lead screening recommendations if the child's parent, guardian or legal custodian signs a written waiver objecting to the lead poisoning screening for reasons of health, religion or personal conviction.
- (4) Shall exempt a child from the lead poisoning screening recommendations if the child's parent, guardian or legal custodian presents written evidence of a lead screening that was conducted within the previous 6 months, or other time period specified by the department by rule, and that was conducted in accordance with the laws or rules of another state whose laws or rules the department determines to be at least as stringent as the screening methods and intervals recommended under this section.

**254.16. Renumbered 254.154 by 1993 Act 450, § 48, eff. May 14, 1994**

**254.162. Screening requirements**

**(1) Institutions and programs providing services to children under 6 years of age.** The department may promulgate rules requiring the following institutions and programs to obtain written evidence that each child under 6 years of age participating in the institution or program has obtained a lead screening, or is exempt from obtaining one, under the recommended lead screening levels and intervals contained in the rules promulgated by the department under [s. 254.158](#), within the time periods specified by the department:

- (a) Multidisciplinary evaluations for early intervention under [s. 51.44](#).
- (b) Head start programs administered by a head start agency under [42 USC 9836](#).
- (c) Day care providers certified under [s. 48.651](#) and day care centers licensed under [s. 48.65](#), provisionally licensed under [s. 48.69](#) or established or contracted for under [s. 120.13\(14\)](#).
- (d) School-based programs serving children under 6 years of age, including kindergartens, special education and related services for children with disabilities, as defined in [s. 115.76 \(5\)](#), and other early childhood programs.
- (e) Health care programs that provide services to children under 6 years of age and that receive state funding.
- (f) Other institutions or programs that provide services to children under 6 years of age.

**(2) Information requirement.** If a program or institution is required to request written evidence of a lead screening under rules promulgated under sub. (1), the institution or program shall, at the time that it makes the request, inform the parent, guardian or legal custodian of the child in writing, in a manner that is prescribed by the department by rule, of the importance of lead screening, of how and where the lead screening may be obtained, and of the conditions under which a child is exempt from the recommended lead screening requirements under the department's rules.

#### **254.164. Care for children with lead poisoning or lead exposure**

The department may promulgate rules establishing standards for the care coordination and follow-up of children under 6 years of age with lead poisoning or lead exposure. Any rules promulgated under this section shall meet any federal requirements for the care coordination and follow-up of children under 6 years of age with elevated blood lead levels. Rules promulgated under this subsection may specify different care coordination and follow-up requirements based on different blood lead levels and may, where appropriate, require that the care coordination and follow-up include any of the following:

- (1) Physical, developmental and nutritional assessment.
- (2) Parent education.
- (3) Medical evaluation.
- (4) A lead investigation of all or part of the child's dwelling or other dwellings or premises that may have contributed to the child's lead poisoning or lead exposure.
- (5) Assistance in developing a plan for lead hazard reduction or other actions needed to reduce exposure to lead and the consequences of such exposure.
- (6) Where necessary, assistance in obtaining permanent or temporary lead-safe housing.
- (7) Nutritional supplements.
- (8) Follow-up services, including monitoring the provision of services to the child.

#### **254.166. Response to reports of lead poisoning or lead exposure**

(1) The department may, after being notified that an occupant of a dwelling or premises who is under 6 years of age has blood lead poisoning or lead exposure, present official credentials to the owner or occupant of the dwelling or premises, or to a representative of the owner, and request admission to conduct a lead investigation of the dwelling or premises. If the department is notified that an occupant of a dwelling or premises who is a child under 6 years of age has an elevated blood lead level, the department shall conduct a lead investigation of the dwelling or premises or ensure that a lead investigation of the dwelling or premises is conducted. The lead investigation shall be conducted during business hours, unless the owner or occupant of the dwelling or premises consents to an investigation during nonbusiness hours or unless the department determines that the dwelling or premises presents an imminent lead hazard. The department shall use reasonable efforts to provide prior notice of the lead investigation to the owner of the dwelling or premises. The department may remove samples or objects necessary for laboratory analysis to determine the presence of a lead hazard in the dwelling or premises. The department shall prepare and file written reports of all lead investigations conducted under this section and shall make the contents of these reports available for inspection by the public, except for medical information, which may be disclosed only to the extent that patient health care records may be disclosed under [ss. 146.82 to 146.835](#). If the owner or occupant refuses admission, the department may seek a warrant to investigate the dwelling or premises. The warrant shall advise the owner or occupant of the scope of the lead investigation.

(2) If the department determines that a lead hazard is present in any dwelling or premises, the department may do any of the following:

(a) Cause to be posted in a conspicuous place upon the dwelling or premises a notice of the presence of a lead hazard.

(b) Inform the local health officer of the results of the lead investigation and provide recommendations to reduce or eliminate the lead hazard.

(c) Notify the occupant of the dwelling or premises or the occupant's representative of all of the following:

1. That a lead hazard is present on or in the dwelling or premises.
2. The results of any lead investigations conducted on or in the dwelling or premises.
3. Any actions taken to reduce or eliminate the lead hazard.

(d) Notify the owner of the dwelling or premises of the presence of a lead hazard.

(2m) If the department determines that a lead hazard is present in any dwelling or premises, the local health department shall and the department may issue an order that requires reduction or elimination of an imminent lead hazard within 5 days after the order's issuance and reduction or elimination of other lead hazards within 30 days after the order's issuance, except that, for orders that are issued between October 1 and May 1 and that relate only to exterior lead hazards that are not imminent lead hazards, the order may require elimination or reduction of the lead hazard no earlier than the June 1 immediately following the order's issuance. If the agency that issued the order determines that the owner has good cause for not complying with the order within the 5-day or 30-day time period, the agency may extend the time period within which the owner is required to comply with the order. The failure to comply with an order within the time prescribed or as extended shall be prima facie evidence of negligence in any action brought to recover damages for injuries incurred after the time period expires. If an order to conduct lead hazard reduction is issued by the department or by a local health department and if the owner of the dwelling or premises complies with that order, there is a rebuttable presumption that the owner of the dwelling or premises has exercised reasonable care with respect to lead poisoning or lead exposure caused, after the order has been complied with, by lead hazards covered by the order, except that with respect to interim control activities the rebuttable presumption continues only for the period for which the interim control activity is reasonably expected to reduce or eliminate the lead hazard.

(2r) The department may conduct or require a certified lead risk assessor or other person certified under [s. 254.176](#) to conduct a lead investigation, a check of work completed, and dust tests for the presence of hazardous levels of lead to ensure compliance with an order issued under sub. (2m).

(4) The department shall give priority to eliminating lead hazards from dwellings in which children under 6 years of age with diagnosed lead poisoning or lead exposure reside.

#### **254.167. Conduct of lead investigation**

Subject to the limitation under [s. 254.174](#), the department may promulgate rules establishing procedures for con-

ducting lead investigations of dwellings and premises. The rules promulgated under this section may include the following:

- (1) Specific procedures for investigating, testing or sampling painted, varnished or other finished surfaces, drinking water, household dust, soil and other materials that may contain lead.
- (2) Specific procedures for the notification of owners, operators, occupants or prospective occupants, mortgagees and lienholders of lead levels identified during a lead investigation and of any health risks that are associated with the lead level and condition of the lead found during the lead investigation.
- (3) The form of lead investigation reports, the requirements for filing the reports with the department and the procedures by which members of the public may obtain copies of lead investigation reports.
- (4) Requirements for the postings of warnings, where appropriate, of the presence of a lead hazard.

#### **254.168. Lead investigations of facilities serving children under 6 years of age**

Subject to the limitation under [s. 254.174](#), the department may promulgate rules that require any of the following facilities to have periodic lead investigations at intervals determined by the department or to otherwise demonstrate that the facility does not contain a lead hazard, if any part of the facility was constructed before January 1, 1978:

- (1) A foster home licensed under [s. 48.62](#).
- (2) A group home licensed under [s. 48.625](#).
- (3) A shelter care facility under [s. 48.66](#).
- (4) A day care provider certified under [s. 48.651](#).
- (5) A day care center licensed under [s. 48.65](#), provisionally licensed under [s. 48.69](#) or established or contracted for under [s. 120.13\(14\)](#).
- (6) A private or public nursery school or kindergarten.
- (7) Any other facility serving children under 6 years of age that presents a risk for causing lead poisoning or lead exposure in children.

#### **254.17. Repealed by 1999 Act 113, § 20, eff. May 23, 2000**

#### **254.171. Repealed by 2005 Act 25, § 2141, eff. July 27, 2005**

#### **254.172. Prevention and control of lead-bearing paint hazards in dwellings and premises**

- (1) Subject to the limitation under [s. 254.174](#), the department may promulgate rules governing lead hazard reduction that the department determines are consistent with federal law.

(2) If a certified lead risk assessor or other person certified under [s. 254.176](#) conducts a lead investigation of a dwelling or premises, he or she shall conduct the lead investigation and issue a report in accordance with any rules promulgated under [s. 254.167](#). If the report indicates that the dwelling or premises meets criteria under [s. 254.179\(1\)\(a\)](#) for issuance of a certificate of lead-free status or of a certificate of lead-safe status, the lead risk assessor or other person shall issue the appropriate certificate, subject to [s. 254.181](#).

**254.173. Repealed by 1999 Act 113, § 23c, eff. Sept. 1, 2008**

**254.174. Technical advisory committees**

Before the department may promulgate rules under [s. 254.167](#), [254.168](#), [254.172](#) or [254.179](#), the department shall appoint a technical advisory committee under [s. 227.13](#) and shall consult with the technical advisory committee on the proposed rules. Any technical advisory committee required under this section shall include representatives from local health departments that administer local lead programs, representatives from the housing industry, persons certified under [s. 254.176](#), representatives from the medical or public health professions, advocates for persons at risk of lead poisoning and a resident of a 1st class city. Any technical advisory committee required under this section before promulgating rules under [s. 254.168](#) shall also include representatives of facilities serving children under 6 years of age.

**254.176. Certification requirements**

(1) Except as provided in sub. (2) and [s. 250.041](#), and subject to [s. 254.115](#), the department may establish by rule certification requirements for any person who performs lead hazard reduction or a lead management activity or who supervises the performance of any lead hazard reduction or lead management activity.

(2) No certification is required under this section for lead hazard reduction conducted by any of the following persons, unless the lead hazard reduction is being done to comply with an order by the department or another state or local agency that requires the use of persons certified under this section:

(a) A person whose activities are limited to interim control activities, unless the activities are directly funded by a grant from the federal department of housing and urban development.

(b) A person whose activities do not involve lead-bearing paint or lead-contaminated soil or dust.

(c) A homeowner who engages in lead hazard reduction only in or on his or her own nonrental residential dwelling or real property.

(d) A person licensed, certified or registered under ch. 145 who engages in activities that constitute lead hazard reduction, only to the extent that these activities are within the scope of his or her license, certification or registration.

(e) A person who engages in the business of installing or servicing heating, ventilating or air conditioning equipment if the person is registered with the department of commerce and if the person engages in activities that constitute lead hazard reduction, only to the extent that the activities are within the scope of his or her registration.

(3) Except as provided in [s. 250.041](#) and subject to [s. 254.115](#), the department may promulgate rules establishing

certification requirements for persons required to be certified under this section. Any rules promulgated under this section:

(a) Shall include requirements and procedures for issuing, renewing, revoking and suspending under this section certifications issued under this section.

(c) Shall require completion of an appropriate training course accredited under [s. 254.178](#) or of a training course determined by the department to be comparable to the appropriate training course under [s. 254.178](#).

(d) May provide for requirements other than training as a condition for full certification.

(e) Shall specify fees for certifying persons under this section, except that no fee may be imposed on any person employed by the state or by any political subdivision of the state for a certification required to perform duties within the scope of the employment.

(f) Shall require the issuance of a photo identification card to each person certified under this section.

(4) The department shall maintain lists of all persons who are certified under this section and shall make the lists available to the public. The department may charge a fee for lists provided under this subsection to cover the department's costs in providing the lists.

(5) After notice and opportunity for hearing, the department may revoke, suspend, deny or refuse to renew any certification issued under this section in accordance with the procedures set forth in ch. 227, except that the only hearing rights available for a denial, revocation or nonrenewal of any certification issued under this section based on tax delinquency are those set forth in [s. 73.0301 \(5\)](#).

#### **254.178. Accreditation of lead training courses and approval of lead instructors**

(1)(a) No person may advertise or conduct a training course in lead hazard reduction, or in a lead management activity, that is represented as qualifying persons for certification under [s. 254.176](#) unless the course is accredited by the department under this section.

(b) Except as provided in [s. 250.041](#), no person may function as an instructor of a lead training course accredited under this section unless the person is approved by the department under this section.

(2) The department shall promulgate rules establishing requirements, except as provided in [s. 250.041](#), for accreditation of lead training courses and approval of lead instructors. These rules:

(a) Except as provided in [s. 250.041](#), shall include requirements and procedures for granting, renewing, revoking and suspending under this section lead training course accreditations and lead instructor approvals.

(c) May provide for full or contingent accreditation or approval.

(d) Shall specify fees for accrediting lead training courses and approving lead instructors.

(3) The department shall maintain lists of all lead training courses accredited, and all lead instructors approved, under this section and shall make the lists available to the public. The department may charge a fee for lists

provided under this subsection to cover the department's costs in providing the lists.

(4) After notice and opportunity for hearing, the department may revoke, suspend, deny or refuse to renew under this section any accreditation or approval issued under this section in accordance with the procedures set forth in ch. 227.

#### **254.179. Rules for dwellings and premises**

(1) Subject to s. 254.174 and after review of ordinances of cities, towns and villages in this state, the department shall, by use of a research- based methodology, promulgate as rules all of the following:

(a) Except as provided in s. 254.18, the standards for a premises, dwelling or unit of a dwelling that must be met for issuance of a certificate of lead-free status or a certificate of lead-safe status to the owner of the premises, dwelling or unit of a dwelling, with the goal of long-term lead hazard reduction.

(b) The procedures by which a certificate of lead-free status or a certificate of lead-safe status may be issued or revoked.

(c) The period of validity of a certificate of lead-free status or a certificate of lead-safe status, including all of the following:

1. Authorization for the certificate of lead-free status to remain in effect unless revoked because of erroneous issuance or because the premises, dwelling or unit of the dwelling is not free of lead-bearing paint. The rules shall specify that the face of the certificate shall indicate that the certificate is valid unless revoked.

2. The standards limiting the length of validity of a certificate of lead-safe status, including the condition of a premises, dwelling, or unit of a dwelling, the type of lead hazard reduction activity that was performed, if any, and any other requirements that must be met to maintain certification, unless the certificate is earlier revoked because of erroneous issuance or because the premises, dwelling, or unit of the dwelling is not safe from lead-bearing paint hazards. The rules shall specify that the face of the certificate shall indicate the certificate's length of validity.

(d) A mechanism for creating a registry of all premises, dwellings or units of dwellings for which a certificate of lead-free status or a certificate of lead-safe status is issued.

(e) The requirements for a course of up to 16 hours that a property owner or his or her employee or agent may complete in order to receive certification of completion and the scope of the lead investigation and lead hazard reduction activities that the owner, employee or agent may perform following certification, to the extent consistent with federal law.

(2) By January 1, 2003, and every 2 years thereafter, the department shall review the rules under sub. (1) and shall promulgate changes to the rules if necessary in order to maintain consistency with federal law.

(3) Subject to s. 254.174, the department may promulgate rules that set forth safe work practices that shall be followed in the demolition of a building constructed before January 1, 1978, to avoid exposure by persons to lead hazards in the area of the demolition.

### **254.18. Lead hazard reduction in dwellings and premises**

Sampling or testing of dwellings, units of dwellings or premises for the presence of lead-bearing paint or a lead hazard is not required before lead hazard reduction activities are conducted if the presence of lead-bearing paint or a lead hazard is assumed and the lead hazard reduction activities are performed in a lead-safe manner.

#### **254.181. Certificate of lead-free status and certificate of lead-safe status; fees and notification**

(1) The department may impose a fee of \$50 for issuance of a certificate of lead-free status and a fee of \$25 for issuance of a certificate of lead-safe status. Fees under this section may not exceed actual costs of issuance and of s. 254.179. The department shall review the fees every 2 years and adjust the fees to reflect the actual costs.

(2) The department shall, at least quarterly, notify a local health department concerning issuance of certificates of lead-free status and certificates of lead-safe status in the area of jurisdiction of the local health department.

#### **254.182. Repayment to general fund**

The secretary of administration shall transfer from the appropriation account under s. 20.435(1)(gm) to the general fund the amount of \$735,000 when the secretary of administration determines that program revenues from fees imposed under ss. 254.176(3)(e) and (4), 254.178(2)(d) and 254.181 are sufficient to make the transfer.

#### **254.19. Asbestos testing fees**

Notwithstanding s. 36.25(11)(f), the state laboratory of hygiene board shall impose a fee sufficient to pay for any asbestos testing services which it provides.

#### **254.20. Asbestos abatement certification**

**(2) Certification requirements.** (a) No person serving on the governing body of a school, employed by a school or acting under a contract with a school may perform any asbestos abatement activity or asbestos management activity unless he or she has a valid certification card issued to him or her under sub. (3).

(b) No public employee may perform any asbestos abatement activity unless he or she has a valid certification card issued to him or her under sub. (3).

(c) No public employee may supervise the performance of any asbestos abatement activity unless he or she has a valid supervisor's certification card issued to him or her under sub. (3).

(d) Except as provided in s. 250.041 and subject to s. 254.115, the department may establish by rule certification requirements for any person not certified under pars. (a) to (c) who performs any asbestos abatement activity or asbestos management activity or who supervises the performance of any asbestos abatement activity or asbestos management activity.

**(3) Certification procedure.** (a) Except as provided in s. 250.041, the department may establish by rule certification requirements for persons applying for a certification card required under sub. (2). Any training required by the department under this paragraph may be approved by the department or provided by the department under

sub. (8).

(b) Except as provided in [s. 250.041](#), the department shall establish the procedure for issuing certification cards under this subsection. In establishing that procedure, the department shall prescribe an application form and establish an examination procedure and may require applicants to provide photographic identification.

**(4) Renewal.** A certification card issued under sub. (3) is valid for one year. Except as provided in [s. 250.041](#) and subject to [s. 254.115](#), the department may establish requirements for renewing such a card, including but not limited to additional training.

**(5) Fees.** (a) Except as provided under par. (b), the department shall charge the following fees for certification cards issued under sub. (3) or renewed under sub. (4):

1. For a certification card issued or renewed for the performance of any asbestos abatement activity, as required under sub. (2)(a), (b) or (d), \$50.
2. For a certification card issued or renewed for performance of an inspection for asbestos-containing material or the design of an asbestos response action, as required under sub. (2)(a) or (d), \$150.
3. For a certification card issued or renewed for supervising the performance of any asbestos abatement activity, as required under sub. (2)(c), \$100.
4. For a certification card issued or renewed for performance of the development of an asbestos management plan, as required under sub. (2)(a) or (d), \$100.

(b) The department may change by rule the fee amounts specified under par. (a). The fees received under this subsection shall be credited to the appropriation under [s. 20.435\(1\)\(gm\)](#).

**(6) Suspension or revocation.** The department may, under this section, suspend or revoke a certification card issued under sub. (3) if it determines that the holder of the card is not qualified to be certified.

**(7) Appeals.** Any suspension, revocation or nonrenewal of a certification card required under sub. (2) or any denial of an application for such a certification card is subject to judicial review under [ch. 227](#), except as provided in [s. 250.041](#) and except that the only hearing rights available for a denial, revocation or nonrenewal of a certification card required under sub. (2) based on tax delinquency are those set forth in [s. 73.0301 \(5\)](#).

**(8) Training courses.** The department may conduct or contract for any training course necessary to prepare persons for a certification card required under sub. (2). The department may establish a fee for any course offered under this subsection. The fee may not exceed the actual cost of the course. The fees received under this subsection shall be credited to the appropriation under [s. 20.435\(1\)\(gm\)](#).

**(9) Rules.** The department may promulgate any rule it deems necessary to administer this section.

**(10) Enforcement.** (a) The department may enter, at any reasonable time, any property, premises or place in which any person required to have a certification card under sub. (2) is engaged in any asbestos abatement activity to determine if the department has issued that person a valid certification card. No person may refuse entry or

access to any representative of the department authorized by the department to act under this paragraph if that representative requests entry for purposes of determining compliance with this section, if that representative presents a valid identification issued to the representative by the department and if that representative is complying with par. (b). No person may obstruct, hamper or interfere with the actions of that representative under this paragraph.

(b) Any representative of the department acting under par. (a) shall comply with any health and safety procedure established by law for persons engaged in asbestos abatement activities.

(c) If the department determines that any person required to have a certification card under sub. (2) has violated this section, the department may order that person to cease the violation. The order may require all asbestos abatement activities on the premises where the violation occurs to cease until the violation is corrected if there is no person on the premises with a valid certification card issued to him or her under sub. (3). The department shall give the order in writing to that person or that person's representative.

(d) Any other state agency, in the course of the performance of its duties, may determine compliance with the certification requirements of this section. If that agency determines that there is a violation of this section, it shall notify the department of that violation.

(e) The department may initiate an action in the name of this state against any person to require compliance with this section.

**(11) Penalty.** Any person who violates this section or any rule promulgated or order issued under this section shall forfeit not less than \$25 nor more than \$100 for each violation. Each day of violation and each violation constitutes a separate offense.

#### **254.21. Asbestos management**

(2) The department shall promulgate rules to do all of the following:

(a) Establish building inspection requirements and procedures to protect students and employees from asbestos hazards in schools.

(b) Regulate asbestos abatement activities in schools.

(c) Establish requirements for the maintenance of asbestos-containing material in schools which contain asbestos-containing material.

(d) Establish priorities for asbestos abatement activities in schools which contain asbestos-containing materials.

(e) Require a management plan for asbestos-containing material in every school which contains asbestos-containing material.

(2m) No requirement under sub. (2) may be stricter than any requirement under [15 USC 2641](#) to [2654](#).

(3) A school district and any school which is not a public school may apply to the department for a variance to

any standard adopted under this section under the provisions of [s. 101.055\(4\)\(a\)](#) to (c).

(4) Any person who intentionally violates any rule promulgated under this section shall forfeit not less than \$100 nor more than \$1,000 for each violation. Each violation constitutes a separate offense and each day of continued violation is a separate offense.

#### **254.22. Indoor air quality**

The department shall do all of the following:

(1) Investigate illness or disease outbreaks suspected of being caused by poor indoor air quality. The department shall promote or require control measures if indoor air quality is established to be the cause of illness or disease outbreaks.

(2) Assist local health departments in the adoption of regulations that establish standards for indoor air quality in public buildings to protect the occupants from adverse health effects due to exposure to chemical or biological contaminants.

(3) Provide training and technical support to local health departments for conducting indoor air quality testing and investigations.

(4) Assist the department of commerce with the enforcement of [s. 101.123](#).

**254.23 to 254.27. Repealed by L.1959, c. 519, § 8**

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**254.28. Repealed by 1993 Act 450, §§ 22, 58, 59**

**254.29. Repealed by L.1959, c. 519, § 8**

#### **254.30. Enforcement; penalties**

(1) **Enforcement.** (a) The department may enter, at any reasonable time, a dwelling or premises undergoing any lead hazard reduction to determine if all persons engaged in lead hazard reduction have been appropriately certified if required under [s. 254.176](#).

(b) The department may report any violation of [ss. 254.11 to 254.178](#) or rules promulgated, or orders issued, under those sections to the district attorney of the county in which the dwelling is located. The district attorney shall enforce [ss. 254.11 to 254.178](#) and rules promulgated, and orders issued, under those sections. If a circuit court determines that an owner of a rented or leased dwelling or premises has failed to comply with an order is-

sued under [ss. 254.11 to 254.178](#), the circuit court may order the occupants of the affected dwelling or premises to withhold rent in escrow until the owner of the dwelling or premises complies with the order.

(c) [Sections 254.11 to 254.178](#) do not limit the ability of the department to require abatement of human health hazards involving lead under [s. 254.59](#).

**(2) Penalties.** (a) *Civil penalty.* Any person who violates [ss. 254.11 to 254.178](#) or rules promulgated, or orders issued, under those sections may be required to forfeit not less than \$100 nor more than \$1,000. Each day of continued violation constitutes a separate offense.

(b) *Criminal penalty.* Any person who knowingly violates any provision of [ss. 254.11 to 254.178](#) or any rule promulgated, or order issued, under those sections shall be fined not less than \$100 nor more than \$5,000. The court may place the person on probation under [s. 973.09](#) for a period not to exceed 2 years.

Current through 2009 Act 24, published 06/26/09  
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