

Readoption Review

Indiana Department of Health

410-IAC-32 Lead and Healthy Homes

LSA Document #23-638

Description of Rule

IC 16-41-39.4 requires the Indiana Department of Health (IDOH) to have a training and licensure program to ensure that any person who engages in lead based paint activities is trained and licensed to ensure that work is properly done to protect against the exposure to lead. These rules continue to be needed to set standards for licensing, training, and completion of abatement and nonabatement activities.

I. Continued Need for the Rule

Lead poisoning in Indiana, most often caused by exposure to dust from chipping or flaking paint in homes, is a fixable problem affecting children across the state. Lead is defined as a neurotoxin and when it enters the body it dramatically and irreversibly negatively affects a child’s cognitive, neurological, and physical growth. There is no safe level of lead in blood. Even low-level exposure can have life-long impacts. Because lead exposure occurs most commonly in older jurisdictions with older housing stock, lead exposure disproportionately impacts minorities and communities of color who may not be able to afford safer, healthier housing.

(1) Minimize the expenses.

This rule does not add any fiscal burden to the Indiana Department of Health (IDOH), local governments or the public. License fees for private businesses seeking licensure under this rule have remained the same since 2003 and we are not proposing any changes to those amounts. There are no sources of revenue, appropriation, distribution, or other expenditure of revenue affected by this rule.

(2) Achieve the regulatory goal in the least restrictive manner.

This rule achieves its goal of reducing lead poisoning in the State in the least restrictive way while still maintaining a minimum work standard to ensure the safety of the workers doing the work, the safety of the residents and the general public, and a quality work standard.

(3) Avoid duplicating standards found in state or federal laws.

This rule does not duplicate standards but instead provides guidance and clarification on terminology, licensure, training, and work practices as required by IC 16-41-39.8 and IC 16-41-39.4-9. The rule seeks to closely align Indiana with the standards and guidelines published by the United States Environmental Protection Agency (EPA).

(4) Be written for ease of comprehension.

This rule is written for ease of comprehension and understanding. Industry-specific terms are defined in 410 IAC 32-1.

(5) Have practicable enforcement.

As the licensing agency, IDOH has the ability to revoke or suspend licensure for any individual or firm that is out of compliance.

II. Analysis of fees, fines, and civil penalties under IC 4-22-2-19.6

This rule includes fees of \$150.00 for licensing. The fees have remained the same since 2003. These fees are maintained in the Lead Trust Fund established under IC 16-41-39.8-7 and support the following activities.

- Administration of the 3rd Party Exam and supply cost
- Expanding the number of trained lead risk assessors at local health departments
- 3rd party exam accessibility improvements, including translation from English to other languages.

410 IAC 32 does not address any allowable fines or civil penalties. Applicable civil penalties are addressed in IC 16 41-39.8-14

III. Complaints and Comments

There have not been any complaints or comments received from the public or regulated entities concerning the rule or the rule's implementation by the agency.

IV. Difficulties Encountered

There have not been any difficulties administering the rule. Compliance with the rule is monitored regularly by IDOH staff with major and minor findings addressed by contractors.

V. Changes in Technology, Economic Conditions, or Other Factors

We now have the technology to have licensees apply on-line and pay for new and renewed applications electronically. This has decreased the amount of time it takes to apply for and process a license and reduced the cost to applicant.

Since the rule was last reviewed, there have been increases in the cost of labor and material costs associated with both training and abatement. These increases are in line with price increases seen across the rest of the industry.

VI. Revised Regulatory Analysis

This rule was originally adopted by the Air Pollution Control Board in 1999 as 326 IAC 23 and transferred to IDOH in 2009. The regulatory analyses completed in 1999 and 2003 are not available. The regulatory burden has been considered each time the rule was readopted, and IDOH has determined that the requirements in the rule are necessary to protect the public from lead hazards.