

**TITLE 410 Department of Health**  
**LSA Document #XX-XXX**

**I. Description of Rule**

**a. History and Background of the Rule**

On November 12, 2024, the U.S. Environmental Protection Agency (EPA) finalized a rule revising the Dust-Lead Hazard Standards (DLHS) and Dust-Lead Post-Abatement Clearance Levels (DLCL). Prior to this revision, DLHS and DLCL were 10  $\mu\text{g}/\text{ft}^2$  for floors and 100  $\mu\text{g}/\text{ft}^2$  for windowsills, and the DLCL for window troughs was 400  $\mu\text{g}/\text{ft}^2$ . With this revision, DLHS have been lowered to any reportable level as analyzed by a laboratory recognized by EPA's National Lead Laboratory Accreditation Program (NLLAP). The DLCL have been lowered to 5  $\mu\text{g}/\text{ft}^2$  for floors, 40  $\mu\text{g}/\text{ft}^2$  for windowsills, and 100  $\mu\text{g}/\text{ft}^2$  for window troughs.

The Indiana Department of Health (IDOH) is seeking to amend 410 IAC 32 to update the language to be consistent with this rule. As a result of this revision, lead professionals who collect dust wipe samples and labs who analyze dust wipe samples will report any reportable level of lead in samples as hazards. Additionally, abatement contractors will need to meet lower DLCL to pass clearance inspections. States that have EPA-authorized lead-based paint (LBP) activities programs must demonstrate that its program is at least as protective as EPA's revised DLHS and DLCL no later than January 11, 2027, which is two years after the effective date of this rule.

410 IAC 32 was last amended on August, 24, 2022 to bring the definition of Dust-Lead Hazard Standards into conformity with the 2019 EPA rule, which defined the DLHS as 10  $\mu\text{g}/\text{ft}^2$  for floors and 100  $\mu\text{g}/\text{ft}^2$  for windowsills.

The proposed amendments to 410 IAC 32 are based on the IDOH Lead & Healthy Homes Division's evaluation of the EPA's *Reconsideration of the Dust-Lead Hazard Standards and Dust-Lead Post-Abatement Clearance Levels* final rule published on November 12, 2024.

**b. Scope of the Rule**

The proposed rule changes are mostly comprised of revisions to definitions so that definitions are aligned with those in the 2024 EPA rule.

**c. Statement of Need**

The proposed rule changes are intended to address a federal statutory requirement. A state with an EPA-authorized LBP activities program in effect before the effective date of the 2024 EPA rule must demonstrate that its program is at least as protective as EPA's revised DLHS and DLCL (see 40 CFR 745.65 and 40 CFR 745.227) no later than January 11, 2027, which is two years after the effective date of this rule.

**d. Statutory Authority for the Proposed Rule**

Indiana Code 16-41-39.8-6 requires that the rules adopted by the Indiana Department of Health must contain at least the elements required to receive program authorization under 40 CFR 745, Subpart L. The legislation allows the Indiana Department of Health to adopt rules under IC 4-22-2.

**e. Fees, Fines, and Civil Penalties**

The proposed rule changes do not increase any fees, fines, or civil penalties.

## **II. Fiscal Impact Analysis**

This section should include a discussion of the impact of the proposed rulemaking on State and local government expenditures and revenues. Topics to address include (as applicable):

### **a. Anticipated Effective Date of the Rule**

The Indiana Department of Health anticipates this rule to be effective by January 11, 2027.

### **b. Estimated Fiscal Impact on State and Local Government**

The proposed rule changes will not impact expenditures nor revenues of the IDOH nor local government.

If the Indiana Department of Health does not update 410 IAC 32 to comply with EPA requirements, the state would lose funding in the amount of \$328,090, which is the average of the funding we received in grant years 2023 and 2024 for the LBP activities program. Also, we may compromise other EPA funding if we do not make this rule change.

### **c. Sources of Expenditures or Revenues Affected by the Rule**

The proposed rule changes will not impact expenditures nor revenues of the IDOH nor local government. No additional staff or funds are necessary to implement the changes in the rule. There are no sources of revenue, appropriation, distribution, or other expenditure of revenue affected by this rule change.

## **III. Impacted Parties**

This section should identify all parties that may be impacted from the proposed rule and include a **specific number or estimated number of such parties**. This will serve as the multiplier for costs and benefits. Consider the impact of the rule on all persons affected by the rule, not just regulated persons. Impacted parties can be determined by a variety of sources including, but not limited to, agency records, calculation, research, estimates, and surveys. Agencies can exclude parties already in compliance from the cost-benefit analysis.

### **a. Children and families**

Lead poisoning in Indiana, which is most often caused by exposure to deteriorated paint and resulting leaded dust in homes and daycares, is a fixable problem affecting children across the state. Lead is a toxin that, when it enters the body, dramatically and irreversibly affects a child's ability to learn and focus, ability to hear and speak, and healthy bone 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 minority and low-income communities who may not be able to afford safer, healthier housing.

As of 2023, 3,349 total children had confirmed elevated blood lead levels.

The proposed rule changes would result in risk assessors classifying any reportable level of lead in dust as hazardous. Thus, even if only dust-lead hazards below the DLCL are identified during a risk assessment, lead-safe cleaning would still be recommended to fix the hazards. Prior to this rule change, risk assessors would not classify any reportable dust-lead result less than the DLCL as hazards and therefore may not provide cleaning recommendations for these areas. As a result of these changes, families will be better informed about lead hazards in their homes and how to fix them.

The proposed rule changes would additionally result in abatement contractors cleaning to lower DLCL to pass clearance inspections. Post-abatement dust-lead levels on floors, windowsills, and window troughs will be required to be less than 5, 40, and 100  $\mu\text{g}/\text{ft}^2$ , respectively, instead of the current requirement of less than 10, 100, and 400  $\mu\text{g}/\text{ft}^2$ , respectively. This means that children living in residences post-abatement will be exposed to less leaded dust.

**b. Risk assessors, inspectors, and clearance examiners**

Indiana-licensed lead risk assessors, inspectors, and clearance examiners would be required to report any detectable level of lead in dust as hazardous and ensure clearance inspections pass only when all dust results are less than the new DLCL.

As of 2024, there are 234 risk assessors, 147 inspectors, and 3 clearance examiners with active licenses in Indiana.

**c. Abatement contractors, project supervisors, workers, and project designers**

Indiana-licensed lead abatement contractors, project supervisors, and workers would be required to clean well enough to meet the lower DLCL to pass clearance inspections. Project designers and project supervisors, who prepare abatement project designs, will need to take lower DLCL into account when determining start and end dates for the project, workers needed, and materials needed.

As of February 21, 2025, there are 35 lead abatement contractors, 97 project supervisors, 159 workers, and 1 project designer with active licenses in Indiana.

**d. Laboratories recognized by EPA's National Lead Laboratory Accreditation Program (NLLAP)**

Laboratories that analyze environmental lead samples must be capable of reporting lead levels at or below the new DLCL.

As of February 2025, there are 109 NLLAP labs in North America, 4 of which are in Indiana and 12 of which are in the states neighboring Indiana.

#### **IV. Changes in Proposed Rule**

Section	Current Rule	Proposed Amendments
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<b>410 IAC 32-1-12 “Clearance levels” defined</b>	This section defines clearance levels as equivalent to hazard levels.	Revises “hazard level” to “EPA Dust Lead Action Level (DLAL)”
<b>410 IAC 32-1-17 “Containment” defined</b>	This section defines containment used to protect workers and the environment during abatement activities and includes the term “lead-contaminated dust,” which applies to dust-lead hazard levels.	Revises “contaminated” to “containing” to eliminate the inappropriate reference to dust-lead hazard levels
<b>410 IAC 32-1-28 “Dust-lead hazard” defined</b>	This section defines dust-lead hazards using outdated language.	Removes references to “hazard threshold” and replaces with “detectable level of lead”
<b>410 IAC 32-1-38 “Hazardous waste” defined</b>	This section defines hazardous waste and references “40 CFR 261.3 or 329 IAC 3.1.”	Removes reference to 329 IAC 3.1
<b>410 IAC 32-1-48 “Lead-contaminated dust” defined</b>	This section defines lead-contaminated dust using outdated language.	Removes reference to levels identified by the EPA and replaces with “any detectable amount of lead”
<b>410 IAC 32-1-49 “Lead-contaminated soil” defined</b>	This section defines lead-contaminated soil with reference to a specific version of 40 CFR Part 745.	Removes the specific reference. Incorporation by reference added as 410 IAC 32 Rule 6.
<b>410 IAC 32-1-70 “Risk assessor” defined</b>	This section defines what risk assessors do.	Adds that risk assessors “may” sample Adds “water” as a type of sample that risk assessors may collect Changes purpose to “ensuring clearance levels have been met”
<b>410 IAC 32-1-72 “Soil-lead hazard” defined</b>	This section defines soil-lead hazard with reference to a specific version 40 CFR Part 745 and restricts remediation options to abatement methods.	Removes the specific reference. Incorporation by reference added as 410 IAC 32 Rule 6. Adds interim controls as acceptable remediation options.
<b>410 IAC 32-2-7 Lead-based paint license reciprocity</b>	This section details the requirements for obtaining a reciprocal LBP activity license.	Removes full title reference to 40 CFR 745.
<b>410 IAC 32-3-3 Initial training course requirements</b>	This section details the requirements for initial training courses.	Removes full title reference to 29 CFR 1926.62.
<b>410 IAC 32-4-9 Post-abatement clearance procedures</b>	This section details the requirements for post-abatement clearance procedures.	Revises and clarifies the purpose of clearance dust sampling. Revises “hazard threshold” to updated language of “action level” for clearance levels. Removes the specific reference. Incorporation by reference added as 410 IAC 32 Rule 6.

<b>410 IAC 32-6</b> <b>Incorporation by Reference</b>	not applicable	Adds incorporation by reference for all of the included publications.
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## V. Benefit Analysis

*This section should include a discussion of the benefits of the changes made in the proposed rule compared to existing requirements. For each new requirement in the proposed rule, consider the benefits to the general public, regulated community, businesses and other regulated entities, your agency, other state agencies, local partners, individuals, families, and small businesses.*

*When considering possible direct and indirect benefits, consider questions such as the following: Will the regulation save time or money for your agency or another agency? Does the regulation decrease compliance costs? Does the regulation increase business profitability by reducing costs? Does the regulation make the market more competitive? Does the regulation decrease the price of goods or services? Does the regulation create benefits for public health or safety?*

*If benefits cannot be monetized or quantified, the agency should explain why and include a thorough description of the non-quantifiable benefits as well as a determination whether such benefits will be significant.*

*Topics to address include (as applicable):*

### a. Estimate of Primary and Direct Benefits of the Rule

A direct benefit to the proposed rule changes is that children spending time in residential properties and childcare facilities that have undergone lead abatement work will be exposed to less lead in dust. With these changes, the dust-lead clearance levels for floors, windowsills, and window troughs will decrease from 10, 100, and 400  $\mu\text{g}/\text{ft}^2$ , respectively, to 5, 40, and 100  $\mu\text{g}/\text{ft}^2$ , respectively. These surfaces will have to be cleaned more thoroughly to reduce the amount of lead in dust to test below clearance levels, resulting in less lead in dust following abatement. In 2024, 81 Indiana properties underwent lead abatement work.

Another direct benefit is that lead professionals can communicate more clearly about dust-lead hazards. They shall communicate that any detectable lead in dust is hazardous and continued cleaning for maintenance is recommended even after clearance passes following an abatement project.

### b. Estimate of Secondary or Indirect Benefits of the Rule

An indirect benefit to the proposed rule changes is that lead abatement contractors may prioritize worksite preparation and daily cleaning more to make it easier for them to clean to clearance at the end of projects. This reduces the amount of lead in dust in and around a property during the lead abatement project, benefiting both the workers and any occupants and reducing their potential exposure. This also reduces the likelihood of lead in dust settling into and contaminating the soil surrounding the property.

As a result of lead professionals communicating that any detectable lead in dust is hazardous, occupants of residences and daycares are better advised to regularly clean contaminated surfaces. This could result in fewer children developing elevated blood lead levels and reduce chronic low-level lead exposure in children and adults.

**c. Estimate of Any Cost Savings to Regulated Industries**

The proposed rule changes will not provide cost savings to lead abatement contractors or other lead professionals, nor the IDOH or local health departments.

**VI. Cost Analysis**

**a. Estimate of Compliance Costs for Regulated Entities**

The new clearance standards will most impact lead abatement contractors, but there is no direct compliance cost to them as a group. Lead abatement contractors are currently required to clean floors, windowsills, and window troughs to achieve clearance. They are also required to maintain proper containment and perform daily cleaning during lead abatement projects. It is best practice that they clean surfaces thoroughly at the end of the project to pass their first clearance inspection. Should they not clean thoroughly enough, they must reclean any failed surfaces, including untested ones. While the clearance levels have decreased and this could mean that some contractors will need to spend additional time cleaning or refine their technique, many contractors do not have issues getting clearance dust-lead levels below lab reportable levels. In short, some contractors will be required to do better work, which may incur temporary costs in time and materials as they improve their cleaning techniques.

The proposed rule changes will not impose compliance costs on other lead professionals, the IDOH, or local health departments.

**b. Estimate of Administrative Expenses Imposed by the Rules**

The proposed rule changes will not impose any legal, consulting, reporting, accounting or other administrative expenses, other than the time cost for IDOH to educate contractors and other lead professionals about the changes and how it will impact them.

**c. The fees, fines, and civil penalties analysis required by IC 4-22-2-19.6**

The proposed rule changes do not add or increase any fees, fines, or civil penalties.

**d. If the implementation costs of the proposed rule are expected to exceed the threshold set in IC 4-22-2-22.7(c)(6)**

The combined implementation and compliance costs of the proposed rule changes are not expected to exceed one million dollars for businesses, units, and individuals over any two (2) year period.

**VII. Sources of Information**

Data and information used in the cost-benefit analysis was pulled from the IDOH Lead & Healthy Home Division's 2024 End of Year Report to the EPA, Abatement Notification database, and lead abatement contractor project records. All this information is stored on the IDOH Lead & Healthy Home Division's shared drive and can be requested from Paul Krievins, Division Director, at [pkrievins@health.in.gov](mailto:pkrievins@health.in.gov).

**VIII. Regulatory Analysis**

The proposed rule changes do not add any significant fiscal burden to the IDOH or local health departments. No additional staff or funds are necessary to implement or comply with the changes in the rule. There are no sources of revenue, appropriation, distribution, or other expenditure of revenue affected by this rule. Some lead abatement contractors may need refine their post-abatement cleaning procedures to attain clearance, which may result in temporary time and supply costs to them. This temporary cost to contractors is outweighed by the benefit that these rule changes will have for families that have lead risk assessments performed and lead abatement work completed. These rule changes help protect families with young children and meet the requirements imposed by the EPA. The IDOH has determined that the benefits of these rule changes will exceed the costs.

## **IX. Contact Information of Staff to Answer Substantive Questions**

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317-233-7197

### **Additional Information for OMB and SBA Review**

The following information is required for OMB and State Budget Agency (SBA) review but will not be published along with the regulatory analysis.

## **X. Redline Draft of Proposed Rules**

Please provide a link or attachment to the proposed rule that includes a redline of the changes made by the proposed rule from existing regulations, or an alternative form of identifying changes approved in advance by OMB. This draft can include annotations with other sources of requirements as discussed in Section IV above.

## **XI. Resubmission Information (if applicable)**

Pursuant to IC 4-22-2-22.8(e), if an agency revises a proposed rule after it has been approved by OMB and SBA, the agency must submit the revised proposed rule and a revised regulatory analysis for review. If applicable, this section should include (1) a list of the changes in the revised rule from the previously approved version, (2) an explanation for the reason(s) for the changes, and (3) a description of how those changes impact the regulatory analysis previously submitted.