Dust-Lead Post Abatement Clearance Levels: U.S. Environmental Protection Agency Final Rule



Walter Wright, Jr.
wwright@mwlaw.com
(501) 688.8839

02/09/2021

The United States Environmental Protection Agency ("EPA") published a January 7th final rule in the Federal Register addressing the dust-lead clearance levels ("DLCL"). See 86 Fed. Reg. 983.

EPA states that it reevaluated the DLCL that was promulgated in 2001.

Section 401 and 402 of the Toxic Substances Control Act ("TSCA") as created by Title X of the Housing and Community Development Act of 1992 requires EPA to regulate lead-based paint ("LBP") activities. This statutory authority is also known as the "Residential Lead-Based Paint Hazardous Reduction Act of 1992."

LBP activities subject to EPA regulation include risk assessments, inspections and abatements.

Section 401 of TSCA defines abatements as:

. . . "measures designed to permanently eliminate lead-based paint hazards". . . ''all . . . cleanup . . . and post[-]abatement clearance testing activities''.

Clearance levels are defined as values indicating the amount of lead in dust on a surface following completion of an abatement activity. Such dust is collected via dust wipe samples which are sent to a laboratory for analysis. The post-abatement dust-lead levels are required to be below the clearance levels. These are the standards used to evaluate the effectiveness of post-abatement cleanings.

EPA had not reevaluated the DLCL since they were originally issued in 2001.

Reducing childhood lead exposure is stated to be an agency priority. Further, this is stated to be in coordination with the President's Task Force on Environmental Health Risks and Safety Risks for Children. EPA is finalizing a prior proposal to lower the DLCL :

- from 40 µg/ft2 to 10 µg/ft2 for floors
- from 250 µg/ft2 to 100 µg/ft2 for window sills

A copy of the Federal Register Notice can be downloaded here.