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Dust-Lead Hazard Standards/Dust-Lead Post-Abatement Clearance Levels: U.S. Environmental Protection Agency Proposed Rule Strengthening Standards

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The United States Environmental Protection Agency ("EPA") published in the August 1st Federal Register a proposed rule that would strengthen the current dust-lead hazard standards ("DLHS") and dust-lead post-abatement clearance levels ("DLCL"). See 88 Fed. Reg. 50444.

The proposed rule is issued pursuant to Section 402 of the Toxic Substances Control Act ("TSCA").

The proposed rule is applicable to pre-1978 homes and childcare facilities.

DLHS is utilized to determine whether lead-based hazards are present.

The DLCL is used to determine whether lead dust abatement was effective and properly reduced risks to children.

The proposed rule would lower the DLHS from 10 micrograms per square foot and 100 $\mu\text{g}/\text{ft}^2$ for floors and window sills to any reportable level as analyzed by a laboratory recognized by EPA's National Lead Laboratory Accreditation Program. This is described as a non-numeric value that is referred to as a greater than zero $\mu\text{g}/\text{ft}^2$. It is stated to potentially vary based on laboratory or test.

Note that the DLHS does not compel a property owner or occupant to evaluate the property for lead-based paint hazards nor take control actions. However, if a lead-based paint activity (i.e., for example an abatement) is performed, then the rule is triggered.

The proposed rule would change the DLCL (i.e., values used to determine when abatement work could be considered complete). The change is described in the proposed rule as:

... 10 $\mu\text{g}/\text{ft}^2$, 100 $\mu\text{g}/\text{ft}^2$ and 400 $\mu\text{g}/\text{ft}^2$ for floors, window sills, and window troughs to 3 $\mu\text{g}/\text{ft}^2$, 20 $\mu\text{g}/\text{ft}^2$, and 25 $\mu\text{g}/\text{ft}^2$, respectively. . .

Note that for the first time the DLHS for floors and window sills would not be the same as the DLCL for floors and window sills (i.e., they are being decoupled).

EPA takes the position that the referenced levels are the lowest that are "safe, effective, and reliable."

The proposed rule is not retroactive. In other words, regulated entities that previously performed post-abatement testing under the previous standards would not have to address the stricter requirements.

The impetus for the rule continues to be the reduction of childhood lead exposure. Lead exposure can harm children by:

- Diminishing I.Q.
- Causing learning disabilities
- Impairing hearing

A link to the Federal Register Notice can be found [here](#).